

## **Regulatory Flexibility Analysis for Small Business and Local Governments**

### **1. Effect on small businesses and local governments:**

This rule affects all local social services districts, legally-exempt caregiver enrollment agencies, and providers of legally-exempt child care across New York State.

### **2. Compliance requirements:**

Enhanced background checks require prospective and existing legally-exempt child care providers, employees, volunteers and adult family child care household members, unless specifically exempted by statute, to complete and submit clearance paperwork. These clearances need to be repeated no less than once every five years.

All legally-exempt child care providers, employees and volunteers, unless specifically exempted by statute, are required to obtain a minimum of five hours of training annually addressing required topics.

All legally-exempt child care providers except for relative-only providers are required to be inspected on an annual basis in order to maintain their enrollment to receive child care subsidy funds.

All legally-exempt child care providers are required to have a written emergency plan for the safe and timely evacuation of children.

All legally-exempt group child care programs are required to complete and comply with an expanded health and safety checklist and submit compliance related documentation.

Local social services districts will need to replace current forms that they distribute to child care assistance applicants with revised forms that will be provided by OCFS. The regulations will alleviate some districts from imposing certain additional standards on individuals applying to be an enrolled legally-exempt child care provider. For example, some districts require a background check and/or an annual inspection in order for a program to provide subsidized child care services. These regulations will impose such standards on a consistent basis at the state level for legally-exempt child care programs seeking to provide subsidized child care services.

Enrollment agencies will be responsible for processing enrollment applications, including relevant portions of the background checks process, inspecting child care programs for compliance with regulatory requirements, including the enhanced health and safety standards and verification of the annual training requirements.

### **3. Professional Services:**

This rule imposes no requirements for professional services upon small businesses or local governments.

### **4. Compliance costs:**

The costs associated with the proposed changes in the child care regulations that are necessary to implement statutory authority pursuant to the Child Care and Development Block Grant Act (CCDBG) of 2014 are significant but are largely born by OCFS. New requirements around enhanced background checks, annual inspections, and additional annual training of legally-exempt child care providers have been estimated to cost

approximately \$43 million. At this time, OCFS does not intend to pass the costs related to inspections, training or criminal background checks on to providers, except for the \$25 processing fee for conducting a check of the Statewide Central Registry of Child Abuse and Maltreatment. Compliance with the enhanced background checks and additional training requirements is anticipated to be the primary fiscal burden for child care providers due to time lost from providing care. However, the Office offers a variety of training courses, at no cost to child care programs, that would satisfy the proposed annual training requirement for providers of legally-exempt child care. For those providers that use the Office training courses to satisfy this requirement, the costs will be minimal.

**5. Economic and technological feasibility:**

This rule has minimal economic or technological impact to small business or local governments.

**6. Minimizing adverse impact:**

This rule will have minimal adverse impact on small business or local governments. Prior to developing this rule, OCFS collected stakeholder input and developed the standards in a way to minimize a detrimental impact and avoid undue costs. OCFS has exempted relative-only legally-exempt child care providers from the background and inspection requirements. Additionally, these regulations only establish minimal health and safety standards. These requirements do not raise the legally-exempt health and safety standards to the same level of licensed and registered health and safety standards.

**7. Small business and local government participation:**

OCFS sought input and received and considered comments from legally exempt child care directors, providers, and owners during forums and conferences. The Civil Service Employees Association (CSEA) and the United Federation of Teachers (UFT) provided feedback and comments in the development of the proposed regulations. OCFS has also led discussions and received comment on regulations at professional conferences and forums.