

Regulatory Flexibility Analysis for Small Business and Local Governments

1. Effect on Small Businesses and Local Governments:

There are 16,566 small day care businesses in New York State that are comprised of day care centers, school age child care programs, family and group family day care homes, and one small day care center. All of these programs will be affected by the regulatory changes proposed. Local government agencies will not be affected by the changes in these proposed regulations.

2. Compliance Requirements:

This rule implements statutory requirements pursuant to the federal Child Care and Development Block Grant Act (CCDBG) of 2014 and associated changes to the New York Social Services Law (SSL). This rule amends Title 18 of the New York State Codes, Rules and Regulations (NYCRR) Parts 413, 414, 416, and 417 and Subparts 418-1 and 418-2 so to require enhanced background checks, annual inspections, annual training, enhanced health and safety requirements in specified areas and other necessary changes.

3. Professional Services:

As a result of the proposed regulations, day care centers that care for infants, toddlers or moderately ill children will be required to use the services of a health care consultant in completing a health care plan.

School-age child care programs will need to have their menus reviewed for nutritional content, variety and quality at the time of initial application and once every 24 months by a designated nutrition specialist.

Family-based child care programs and small day care centers will not be required to use or employ any additional professional services as a result of these proposed changes.

4. Compliance Costs:

The costs associated with the proposed changes in the child day care regulations that are necessary to implement new statutory authority pursuant to the Child Care and Development Block Grant Act (CCDBG) of 2014 are significant, but are anticipated to be mostly assumed by the Office. New requirements around enhanced background checks, annual inspections, and additional annual training of licensed and registered providers have been estimated to cost approximately \$37 million. At this time, the Office is not intending to pass these costs on to regulated providers. The fiscal burden on providers is anticipated to fall primarily on time lost from providing care in order to comply with the enhanced background checks and additional training requirements. As a result of the proposed regulations, day care centers that care for infants, toddlers or moderately ill children will be required to use the services of a health care consultant in completing a health care plan. Approximately 70 percent of day care centers already collaborate with health care consultants and will be unaffected by this change. For the remaining 30 percent of day care centers, the Office has contracted with Child Care Resource and Referral (CCR&R) agencies to employ registered nurses who act as health care consultants to child care programs at a reduced fee.

School-age programs are required, as part of the regulations and the State's obesity prevention initiative, to operate in compliance with the federal Child and Adult Care Food Program (CACFP) meal patterns. The Office proposes that programs have their menus reviewed for nutritional content, variety and quality at the time of initial application and once every 24 months by a CACFP specialist responsible for reviewing and approving menus or by a person who has a bachelor's or master's degree with a major in food and institutional management or a closely related field and who has completed a dietician internship or has been certified as a registered dietician or has an equivalent state certification. A school-age program that is enrolled in CACFP has their menu approved at

no cost. CACFP also offers this service to non-enrolled programs at no charge. Some county cooperative extension programs also offer this service free of charge.

Other changes, primarily the changes related to increasing the Office's ability to identify illegally operating day care programs is expected to have a positive financial impact on regulated providers by increasing the supply of children and families who will utilize regulated programs, thereby generating increased revenue to these programs. Also, some administrative relief is provided to regulated programs as a result of these new regulations.

5. Economic and Technological Feasibility:

There are no technological impacts on child day care programs.

6. Minimizing Adverse Impact:

The Office believes there will be minimal adverse impact on child care programs.

7. Small Business and Local Government Participation:

In the development of the proposed child day care regulations, the Office considered the remarks of and the input from both unions that represent family-based providers. Those unions are the Civil Service Employees Association (CSEA) and the United Federation of Teachers (UFT). The Office has also led discussions and received comment on regulations at professional conferences and forums.