

Regulatory Flexibility Analysis for Small Businesses and Local Governments

1. Effect of rule: *(Describe the types of small businesses and local governments and provide an estimate of the number of each such small business or local government that will be affected by the rule.)*

This rule will provide additional flexibility and will modernize the standard to verify that a person does not pose a physical or mental health condition that would affect their ability to care for children or that would pose a health or safety risk to children.

The local government entities that are impacted are local departments of social services (LDSSs). There are 58 LDSSs in New York State. The small business that may be impacted are the non-profit programs, licensed in New York State by the Office of Children and Family Services (OCFS) as authorized agencies. There are 102 such agencies in New York State.

The impact this rule will have on these entities is positive as the rule provides additional flexibility for which families may adopt a child, or be approved or certified as foster homes and which employees may handle food and come into contact with children in group homes and child care institutions, while still preserving the health and safety of children.

2. Compliance requirements: *(Describe the reporting, recordkeeping or other affirmative acts that a small business or local government will have to undertake to comply with the rule.)*

There are no new reporting or record keeping requirements associated with this rule.

3. Professional services: *(Describe the types of professional services that a small business or local government is likely to need to comply with the rule.)*

There are no new professional services anticipated to be required as a result of this rule.

4. Compliance costs: *(Estimate the initial capital costs that will be incurred by a regulated business or industry or local government to comply with the rule; estimate the annual cost for continuing compliance with the rule; and indicate whether or not the initial or continuing compliance costs will vary for small businesses or local governments depending on the type and/or size of such business or local government.)*

There are no compliance costs associated with this rule.

5. Economic and technological feasibility: *(Provide an assessment of the economic and technological feasibility of compliance with such rule by small businesses and local governments.)*

There are no economic or technological issues associated with this rule.

6. Minimizing adverse impact: *(Explain how the rule is designed to minimize any adverse economic impact the rule may have on small businesses or local governments. In this respect, an agency should consider the approaches suggested by the Legislature in SAPA §202-b(1). If the rule could not be designed to minimize the adverse economic impact on small businesses or local governments, explain why. If the rule will have no adverse economic impact on small businesses or local governments, explain the reasons for that finding. In addition, this section must contain a statement indicating whether the approaches for minimizing adverse economic impact suggested in SAPA §202-b(1) or other similar approaches were considered.)*

There is no adverse economic impact for local government or small business associated with this rule. New York State has long had standards for determining the physical and mental fitness of persons caring for children in the context of foster care or an adoption. This rule simplifies, standardizes and modernizes these requirements by removing provisions, such as annual requirements for tuberculosis testing and chest x-rays, even when person have no symptoms that would otherwise medically indicate that such test are appropriate or eligible for insurance coverage.

7. Small business and local government participation: *(Explain how your agency complied with SAPA §202-b(6), which requires that agencies ensure that small businesses and local governments have an opportunity to participate in the rule making process.)*

OCFS is in regular communication with the non-profit entities and LDSSs impacted by this rule. The Council on Family and Child Caring Agencies (COFCCA), which is the umbrella organization representing the non-profit entities impacted by this rule, and multiple LDSSs have repeatedly and strongly urged OCFS to make the changes reflected in this rule.

8. (IF APPLICABLE) For rules that either establish or modify a violation or penalties associated with a violation: *(If the rule text does not include a cure period or other opportunity for ameliorative action, the successful completion of which will prevent the imposition of penalties on the party or parties subject to enforcement, explain why no such cure period was included in the rule.)*

Not applicable.

9. (IF APPLICABLE) Initial review of the rule, pursuant to SAPA §207 as amended by L. 2012, ch. 462: *(When proposing that the initial review of this rule shall occur later than in the third year after the year in which the rule is adopted: specify the proposed initial review period, which shall be no later than in the fifth calendar year after the year in which the rule is adopted; provide justification for such proposed initial review period; and invite public comment thereon.)*

Not applicable.