

Executive Order No. 17 Local Government Mandate Evaluation Impact on Local Government and Property Taxpayers

Submitting Agency: New York State Office of Children and Family Services

NYCRR Citation: Amendments to 427.2, 428.3 441.2, 441.4, 441.21, 441.24, 442.17, 442.21, 442.25, 447.2, 448.1, 448.3, 448.9, 449, 449.1, 449.2, 449.3, 449.4, 449.6, 449.7, 449.8 and 628.3 of Title 18 NYCRR; addition of new Parts 439 and 440 of Title 18 NYCRR ; and the addition of new sections 441.26, 442.26, 447.10, 447.11, 448.11 and 448.12 of Title 18 NYCRR

Description of the Regulation: This rule would adopt provisions and standards necessary to operationalize compliance with the federal Family First Prevention Services Act (FFPSA) enacted as part of the Bipartisan Budget Act of 2018 (P.L. 115-123) and the corresponding state legislation related thereto (Part L of Chapter 56 of the Laws of 2021). Such state and federal legislation require New York to comply with a myriad of provisions regarding foster care services on or before September 29, 2021.

The federal and corresponding state legislation enacted provisions requiring new types of congregate foster care programs to be operated by voluntary authorized agencies within New York State. Specifically, the new types of congregate care foster care programs are qualified residential treatment programs (QRTPs); and QRTP exceptions, which include supervised settings; specialized programs to serve prenatal, postpartum, or parenting youth; and programs for youth who have been or are at risk of sex-trafficking. These regulations, among other things, provide the health, safety, and programmatic standards for prospective QRTP and QRTP exception programs to obtain and maintain operating certificates from the Office necessary to provide these types of residential services to children.

Failure to adopt these regulations on an emergency basis may result in a loss of the ability for New York State to receive any federal Title IV-E reimbursement. This funding stream provides approximately \$600 million in federal reimbursement to New York State and local governments (all counties and New York City) for eligible child welfare expenditures.

Statutory Authority for the Regulation: Sections 20, 34 ,409-h and 462(1)(a) of the Social Services Law. Moreover, paragraph (d) of section 17 of Part L of Chapter 56 of the Laws of 2021 specifically authorizes the Office of Children and Family Services to promulgate these regulations on an emergency basis.

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1. Does the regulation impose a mandate on a county, city, town, village, school district or special district that requires such entity to:

a. Provide or undertake any program, project or activity;

Yes X

No

- b. Increase spending for an existing program, project or activity (even if such program, project or activity is voluntarily undertaken by a local government unit);**

Yes X

No

- c. Grant any new property tax exemption, or broaden the eligibility or increase the value of any existing property tax exemption; or**

Yes

No X

- d. Carry out a legal requirement that would likely have the effect of raising property taxes.**

Yes

No X

If the answer to all questions above are “no,” ensuring the regulation will not result in a mandate on local governments and property taxpayers, an accounting and the approval of the Office for Taxpayer Accountability are not required. If the answer to any question above is “yes,” and the regulation may have a fiscal impact on local governments and property taxpayers, please proceed to items 2 – 3.

2. Is the mandate required by federal law or regulation or state law?

Yes X

No

- a. If yes, please cite the specific provision in the statute or federal regulation.**

Family First Prevention Services Act (FFPSA) enacted as part of the Bipartisan Budget Act of 2018 (P.L. 115-123); and Part L of Chapter 56 of the Laws of 2021.

b. If yes, please describe any elements of the regulation not specifically mandated by the statute or regulation. None

3. If any portion of the mandate is not required by federal or state law, please attach to this Checklist an Accounting for such portion containing:*

a. A description of the mandate in the regulation;

b. An accounting of the impacts of such mandate that includes:

(i) A fiscal impact statement;

(ii) A cost-benefit analysis, which includes:

(x) a specific delineation of the costs and benefits to local governments and property taxpayers; and

(y) a quantification of the impact on local government revenue and expenditures, where such impact is quantifiable based on available information (please consult with the Governor's Office of Regulatory Reform if further guidance is needed);

c. A description of input sought and received from affected local governments;

d. A description of the proposed revenue sources to fund such mandate; and

e. An explanation as to why this regulation should be advanced with a mandate.

*Note: The “Regulatory and Flexibility Analysis for Small Businesses and Local Governments” may be attached so long as the items set forth in 3 above are fully accounted for in the Analysis.

4. To be answered by the Deputy Secretary and Governor’s Counsel:

Is the cost impact of the mandate negligible?

Deputy Secretary: Chris Tavella

Yes

No

Governor’s Counsel: Jillian Faison

Yes

No