

Children's Camps

Effective date: 6/22/16

Summary of Express Terms

The following summarizes the proposed regulations pertaining to children with disabilities attending a children's camp.

Pursuant to the proposed amendments, the following requirements, which previously pertained only to camps with 20 percent or more campers with a developmental disability, will now apply to any camp enrolling campers with a disability, beginning October 1, 2016:

- For campers who cannot independently manipulate a wheelchair or adaptive equipment, camps must provide at least 1:2 supervision;
- Staff that have direct care responsibilities of campers with disabilities must receive training relevant to the specific needs of the campers in their charge;
- Camps must obtain and implement, as appropriate, care and treatment plans for campers with disabilities that have such plans as well as obtain other available information relevant to the care and specific needs of a camper with disabilities including pre-existing medical conditions, allergies, modified diets, and activity restrictions;
- During swimming activities, camps must provide one counselor for each camper who is non-ambulatory or has a disability that may result in an increased risk for an emergency in the water;

- For campers with developmental disabilities, camps must provide one counselor for every five campers during swimming activities;
- Camps must obtain parent/guardian’s written permission to allow campers with developmentally disabilities to participate in swimming activities;
- Camps must develop procedures and training for handling seizures or aspiration of water by campers with developmental disabilities that may occur during swimming activities;
- All lavatories and showers used by campers with physical disabilities must be equipped with specialized features and grab bars;
- Lavatories and showers used by campers with a disability, who are unable to moderate water temperature safely, shall have a water temperature not greater than 110 degrees Fahrenheit;
- Buildings housing non-ambulatory campers shall have ramps to facilitate access.
- Non-ambulatory campers may not have housing above ground level; and
- Exterior paths must be constructed and maintained, as appropriate for the camp population served, to provide for safe travel during inclement weather.

The amendments also define a “Camp for Children with Developmental Disabilities.” Such camps would be immediately required to adhere to the following additional requirements, pursuant to the legislation that established the Justice Center, in addition to immediately complying with the provisions above:

- Reportable incident is defined to include abuse, neglect and other significant incidents specified in section 488 of Social Services Law. Camp staff must report all reportable incidents to the Justice Center Vulnerable Persons' Central Registry and the permit-issuing official;
- A definition of a personal representative was added to be consistent with section 488 of Social Services Law;
- Prior to hiring camp staff, camps must verify that candidates are not on the Justice Center's staff exclusion list or on the Office of Children and Family Services State Central Registry of Child Abuse and Maltreatment;
- All camp staff must obtain mandated reporter training and review and acknowledge an understanding of the Justice Center's code of conduct;
- Camps must ensure that immediate protections are in place following an incident to prevent further risk or harm to campers;
- Camps must notify the victim, any potential witnesses, and each camper's personnel representative (as appropriate) that the camper may be interviewed as part an abuse or neglect investigation;
- Camps must cooperate fully with reportable incident investigations and provide/disclose all necessary information and access to conduct investigations;
- Reportable incident investigations procedures are established;
- Camps must promptly obtain an appropriate medical examination of a physically injured

camper with a developmental disability;

- Unless a waiver is granted, camps must convene a Facility Incident Review Committee to review the camp's responses to a reportable incident including making recommendations for improvement, reviewing incident trends, and making recommendations to reduce reportable incidents;
- Camps must implement any corrective actions identified as the result of a reportable incident investigation.

Note that, for organizational reasons, these amendments repeal section 7-2.25 in its entirety, and replace it with a new section 7-2.25. Although reorganized, some provisions have been left substantially unchanged, including certain provisions relating to camp directors and health directors.

Pursuant to the authority vested in the New York State Department of Health by Public Health Law Section 225, Subpart 7-2 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended to be effective immediately upon publication in the New York State Register, to read as follows:

Subdivision (b)(2)(ix) of section 7-2.1 is amended to read as follows:

(ix) implementation of the medical requirements of the camp safety plan not under the supervision of a camp health director; at [camps for the developmentally disabled] Camps for Children with Developmental Disabilities, as defined in section 7-2.2(d-1) of this Subpart, medication is not under the supervision of licensed or certified personnel;

Subdivision (d-1) of section 7-2.2 is added to read as follows:

(d-1) Camp for Children with Developmental Disabilities shall mean a children's camp with 20% or more enrollment of campers with a developmental disability as defined by subdivision (d) of this section.

Subdivision (c) of section 7-2.9 is amended to read as follows:

(c) Showers with water under pressure heated to between [90 and 100] 110 and 120 degrees Fahrenheit, and one shower head for each 20 occupants or less, shall be provided.

Subdivisions (a) and (b) of section 7-2.24 are amended to read as follows:

(a) Variance. In order to allow time to comply with certain provisions of this Subpart, an operator may submit a written request to the permit-issuing official for a variance from a specific provision(s) when the health and safety of the children attending the camp and the public will not be prejudiced by the variance, and where there are practical difficulties or unnecessary hardships in immediate compliance with the provision. An operator must meet all terms of an approved variance(s) including the effective date, the time period for which the variance is granted, the requirements being varied and any special conditions the permit-issuing official specifies. For any variance request relating to the requirements of section 7-2.25(b) of this Subpart, the permit-issuing official shall consult with and obtain approval from the State Department of Health, prior to granting or denying the variance.

(b) Waiver. In order to accept alternative arrangements that do not meet certain provisions of this Subpart but do protect the safety and health of the campers and the public, an operator may submit a written request to the permit-issuing official for a waiver from a specific provision of this Subpart. Such request shall indicate justification that circumstances exist that are beyond the control of the operator, compliance with the provision would present unnecessary hardship and that the public and camper health and safety will not be endangered by granting such a waiver. The permit-issuing official shall consult with a representative of the State Department of Health prior to granting or denying a waiver request. An operator must meet all terms of an approved waiver(s), including the condition that it will remain in effect indefinitely unless revoked by the permit-issuing official or the facility changes operators. For any waiver request relating to the

requirements of section 7-2.25(b) of this Subpart, the permit-issuing official shall consult with and obtain approval from the State Department of Health, prior to granting or denying the waiver.

Section 7-2.25 (Additional requirements for camper with camper enrollments of 20 percent or more developmentally disabled campers) is repealed and replaced to read as follows:

7-2.25 Additional requirements for camps enrolling campers with disabilities.

(a) Effective October 1, 2016, the following requirements shall apply to all camps enrolling a child with a physical or developmental disability, except that any Camp for Children with Developmental Disabilities as defined in section 7-2.2 of this Subpart shall comply with this section upon the effective date of this Subpart:

(1) Personnel and Supervision.

- (i) The ratio of counselors to campers who use a wheelchair, adaptive equipment or bracing to achieve ambulation, but who do not possess, for whatever reason, the ability to fit, secure or independently manipulate such devices satisfactorily to achieve ambulation, shall be 1:2.
- (ii) Camp staff providing direct care of a camper with a disability shall be trained on the specific needs of the campers in their charge.

(2) Medical Requirements.

(i) A camp operator shall obtain existing individual treatment, care, and behavioral plans for campers with a disability. Camp staff shall implement adequate procedures to protect the health and safety of a camper based on the plan provided and, when necessary, in consultation with an individual's parent, guardian and/or clinical team.

(ii) The confidential medical history for a camper with a disability shall, in addition to the requirements of section 7-2.8(c)(1) of this Subpart, include:

(a) Any restrictions, allergies, medications, special dietary needs, and other pre-existing medical, physical or psychological conditions and illnesses.

(b) The camper's physician's name, address and telephone number.

(iii) Modified diets and other special needs related to a camper's disability shall be identified for each camper prior to arrival at camp, planned for, provided for in accordance with supplied directions, and reviewed by the designated camp health director.

(3) Recreational Safety.

(i) The minimum counselor-to-camper ratio during swimming pool and bathing beach activities shall be one counselor for each camper who is non-ambulatory or has a disability identified by the camper's parents, guardian, physician or residential care

provider that may result in an increased risk of an emergency in the water, such as uncontrolled epilepsy.

(ii) The minimum counselor-to-camper ratio during swimming pool and bathing beach activities shall be one staff member for every five (5) campers with a developmental disability not designated in subparagraph (i) of this paragraph.

(iii) No camper with a developmental disability can participate in swimming activities unless a written permission statement signed by the camper's parent, guardian or residential care provider is on file at the camp.

(iv) The camp safety plan approved under section 7-2.5(n) of this Subpart shall contain a procedure to address the handling of seizures and aspiration of water for campers with developmental disabilities. All bathing beach and swimming pool staff shall be trained to implement the procedure prior to the date the camp begins operation. In-service training using this procedure shall be conducted and documented every two weeks after the commencement of the camp's operation or as otherwise approved by the permit-issuing official in the camp's safety plan.

(4) Toilets, privies, lavatories, showers. All lavatories and showers used by a camper with a physical disability shall be equipped with specialized fixtures, grab bars or other controls appropriate for the camper's disability. Lavatories and showers used by campers with physical, intellectual or developmental disabilities, who are unable to moderate

water temperature safely, shall have a water temperature not greater than 110 degrees Fahrenheit.

(5) Sleeping Quarters.

(i) Buildings housing campers who are non-ambulatory or use a wheelchair shall have ramps constructed in accordance with the Uniform Code to facilitate access and egress.

(ii) Non-ambulatory campers shall not have their sleeping accommodations above the ground floor.

(6) Location; grounds. Exterior paths of travel shall be free of encumbrances and provide an appropriate surface for movement during inclement weather as appropriate for the camp population being served.

(b) Children's Camps for Children with Developmental Disabilities. In addition to the requirements listed in subdivision (a), the following requirements shall apply to all Children's Camps for Children with Developmental Disabilities, as defined as defined in section 7-2.2 of this Subpart:

(1) Definitions. The following definitions apply to this subdivision:

(i) *Camp staff* shall mean a director, operator, employee or volunteer of a children's camp; or a consultant, employee or volunteer of a corporation,

partnership, organization or government entity which provides good or services to a children's camp pursuant to contract or other arrangement that permits such person to have regular or substantial contact with individuals who are cared for by the children's camp.

(ii) *Department* shall mean the New York State Department of Health.

(iii) *Justice Center* shall mean the Justice Center for the Protection of People with Special Needs, as established pursuant to section 551 of the Executive Law.

(iv) *Reportable incidents* shall include the following:

(a) *Abuse and Neglect* shall mean those actions by camp staff that satisfies the definitions of “physical abuse”, “sexual abuse”, “psychological abuse”, “deliberate use of restraints”, “use of aversive conditioning”, “obstruction of reports of reportable incidents”, “unlawful use or administration of controlled substance” and “neglect” all as defined in section 488 of Social Services Law.

(b) *Significant Incident* shall mean an incident, other than an incident of abuse or neglect as defined by subparagraph (a) of this section that because of its severity or the sensitivity of the situation may result in, or has the reasonably foreseeable potential to result in, harm to the health, safety, or welfare of a camper with a developmental disability. A significant incident shall include but not limited to: (1) conduct between campers with developmental disabilities that would constitute abuse, as defined in this

Section, if it had been conducted by a camp staff member; or (2) conduct by a camp staff member which is inconsistent with the individual treatment plan for a camper with a developmental disability, generally accepted treatment practices and/or applicable federal or state laws, regulations or policies, and impairs or creates a reasonably foreseeable potential to impair the health, safety or welfare of a camper with a developmental disability. Such conduct shall include but is not limited to: actions incorporated within the definitions of “unauthorized seclusion,” “unauthorized use of time-out,” “administration of a prescribed or over-the-counter medication, which is inconsistent with a prescription or order issued by a licensed, qualified health care practitioner, and which has an adverse effect,” and “inappropriate use of restraints,” as defined in section 488 of the Social Services Law.

(v) Personal Representative shall mean a camper’s parent, guardian, or person authorized under state, tribal, military or other applicable law to act on behalf of a camper with a developmental disability in making health care decisions.

(2) Personnel and Supervision.

(i) The camp director, who may also be the camp operator, shall possess a Bachelor's Degree from an accredited program in the field of physical education, recreation, education, social work, psychology, rehabilitation or related human services fields and shall present evidence of specialized training or one year of

experience in treating or working with individuals with a developmental disability.

(ii) A camp director does not have to meet the minimum requirements of paragraph (i) of this subdivision if:

(a) the individual was a camp director for a camp for children with developmental disabilities during each of the three camping seasons preceding the 1986 camping season;

(b) conditions at the camp did not threaten the health or safety of campers during that person's tenure as camp director; and

(c) the individual otherwise meets the minimum qualifications for a camp director, as set forth in section 7-2.5 of this Subpart.

(iii) The camp director shall not be on the Justice Center Staff Exclusion List (SEL) consistent with paragraph 6 of subdivision b of this section.

(iv) The camp director shall develop a written staff training program appropriate to the specific needs of the campers with developmental disabilities enrolled in the camp.

(v) There shall be at least one counselor in addition to the driver in any vehicle transporting campers with developmental disabilities or as provided in the camp safety plan approved under section 7-2.5(n) of this Subpart.

(3) Medical Requirements. The camp health director shall be a physician, physician's assistant, registered nurse or licensed practical nurse and shall be on-site for the period the camp is in operation.

(4) Reporting. In addition to reporting incidents as required by Part 5 of this Title and by sections 7-2.8(d), 7-2.5(n)(3) and 7-2.6(f)(4) of this Subpart, all camp staff shall immediately report any reportable incident, as defined in section 7-2.25(b)(1)(iv) of this Subpart, involving a camper with a developmental disability, to the permit-issuing official and to the Justice Center's Vulnerable Person's Central Register (VPCR). Such report shall be provided in a form and manner as required by the Department and Justice Center.

(5) Immediate Protections and Notifications.

(i) Immediately upon notification of abuse, neglect or significant incident as defined by section 7-2.25(b)(1)(iv), the camp operator or designee shall ensure appropriate actions are taken to address the immediate physical and psychological needs of the camper(s), implement protections to ensure the safety and mitigate further risk to campers, and document such actions and implementations.

(ii) The camp director or designee shall notify a camper with a developmental disability and the camper's personal representative that the camper is an alleged victim or potential witness of an incident of abuse or neglect. Alleged victims

shall be notified within 24 hours and potential witnesses shall be notified within 48 hours of the permit-issuing official reporting, to the camp director or designee, that an incident of abuse or neglect has been accepted by the Justice Center for investigation. There shall be no notification of a personal representative if the alleged victim or potential witness objects to such notification or if providing such notification would compromise the investigation, violate relevant confidentiality laws, be contrary to court order, or otherwise contrary to the best interests of the alleged victim or the potential witness.

(iii) Camp staff shall document in writing that notice was given or that a diligent effort to make such notification was made for each camper.

(6) Camp Staff Screening, Training, and Code of Conduct.

(i) Prior to hiring anyone who will or may have direct contact with campers, or approving credentials for any camp staff, the operator shall follow the procedures established by the Justice Center in regulations or policy, to verify that such person is not on the Justice Center's Staff Exclusion List (SEL) established pursuant to section 495 of the Social Services Law. If such person is not on the Justice Center's Staff Exclusion List (SEL), the operator shall also consult the Office of Children and Family Services State Central Registry of Child Abuse and Maltreatment as required by section 424-a of the Social Services Law. Such screening is in addition to the requirement that the operator similarly verify that a

prospective camp staff is not on the sexual abuse registry, as required by section 7-2.5(l) of this Subpart.

(ii) A camp operator shall ensure that camp staff receive training regarding mandated reporting and their obligations as mandated reporters as defined by Article 11 of Social Services Law. A camp operator shall ensure that the telephone number for the Justice Center's VPCR hotline for the reporting of reportable incidents is conspicuously displayed in areas accessible to mandated reporters and campers.

(iii) The camp operator shall ensure that all camp staff are provided with a copy of the code of conduct established by the Justice Center pursuant to section 554 of Executive Law. Such code of conduct shall be provided at the time of initial employment, and at least annually thereafter during the term of employment. Receipt of the code of conduct shall be acknowledged and the recipient shall further acknowledge that he or she has read and understands such code of conduct.

(7) Disclosure of Information.

(i) Except to the extent otherwise prohibited by law, the camp operator shall be obliged to share information relevant to the investigation of any incident subject to the reporting requirements of this Subpart with the permit-issuing official, the Department, and the Justice Center. The permit-issuing official, the Department

and the Justice Center shall, when required by law, or when so directed by the Department or the Justice Center and except as otherwise prohibited by law, be permitted to share information obtained in their respective investigations of incidents subject to the reporting requirements of section 7-2.25 (b)(4) of this Subpart.

(ii) Except as otherwise prohibited by law, the operator of a camp not otherwise subject to Article Six of the Public Officers Law shall make records available for public inspection and copying to the extent required by subdivision six of section 490 of the Social Services Law.

(8) Incident Management.

(i) The camp operator shall cooperate fully with the investigation of reportable incidents involving campers with developmental disabilities and shall provide all necessary information and access to conduct the investigation. The camp operator shall promptly obtain an appropriate medical examination of a physically injured camper with a developmental disability. The camp operator shall provide information, whether obtained pursuant to the investigation or otherwise, to the Justice Center and permit-issuing official upon request, in the form and manner requested. Such information shall be provided in a timely manner so as to support completion of the investigation subject to the time limits set forth in this subdivision.

(ii) Unless delegated by the Justice Center to the Department, an allegation of abuse or neglect as defined in section 7-2.25(b)(1)(iv)(a) of this Subpart, shall be investigated by the Justice Center. With regard to an alleged significant incident, as defined in section 7-2.25(b)(1)(iv)(b) of this Subpart, the permit-issuing official shall initiate a prompt investigation of the allegation, unless the Justice Center agrees that it will undertake such investigation. An investigation conducted by the permit-issuing official shall commence no later than five business days after notification of such an incident. Additional time for completion of the investigation may be allowed, subject to the approval of the department, upon a showing of good cause for such extension. At a minimum, the investigation of any reportable incident shall comply with the following:

(a) Investigations shall include a review of medical records and reports, witness interviews and statements, expert assessments, and the collection of physical evidence, observations and information from care providers and any other information that is relevant to the incident. Interviews should be conducted by qualified, objective individuals in a private area which does not allow those not participating in the interview to overhear. Interviews must be conducted of each party or witness individually, not in the presence of other parties or witnesses or under circumstances in which other parties or witnesses may perceive any aspect of the interview. The person alleging the incident, or who is the subject of the incident, must be offered the opportunity to give

his/her version of the event. At least one of the persons conducting the interview must have an understanding of, and be able to accommodate, the unique needs or capabilities of the person being interviewed. The procedures required by this clause may be altered if, and only to the extent necessary to, comply with an applicable collective bargaining agreement.

(b) All evidence must be adequately protected and preserved.

(c) Any information, including but not limited to documents and other materials, obtained during or resulting from any investigation shall be kept confidential, except as otherwise permissible under law or regulation, including but not limited to Article 11 of the Social Services Law.

(d) Upon completion of the investigation, a written report shall be prepared which shall include all relevant findings and information obtained in the investigation and details of steps taken to investigate the incident. The results of the investigation shall be promptly reported to the department, if the investigation was not performed by the department.

(e) If any remedial action is necessary, the permit-issuing official shall establish a plan in writing with the camp operator. The plan shall indicate the camp operator's agreement to the remediation and identify a follow-up date

and person responsible for monitoring the remedial action. The plan shall be provided, and any measures taken in response to such plan shall be reported to the department.

(f) The investigation and written report shall be completed and provided to the department within 45 days of when the incident was first reported to the Justice Center.

(iii) At the conclusion of an investigation of an alleged reportable incident, the camp operator shall:

(a) Assess the need for corrective actions;

(b) Report corrective actions plans to the permit-issuing official within 45 days of the conclusion of an investigation from the Justice Center or permit-issuing official; and

(c) Implement corrective actions identified by the camp, or required by the permit issuing official or the Justice Center. Corrective action plans shall be implemented as soon as possible but within ninety (90) days of the completion of an investigation unless the camp has closed for the season. If closed for the season, corrective action plans shall be implemented when the camp reopens.

(iv) Incident Review Committee.

(a) The camp shall maintain a facility incident review committee, in accordance with 14 NYCRR Part 704. The incident review committee shall be composed of members of the governing body of the children's camp and other persons identified by the camp operator, including some members of the following: camp administrative staff, direct support staff, licensed health care practitioners, service recipients, the permit-issuing official or designee and representatives of family, consumer and other advocacy organizations, but not the camp director. The camp operator shall convene a facility incident review committee to review the timeliness, thoroughness and appropriateness of the camp's responses to reportable incidents; recommend additional opportunities for improvement to the camp operator, if appropriate; review incident trends and patterns concerning reportable incidents; and make recommendations to the camp operator to assist in reducing reportable incidents. The facility incident review committee shall meet each year in which there is a reportable incident. When the incident review committee is responsible for approving or developing corrective action plans, the committee shall meet within 45 days of the conclusion of an investigation, unless an extension for such plans has been granted by the Justice Center.

(b) Pursuant to paragraph (f) of subdivision one of section 490 of the Social Services Law and 14 NYCRR Part 704, a camp operator may seek an exemption from the requirement to establish and maintain an incident review committee. In order to obtain an exemption, the camp operator shall file an application with the permit-issuing official and provide sufficient documentation and information to demonstrate that compliance would present undue hardship, that granting an exemption would not create an undue risk of harm to campers' health and safety and specify an alternative process to ensure appropriate review and evaluation of reportable incidents. The permit-issuing official shall consult with the Department and shall not grant or deny an application for an exemption unless it first obtains department approval for the proposed decision. An operator shall meet all terms of an approved exemption(s). An exemption shall remain in effect until revoked by the permit-issuing official. A camp operator shall immediately notify the permit-issuing official when conditions, upon which the incident review committee exemption was granted, have changed.

(9) In addition to the requirements specified by subdivisions (d) and (g) of the section 7-2.4 of this Subpart, a permit may be denied, revoked, or suspended if the children's camp fails to comply with regulations, policies, or other requirements of the Justice Center. In considering

whether to issue a permit to a children's camp, the permit-issuing official shall consider the children's camp's past and current compliance with the regulations, policies, or other requirements of the Justice Center.

Summary of Regulatory Impact Statement

Statutory Authority:

The Public Health and Health Planning Council (PHHPC) is authorized by section 225(4) of the Public Health Law (PHL) to establish, amend and repeal sanitary regulations known as the State Sanitary Code (SSC), subject to the approval of the Commissioner of Health. Article 13-B of the PHL authorizes the PHHPC to prescribe standards and establish regulations for children's camps. PHL sections 225 and 201(1)(m) authorize SSC regulation of the sanitary aspects of businesses and activities affecting public health including children's camps.

Legislative Objectives:

In enacting Chapter 501 of the Laws of 2012, the Legislature established the New York State Justice Center for the Protection of People with Special Needs (Justice Center). This legislation amended Article 11 of Social Service Law to include children's camps for children with developmental disabilities, and it required the Department of Health to promulgate regulations pertaining to incident management.

Needs and Benefits:

The following requirements, which previously pertained only to camps with 20 percent or more campers with a developmental disability, will now apply to any camper with a disability, as of October 1, 2016:

- For campers who cannot independently manipulate a wheelchair or adaptive equipment,

campers must provide at least 1:2 supervision;

- Staff providing direct care of campers with disabilities must be trained on the needs of the campers in their charge;
- Camps must obtain health information and existing care/treatment plans and implement adequate procedures to protect the safety and health of camper with disabilities;
- During swimming activities, camps must provide one counselor for each camper who is non-ambulatory or has a disability that might result in unusual emergencies in the water. For campers with developmental disabilities, camps must provide one counselor for every five campers and obtain parent/guardian's written permission to allow for swimming participation;
- Non-ambulatory campers cannot have housing above ground level.
- Provisions for adaptive equipment, ramps and accessible design are included for lavatories, showers, and buildings. A maximum water temperature is established for lavatories and showers.

To implement Article 11, the Department of Health proposes these amendments to 10 NYCRR Subpart 7-2, relating to "Children's Camp for Children with Developmental Disabilities". The amendments define a Children's Camp for the Developmentally Disabled as a children's camp with camper enrollments of 20 percent or more campers with a developmental disability. In addition to immediately complying with the requirements above, the amended regulations would immediately require these camps to comply with the following:

- Reportable incidents are defined and required to be reported by camp staff to the Justice Center and permit-issuing official;
- Camps must implement immediate protections following an incident to prevent further risk or harm to campers;
- Camps must notify the victim, potential witnesses, and each camper's personnel representative that the camper may be interviewed as part of an abuse or neglect investigation;
- Camps must verify staff are not on the Justice Center's Staff Exclusion List (SEL) prior to hiring. After this verification, the operator must consult the Office of Children and Family Services (OFCS) State Central Registry of Child Abuse and Maltreatment (SCR);
- Camp staff must receive mandated reporter training and acknowledge an understanding of the Justice Center's code of conduct;
- Camps need to cooperate with investigations, including providing access and disclosing necessary information;
- Camps must convene a Facility Incident Review Committee to review the camp's response to a reportable incident and make recommendations to reduce reportable incidents.

Compliance Costs:**Cost to Regulated Parties:**Costs to Camps for Children with Developmental Disabilities:

Costs to regulated parties are difficult to estimate due to variation in staff salaries and time needed to investigate incidents. Reporting incidents should take less than half an hour; assisting with investigations will range from several hours to two staff days. The Department estimates that the total staff costs range from \$120 to \$1600 for each investigation. Expenses should be minimal statewide as less than 55 Camps for Children with Developmental Disabilities operate each year, with an average of six camps reporting a total of 18 incidents per year.

There will be minimal expense for determining if potential employees are on the SEL and SCR. An entry level staff person earning the minimum wage of \$8.75/hour should be able to compile the information for 100 employees within six to eight hours. OCFS requires a \$25.00 screening fee for new or prospective employees and no fee for volunteers.

Camps will be required to: disclose certain information to the Justice Center and to the permit issuing official charged with investigating reportable incidents; ensure immediate protections are in place for victims; and notify the victims and any witnesses that they may be interviewed as part of an investigation. Costs associated with these activities include staff time for locating information, contacting camper's parent/guardians and expenses for copying materials. The typical cost should be under \$100 per incident.

Costs associated with mandated reporting training are minimal as training materials will be provided to the camps and will take about one hour to review during routine staff training. The telephone number for the Justice Center reporting hotline must be conspicuously posted for campers and staff. Costs associated with posting is limited to making and posting copies in appropriate locations.

Camp operators must provide each camp staff member or volunteer with the code of conduct established by the Justice Center. The code must be provided at the time of initial employment and annually thereafter. The employee must acknowledge they received, read, and understand the code. The cost of providing the code, and obtaining and filing the required employee acknowledgment should be minimal. Staff should need less than 30 minutes to review the code.

Camps will be required to establish and maintain a facility incident review committee to review the camp's responses to reportable incidents. The cost to maintain a facility incident review committee is difficult to estimate due to the variations in salaries and the amount of time needed for the committee to meet. An incident review committee will be required to meet to fulfill its duties if any reportable incidents occur. Because most camps only operate during the summer season, it is expected that the incident review committee will meet no more than once a year. The cost is estimated to be \$450.00 dollars per meeting. The regulations provide

opportunity for a camp to seek an exemption, which may be granted based on the duration of the camp season and other factors.

Camps are now required to obtain a medical examination of any camper physically injured during a reportable incident. Because a medical examination is an expected standard of care in response to such injuries, there will be no additional cost.

Costs to camps enrolling campers with a disability:

Certain regulations, which previously pertained only to camps with 20 percent or more campers with a developmental disability, will now apply to any camp that enrolls one or more campers with a disability. The cost to affected parties is difficult to estimate due to variation in salaries and the unknown number of campers with a disability attending camps.

Camps will be required to provide at least: 1:2 supervision for campers who cannot independently manipulate a wheelchair or other adaptive equipment; 1:1 supervision during swimming for each camper who is non-ambulatory or has a disability that may result in an increased risk of an emergency in the water; and 1:5 supervision for campers with a developmental disability during swimming. Entry level staff person earning the minimum wage of \$8.75/hour should be able to comply with the supervision requirements. The expense for camps will vary depending on the number of campers with these disabilities and the length of time the campers are in attendance.

Camps will be required to obtain and follow existing care/treatment plans and other available information relevant to the care of a camper with disabilities, such as pre-existing medical conditions, allergies, modified diets, and activity restrictions. Staff providing direct care of these campers must be trained on the specific needs of each camper. Costs to obtain existing health and care information are expected to be minimal, since camps currently collect health information. Costs to provide staff training will vary based on needs of individual campers, but are expected to be a minimal as they currently provide staff training in other areas.

Camps will need to obtain parent or guardian's written permission to allow campers with developmental disabilities to participate in swimming activities. The cost of obtaining permission slips should be minimal, as it is limited to copying, distributing, and filing with other materials from parents/guardians.

Cost to State and Local Government:

State agencies and local governments operating camps will have the same costs described in the section entitled "Cost to Regulated Parties."

The regulation imposes requirements on local health departments (LHDs) for receiving incident reports, investigating incidents, and oversight of corrective actions. The total cost for these services is difficult to estimate because of the variation in the number of incidents and amount of time to investigate an incident. The cost to investigate an incident, including report

completion, is estimated to range from \$400 to \$1600.

Cost to the Department of Health:

There will be costs associated with printing and distributing the amended Code. There will be minimal costs for printing and distributing training materials, as most information will be distributed electronically. LHDs will likely include copies of training materials in routine correspondence to camps.

Local Government Mandates:

Camps operated by local governments must comply with the requirements imposed on camps operated by other entities, as described in the section entitled “Cost to Regulated Parties.” Local governments serving as permit issuing officials will face additional reporting and investigation requirements, as described in the section entitled “Cost to State and Local Government.” The proposed amendments otherwise do not impose new responsibilities on local governments.

Paperwork:

The paperwork associated with the amendment includes the completion and submission of incident report forms to the LHD and Justice Center. Camps will be required to provide records necessary for LHD investigation of incidents, and to retain documentation regarding whether prospective employees were found on the SEL or SCR. Camps enrolling campers with a disability will be required to obtain health care related documents/information and permission

slips for swimming and document in-service training for aquatic staff.

Duplication:

This regulation does not duplicate any existing federal, state, or local regulation.

Alternatives Considered:

The amendments to the code that relate to Camps for Children with Developmental Disabilities are mandated by law. No alternatives were considered for these requirements.

The Department considered not imposing additional requirements on camps that enroll less than 20% of campers with a disability; however, this option was rejected because the requirements are viewed as necessary to protect campers with disabilities attending camp.

The Department also considered imposing all of the requirements for Camps for Children with Development Disabilities on all children's camps with one or more qualifying campers; however, this option was rejected due to the burdensome costs associated with implementing the requirements. The State Camp Safety Advisory Council also expressed concern that applying the regulations to all camps enrolling a child with a developmental disability could be burdensome and have unintended consequences. The Department received correspondences from two State Senators, who expressed concern that expanding the regulations to all children's camps would have unintended financial consequences that could impact access.

Public comments were delivered by municipal organizations, children's camps and camp organizations, all of which argued in favor of keeping the 20 percent threshold. The Justice Center conveyed agreement with the Department's application of the additional requirements to camps serving a population of 20 percent or more children with developmental disabilities.

Federal Standards:

No current federal law governs the operation of children's camps.

Compliance Schedule:

The proposed amendments will be effective upon publication of the Notice of Adoption in the State Register. For Camps for Children with Developmental Disabilities, compliance with all requirements will be immediately required. For camps serving a population of less than 20 percent of children with developmental disabilities, the requirements pertaining to such camps will be effective October 1, 2016.

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Regulatory Impact Statement

Statutory Authority:

The Public Health and Health Planning Council is authorized by section 225(4) of the Public Health Law (PHL) to establish, amend and repeal sanitary regulations to be known as the State Sanitary Code (SSC), subject to the approval of the Commissioner of Health. Article 13-B of the PHL authorizes the PHHPC to prescribe standards and establish regulations for children's camps sets forth sanitary and safety requirements for children's camps. PHL sections 225 and 201(1)(m) authorize SSC regulation of the sanitary aspects of businesses and activities affecting public health including children's camps.

Legislative Objectives:

In enacting Chapter 501 of the Laws of 2012, the Legislature established the New York State Justice Center for the Protection of People with Special Needs (Justice Center) to strengthen and standardize the safety net for vulnerable people that receive care from New York's Human Services Agencies and Programs. The legislation amended Article 11 of Social Service Law to include children's camps for children with developmental disabilities, and it required the Department of Health to promulgate regulations approved by the Justice Center pertaining to incident management. The proposed amendments further the legislative objective of protecting the health and safety of vulnerable children attending camps in New York State.

Needs and Benefits:

In order to better protect and provide for the needs of campers with disabilities that attend

children's camps with less than 20 percent of the population having a developmental disability, the following requirements now apply to any camp that enrolls a camper with a disability:

- For campers who cannot independently manipulate a wheelchair or adaptive equipment, camps must provide at least 1:2 supervision;
- Staff that have direct care responsibilities of campers with disabilities must receive training relevant to the specific needs of the campers in their charge;
- Camps must obtain and implement, as appropriate, care and treatment plans for campers with a disability that have such plans as well as obtain other available information relevant to the care and specific needs of a camper with disabilities including pre-existing medical conditions, allergies, modified diets, and activity restrictions;
- During swimming activities, camps must provide one counselor for each camper who is non-ambulatory or has a disability that may result in an increased risk for an emergency in the water;
- For campers with developmental disabilities, camps must provide one counselor for every five campers during swimming activities;
- Camps must obtain parent/guardian's written permission to allow campers with developmentally disabilities to participate in swimming activities;
- Camps must develop procedures and training for handling seizures or aspiration of water by campers with developmental disabilities that may occur during swimming activities;
- All lavatories and showers used by campers with a physical disability must be equipped with specialized features and grab bars;

- Lavatories and showers used by campers with disabilities, who are unable to moderate water temperature safely, shall have a water temperature not greater than 110 degrees Fahrenheit.
- Buildings housing non-ambulatory campers shall have ramps to facilitate access.
- Non-ambulatory campers may not have housing above ground level; and
- Exterior paths must be constructed and maintained, as appropriate for the camp population served, to provide for safe travel during inclement weather.

The Justice Center legislation amended Article 11 of Social Services Law to include overnight, summer day and traveling summer day camps for children with developmental disabilities as facilities that must comply with the Justice Center requirements. This included mandating regulations regarding incident management procedures and other requirements consistent with Justice Center guidelines and standards.

To implement Article 11 of Social Services Law, the Department of Health defined “Children’s Camp for Children with Developmental Disabilities” in Subpart 7-2 of the State Sanitary Code. The amendment defines a Children’s Camp for Children with Developmental Disabilities as a children’s camp with enrollment of 20 percent or more campers with a developmental disability. The amendments further require these camps to comply with staff screening, staff training and incident management procedures mandated by the Justice Center legislation. The Department’s proposal includes the following:

- Reportable incident is defined to include abuse, neglect and other significant incidents

specified in section 488 of Social Services Law. Camp staff must report all reportable incidents to the Justice Center Vulnerable Persons' Central Registry and the permit-issuing official;

- A definition of a personal representative was added to be consistent with section 488 of Social Services Law;
- Prior to hiring camp staff, camps must verify that candidates are not on the Justice Center's staff exclusion list or on the Office of Children and Family Services State Central Registry of Child Abuse and Maltreatment;
- All camp staff must obtain mandated reporter training and review and acknowledge an understanding of the Justice Center's code of conduct;
- Camps must ensure that immediate protections are in place following an incident to prevent further risk or harm to campers;
- Camps must notify the victim, any potential witnesses, and each camper's personnel representative (as appropriate) that the camper may be interviewed as part an abuse or neglect investigation;
- Camps must cooperate fully with reportable incident investigations and provide/disclose all necessary information and access to conduct investigations;
- Camps must promptly obtain an appropriate medical examination of a physically injured camper with a developmental disability;
- Unless a waiver is granted, camps must convene a Facility Incident Review Committee to review the camp's responses to a reportable incident including making recommendations

for improvement, reviewing incident trends, and making recommendations to reduce reportable incidents;

- Camps must implement any corrective actions identified as the result of a reportable incident investigation.

Additionally, unrelated to requirements for camps with children with disabilities, the requirement for shower water temperature at children's camps is made consistent with Part 1226 (Property Maintenance Code) of 19 NYCRR Chapter XXXIII.

Compliance Costs:

Cost to Regulated Parties:

Costs to Camps for Children with Developmental Disabilities:

The amendments impose additional requirements on children's camp operators for reporting and cooperating with Department of Health and Justice Center investigations at Camps for Children with Developmental Disabilities. The cost to affected parties is difficult to estimate due to variation in salaries for camp staff and the amount of time needed to investigate each reported incident. Reporting an incident is expected to take less than half an hour; assisting with the investigation will range from several hours to two staff days. Using a high estimate of staff salary of \$30.00 an hour, total staff cost would range from \$120 to \$1600 for each investigation. Expenses are nonetheless expected to be minimal statewide as between 45 and 55 Camps for Children with Developmental Disabilities operate each year, with a three-year average of six camps reporting 18 incidents per year. Accordingly, any individual camp will be very unlikely to

experience costs related to reporting or investigation.

Each Camp for Children with Developmental Disabilities will incur expenses for contacting the Justice Center to verify that potential employees, volunteers or others falling within the definition of “custodian” under section 488 of the Social Services Law (collectively “employees”), are not on the Staff Exclusion List (SEL). The effect of adding this consultation should be minimal. An entry level staff person earning the minimum wage of \$8.75/hour should be able to compile the necessary information for 100 employees, and complete the consultation with the Justice Center, within a few hours.

Similarly, each Camp for Children with Developmental Disabilities will incur expenses for contacting the Office of Children and Family Services (OCFS) to determine whether potential employees are on the State Central Registry of Child Abuse and Maltreatment (SCR) when consultation with the Justice Center shows that the prospective employee is not on the SEL. An entry level staff person earning the minimum wage of \$8.75/hour should be able to compile the necessary information for 100 employees, and complete the consultation with the OCFS, within a few hours. Assuming that each employee is subject to both screens, aggregate staff time required should not be more than six to eight hours. Additionally, OCFS imposes a \$25.00 screening fee for new or prospective employees. There is no charge for volunteers.

For each reportable incident, Camps for Children with Developmental Disabilities will be

required to disclose information pertaining to reportable incidents to the Justice Center and to the permit issuing official investigating the incident. They will also be required to ensure immediate protections are in place for the victim and notify the victim and any witnesses that they may interviewed as part of the investigation. Costs associated with this include staff time for locating information, contacting camper's parent/guardians and expenses for copying materials. Using a high estimate of staff salary of \$30.00 an hour, and assuming that staff may take up to two hours to locate and copy the records, the typical cost should be under \$100.

Camps for Children with Developmental Disabilities must also assure that camp staff, and certain others, who fall within the definition of mandated reporters under section 488 of the Social Services Law receive training related to mandated reporting to the Justice Center, and the obligations of those staff who are required to report incidents to the Justice Center. The costs associated with such training should be minimal as it is expected that the training material will be provided to the camps and will take about one hour to review during routine staff training.

Camps for Children with Developmental Disabilities must also ensure that the telephone number for the Justice Center reporting hotline is conspicuously posted for campers and staff. Cost associated with such posting is limited, related to making and posting a copy of such notice in appropriate locations.

The operator of a Camp for Children with Developmental Disabilities must also provide each camp staff member, and others who may have contact with campers, with a copy of a code

of conduct established by the Justice Center pursuant to section 554 of the Executive Law. The code must be provided at the time of initial employment, and at least annually thereafter during the term of employment. Receipt of the code of conduct must be acknowledged, and the recipient must further acknowledge that he or she has read and understands it. The cost of providing the code, and obtaining and filing the required employee acknowledgment, should be minimal, as it would be limited to copying and distributing the code, and to obtaining and filing the acknowledgments. Staff should need less than 30 minutes to review the code.

Camps for Children with Developmental Disabilities will also be required to establish and maintain a facility incident review committee to review and guide the camp's responses to reportable incidents. The cost to maintain a facility incident review committee is difficult to estimate due to the variations in salaries for camp staff and the amount of time needed for the committee to do its business. An incident review committee will be required to meet to fulfill its duties if any reportable incidents occur. Because most camps only operate during the summer season, it is expected that the incident review committee will meet no more than once a year. Assuming the camp will have several staff members participate on the committee, an average salary of \$50.00 an hour and a three hour meeting, the cost is estimated to be \$450.00 dollars per meeting. However, the regulations also provide the opportunity for a camp to seek an exemption, which may be granted subject to Department approval based on the duration of the camp season and other factors.

Camps for Children with Developmental Disabilities are now explicitly required to obtain an appropriate medical examination of a camper physically injured from a reportable incident. A medical examination has always been required for such injuries; therefore, this will not be an increased cost.

Costs to camps enrolling campers with a disability:

Certain regulations which previously only pertained to camps with 20 percent or more campers with a developmental disability will now apply to camps that enroll one or more campers with a disability. The cost to affected parties is difficult to estimate due to variation in salaries for camp staff and the unknown and varying number of campers with a disability attending camps.

Camps will be required to provide at least one staff for ever two campers who cannot independently manipulate a wheelchair or other adaptive equipment. Camps will also be required to provide one on one supervision during swimming for each camper who is non-ambulatory or has a disability identified by the camper's parent, guardian, physician or residential care provider that may result in an increased risk of an emergency in the water. One camp staff person will be required for each five campers swimming with a developmental disability. Entry level staff person earning the minimum wage of \$8.75/hour should be able to meet the minimum counselor qualification to provide supervision. The expense for camps will vary depending on the number of campers with these types of disabilities and the length of time the campers are in attendance.

Camps will be required to obtain and follow care and treatment plans for campers when they exist, and obtain other available information relevant to the care and specific needs of a camper with disabilities such as information on pre-existing medical conditions, allergies, modified diets, and activity restrictions. Staff providing direct care of these campers will be required to receive any relevant training to provide for the safe care of such campers. The cost to obtain existing health and care information is expected to be minimal, since camps currently collect health information. The cost to provide staff training will vary based on the needs of individual campers, but is expected to be a minimal additional cost to camp operators, as they are currently required to provide staff training in other areas.

Camps will need to obtain parent's or guardian's written permission to allow campers with developmentally disabilities to participate in swimming activities. The cost of obtaining permission slips should be minimal, as it would be limited to copying, distributing, and filing with other materials sent to and received from parents or guardians.

Cost to State and Local Government:

State agencies and local governments that operate Camps for Children with Developmental Disabilities and camps enrolling campers with a disability will have the same costs described in the section entitled "Cost to Regulated Parties." Currently, it is estimated that municipalities operate nine summer day camps that meet the definition of a Camp for Children with Developmental Disabilities.

The regulation includes additional requirements on local health departments for receiving incident reports, investigations of reportable incidents, oversight of corrective actions and providing a copy of the resulting report to the Department. The total cost for these services is difficult to estimate because of the variation in the number of incidents and amount of time to investigate an incident. However, assuming the typical estimate of \$50 an hour for health department staff conducting these tasks, an investigation lasting between one and four staff days, and an eight hour day, the cost to investigate an incident will range from \$400 to \$1600. Since the inception of the Justice Center, an average of 18 incidents per year have been reported within an average of six different local health departments.

Cost to the Department of Health:

There will be routine costs associated with printing and distributing the amended Code. The estimated cost to print revised code books for each regulated children’s camp in NYS is approximately \$1600. There will be additional cost for printing and distributing training materials. The expenses will be minimal, as most information will be distributed electronically. Local health departments will likely include paper copies of training materials in routine correspondence to camps that is sent each year.

Local Government Mandates:

Camps for Children with Developmental Disabilities and camps enrolling campers with a disability operated by local governments must comply with the same requirements imposed on camps operated by other entities, as described in the “Cost to Regulated Parties” section of this

Regulatory Impact Statement. Local governments serving as permit issuing officials will face minimal additional reporting and investigation requirements, as described in the “Cost to State and Local Government” section of this Regulatory Impact Statement. The proposed amendments do not otherwise impose a new program or responsibilities on local governments. City and county health departments continue to be responsible for enforcing the amended regulations as part of their existing program responsibilities.

Paperwork:

The paperwork associated with the amendment includes the completion and submission of an incident report form to the local health department and Justice Center. Camps for Children with Developmental Disabilities will be required to provide the records and information necessary for LHD investigation of reportable incidents, and to retain documentation of the results of their consultation with the Justice Center regarding whether any given prospective employee was found to be on the SEL or the SCR. Camps enrolling campers with a disability will be required to obtain health care related documents/information and permission slips for swimming. Camps will also be required to document in-service training for aquatic staff that oversee swimming pertaining to seizures and aspiration of water.

Duplication:

This regulation does not duplicate any existing federal, state, or local regulation for children’s camps.

Alternatives Considered:

The amendments relating to Camps for Children with Developmental Disabilities are mandated by law. No alternatives were considered for these requirements.

The Department considered not imposing additional requirements on camps that have less than 20 percent of the children enrolled with a developmental disability; however, this option was rejected because the additional requirements are viewed as necessary to protect campers with disabilities attending camp.

The Department also considered applying all of the requirements for Camps for Children with Developmental Disabilities to all children's camps with one or more qualifying campers; however, this option was rejected due to the costs associated with implementing the requirements. The New York State Camp Safety Advisory Council expressed concern that applying the regulations to all camps with a child with a developmental disability could be burdensome and have unintended consequences such as a camp not admitting a child into the program. The Department also received correspondences from two State Senators, who indicated that expanding the emergency regulations to all children's camps, in addition to those that meet the 20 percent threshold, would have unintended financial consequences that could impact access.

Similarly, public comments were delivered by municipal organizations, children's camps and camp organizations, all of which argued in favor of keeping the 20 percent threshold for Camps for Children with Developmental Disabilities. Finally, the Justice Center conveyed

agreement with the Department's application of the additional requirements to camps serving a population of 20 percent or more children with developmental disabilities.

Federal Standards:

Currently, no federal law governs the operation of children's camps.

Compliance Schedule:

The proposed amendments are to be effective upon publication of the Notice of Adoption in the State Register. For Camps for Children with Developmental Disabilities, compliance with all requirements will be immediately required. For camps serving a population of less than 20 percent of children with developmental disabilities, the requirements pertaining to such camps will be effective October 1, 2016.

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Regulatory Flexibility Analysis
for Small Business and Local Government

Types and Estimated Number of Small Businesses and Local Governments:

There are approximately 2,510 regulated children's camps (533 overnight and 1977 summer day camps) operating in New York State. Any such camp that enrolls a camper with a disability will be affected by the proposed rule. Municipalities (towns, villages, cities and school districts) operate approximately 295 summer day camps and no overnight camp. Most of the remaining camps are believed to be small businesses.

Of the estimated 49 Children's Camps for Children with Development Disabilities (21 overnight camps and 28 summer day camps) that will be affected by the proposed rule, approximately nine summer day camps and none of the overnight camps are operated by municipalities (towns, villages, and cities). Most of the remaining Children's Camps for Children with Development Disabilities are believed to be small businesses.

Regulated children's camps representing small business include those owned or operated by corporations, hotels, motels and bungalow colonies, non-profit organizations (e.g., Girl/Boy Scouts of America, Cooperative Extension, YMCA) and others. The proposed amendments would affect these camps if they enroll children with disabilities. None of the proposed amendments will apply solely to camps operated by small businesses or local governments.

Compliance Requirements:**Reporting and Recordkeeping:**

The obligations imposed on small business and local government as camp operators are no different from those imposed on camps generally, as described in “Cost to Regulated Parties,” “Local Government Mandates,” and “Paperwork” sections of the Regulatory Impact Statement. The obligations imposed on local government as the permit issuing official is described in “Cost to State and Local Government” and “Local Government Mandates” portions of the Regulatory Impact Statement.

Other Affirmative Acts:

The obligations imposed on small business and local government as camp operators are no different from those imposed on camps generally, as described in “Cost to Regulated Parties,” “Local Government Mandates,” and “Paperwork” sections of the Regulatory Impact Statement.

Professional Services:

Camps for Children with Developmental Disabilities are now explicitly required to obtain an appropriate medical examination of a camper physically injured from a reportable incident; however, a medical examination has always been expected for such injuries, so this is not a new required service.

Compliance Costs:**Cost to Regulated Parties:**

The obligations imposed on small business and local government as camp operators are no different from those imposed on camps generally, as described in “Cost to Regulated Parties” and “Paperwork” sections of the Regulatory Impact Statement.

Cost to Small Businesses and State and Local Government:

The obligations imposed on small business and local government as camp operators are no different from those imposed on camps generally, as described in the “Cost to Regulated Parties” and “Paperwork” section of the Regulatory Impact Statement. The obligations imposed on local government as the permit issuing official is described in “Cost to State and Local Government” and “Local Government Mandates” portions of the Regulatory Impact Statement.

Economic and Technological Feasibility:

There are no changes requiring the use of technology.

The proposal is believed to be economically feasible for impacted parties. The amendments impose additional reporting and investigation requirements that will use existing staff that already have similar job responsibilities. There are no requirements that that involve capital improvements.

Minimizing Adverse Economic Impact:

The amendments for Camps for Children with Developmental Disabilities are mandated by law. No alternatives were considered.

Amendments for camps that have less than 20 percent of the campers with developmental disabilities are believed to be what is minimally necessary to protect this vulnerable population. Requirements for camps serving a population of less than 20 percent of children with developmental disabilities will be effective October 1, 2016. This will allow camps to adequately prepare for and implement these requirements.

Small Business and Local Government Participation:

The regulations were discussed at several State Camp Safety Advisory Council meetings which are open to the public and attended by camp operators, local health department staff and other local government officials. However, due to the need to have regulations in place by the 2016 camping season with adequate time for camps to prepare for the new requirements, no formal outreach was conducted.

Rural Area Flexibility Analysis

Types and Estimated Number of Rural Areas:

There are approximately 2,510 regulated children's camps (533 overnight and 1,977 summer day camps) operating in New York State. Any of these camps that enrolls a camper with a disability will be affected by the proposed rule. There are an estimated 412 day camps and 402 overnight camps operating in the 44 counties that have population less than 200,000. There are an additional 395 day camps and 97 overnight camps in the nine counties identified to have townships with a population density of 150 persons or less per square mile.

Of the approximate 814 camps operating in the 44 counties that have populations less than 200,000, there are 9 summer day and 13 overnight Camps for Children with Development Disabilities. There are an additional 5 day camps and 4 overnight camps in the 9 counties identified as having townships with a population density of 150 persons or less per square mile.

Reporting and Recordkeeping and Other Compliance Requirements:

Reporting and Recordkeeping:

The obligations imposed on camps operators in rural areas are no different from those imposed on camps generally, as described in "Cost to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement.

Other Compliance Requirements:

The obligations imposed on camps in rural areas are no different from those imposed on camps generally, as described in “Cost to Regulated Parties” and “Paperwork” sections of the Regulatory Impact Statement.

Professional Services:

Camps for the Children with Development Disabilities are now explicitly required to obtain an appropriate medical examination of a camper physically injured from a reportable incident; however a medical examination has always been expected for such injuries, so this is not an additional service.

Compliance Costs:**Cost to Regulated Parties:**

The costs imposed on camps in rural areas are no different from those imposed on camps generally, as described in “Cost to Regulated Parties” and “Paperwork” sections of the Regulatory Impact Statement.

Economic and Technological Feasibility:

There are no changes requiring the use of technology.

The proposal is believed to be economically feasible for impacted parties. The amendments impose additional reporting and investigation requirements that will use existing

staff that already have similar job responsibilities. There are no requirements that involve capital improvements beyond requirements already imposed by the Americans with Disabilities Act.

Minimizing Adverse Economic Impact on Rural Area:

The amendments for Camps for Children with Developmental Disabilities are mandated by law. No alternatives were considered. No impacts are expected to be unique to rural areas.

Amendments for camps that have less than 20 percent of the campers with developmental disabilities are necessary to protect this vulnerable population. The Department has sought to strike a balance between protecting this vulnerable population and ensuring that costs are feasible. Amendments for camps that have less than 20 percent of the campers with developmental disabilities are believed to be what is minimally necessary to protect this vulnerable population.

Requirements for camps serving a population of less than 20 percent of children with developmental disabilities will be effective October 1, 2016. This will allow camps to adequately prepare for and implement these requirements.

Rural Area Participation:

The regulations were discussed at several State Camp Safety Advisory Council meetings which are open to the public and attended by camp operators from rural areas. However, due to the need to have regulations in place by the 2016 camping season with adequate time for camps to prepare for the new requirements, no formal outreach was conducted.

Job Impact Statement

No Job Impact Statement is required pursuant to section 201-a (2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment that it will have no adverse impact on the number of jobs and employment opportunities at children's camps, because it does not result in a decrease in current staffing level requirements.

ASSESSMENT OF PUBLIC COMMENT

A total of six written comments were received during the comment period. Written comments were received from: three local health departments (Chemung County, Livingston County, and Niagara County), the Conference of Environmental Health Directors, New York State Association of County Health Officials, and Town of Hyde Park.

The following summarizes the concerns expressed by those who commented and the Department of Health's (DOH) response to the comments:

Increased Cost for Camps:

Comments:

All six commenters included concerns that the proposed amendments would place financial hardships on camps that are not designated as a Camp for Children with Developmental Disabilities and that the hardships may result in camps closing.

DOH Response:

The amendments are necessary to protect children with disabilities attending any camp. The amendments impose additional requirements on camps enrolling campers with physical or developmental disabilities, to further protect this vulnerable population.

Comments:

Comments received expressed concern that higher staff supervision ratios for children with disabilities will result in the hiring of additional staff.

DOH Response:

The supervision and staffing requirements in these amendments apply to campers with severe disabilities and who are unable to care for themselves. In most cases, the new staffing requirements are anticipated to be implemented through existing staffing levels with minor changes to current camp policies and procedures.

Comments:

Comments were received that expressed concern that the new staff training and qualifications were unspecified and there were no guidelines for adequate training.

DOH Response:

The cost for additional staff training on the needs of campers with disabilities is expected to be minimal, as camps are currently required to provide staff training in other areas. Therefore, only staff with direct care responsibilities are required to be trained on the needs of the campers with disabilities in their charge. The amendments do not mandate hiring specially trained or certified staff or provide training guidelines because each training will be camp specific depending on the disabilities of the children who are enrolled.

Comments:

Comments were received that expressed concern about the costs associated with new structural accessibility requirements for campers with physical disabilities.

DOH Response:

Accessibility standards have been mandated by NYS Uniform Building and Construction Code since 1984 and by American's with Disabilities Act since 1986. Prior to the amendment,

accessibility requirements only pertained to camps with 20 percent or more campers with a developmental disability. The regulation is amended to correctly apply accessibility requirements to all children's camps.

Comments:

Comments received expressed concerns about additional unspecified procedural requirements.

DOH Response:

Commenters stated that procedural requirements of the amendments would increase expenses for camps, but did not explain what requirements were of concern. Therefore, the Department believes no change is necessary.

Comments:

Comments received expressed concern about the cost associated with the establishment of Facility Incident Review Committees.

DOH Response:

Chapter 501 of the Laws of 2012 which established the NYS Justice Center for the Protection of People with Special Needs, requires each facility within the oversight of the Justice Center to have a Facility Incident Review Committee. Accordingly, this requirement applies to Camps for Children with Developmental Disabilities. In certain circumstances, however, a camp operator may seek an exemption from the requirement pursuant to 10 NYCRR Section 7-2.25(b)(8)(iv)(b).

Comment:

One commenter suggested that if a camper requires 1 to 1 supervision that the child's parents should provide the caregiver.

DOH Response:

The amendments do not prohibit camps from making individual arrangements with parents for a caregiver. However, the Department declines to make this a requirement.

Comment:

Another commenter included a suggestion that a provision should be included for low cost or no interest loan to camp operators to assist with compliance.

DOH Response:

Low interest loans to camp operators is outside of the scope of these regulations.

Comment:

One commenter suggested that a provision should be included that gives camps advanced notice to allow for adequate training preparation.

DOH Response:

The requirements for Children's Camps for Children with Developmental Disabilities are consistent with past emergency regulations and guidance that have been implemented since June of 2013. Requirements for other camps are not effective until October 1, 2016, which gives camps time to prepare.

Increased Costs for Local Health Departments:

Comments:

Comments received expressed concern that the amendments would result in additional expenses and place a burden on local health departments (LHDs). One commenter specifically listed the costs associated with incident investigation and other training required in the Justice Center regulations for Camps for Children with Developmental Disabilities. There were also comments which mentioned the inability for LHDs to increase children's camp permit fee to cover costs associated with the amendments.

DOH Response:

Additional expenses associated with LHDs complying with these amendments is expected to be minimal. LHDs will assess camps for compliance with the amendments during currently required routine on-site inspections of a camp. The additional requirements are not expected to add a significant amount of time to an inspection. Furthermore, amendments for incident investigation and additional staff training at Camps for Children with Developmental Disabilities are required by the Justice Center legislation and cannot be amended by the Department of Health. The Department of Health will be providing training to LHDs about the amendments at no charge. Children's camp permit fees are set in Public Health Law § 1406 and therefore cannot be increased through regulation.

Expanding the applicability of the regulations:

Comments:

Commenters questioned the need for amendments that go beyond the Justice Center regulations.

DOH Response:

The Department evaluated the regulations and determined the amendments are necessary to protect children with disabilities attending all camps, not just camps designated as a Camp for Children with Developmental Disabilities.