

## **Summary of Substance**

Pursuant to the federal Child Care and Development Block Grant Act of 2014, the New York Social Services Law provides for criminal history disqualification reviews for applicants for enrollment, employment, and/or a volunteer position at a child care program who are denied such role based on a non-mandatory disqualifying criminal conviction. Current OCFS regulations, effective September 25, 2019, provide for such reviews but do not detail the process for requesting and conducting such reviews. This rule amends Title 18 of the New York State Codes, Rules and Regulations Parts 413 and 415 to include such procedures. This rule clarifies that applicants must request a review within thirty days of receipt of the letter notifying the applicant that he or she is ineligible for the role and that there is a right for review, and that an applicant who timely requests a review has the option to request the method of review: submission of written materials only, an in-person administrative hearing, or a video conference administrative hearing if reasonably available. Additionally, this rule outlines procedures for such reviews related to notice, pleadings, evidence, powers of the presiding hearing officer, rights of the applicant, the record, and the decision. Specifically, the applicant has the burden of proving that the denial is not supported by substantial evidence and that he or she should not have been denied enrollment, employment, and/or the ability to volunteer at a child care program. This rule further provides that, if the decision after review determines that the application should not have been denied, the applicant's criminal history shall not be a bar when considering his or her eligibility for the role. If, however, the decision after review is adverse to the applicant, the employer will be notified that the applicant is ineligible for such role. In addition to outlining the procedures related to these reviews, this rule also clarifies that volunteers are entitled to such reviews and amends the existing child day care enforcement hearing provisions to codify existing procedures.