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**TO:** Members of the State Board of Education

**FROM:** Karen B. Salmon, Ph.D.

**DATE:** December 5, 2017

**SUBJECT:** COMAR 13A.15 – *Family Child Care*  
COMAR 13A.16 – *Child Care Center*  
COMAR 13A.17 – *Letters of Compliance*  
COMAR 13A.18 – *Large Family Child Care Homes*  
**(AMEND) PERMISSION TO PUBLISH**

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**PURPOSE:**

The purpose of this action is to obtain permission to publish amended regulations for COMAR 13A.15 – *Family Child Care*, COMAR 13A.16 – *Child Care Center*, COMAR 13A.17 – *Letters of Compliance*, and COMAR 13A.18 – *Large Family Child Care Homes*.

**REGULATION PROMULGATION PROCESS:**

Under Maryland law, a state agency, such as the State Board, may propose a new regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the AELR Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, MSDE staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

## **BACKGROUND/HISTORICAL PERSPECTIVE:**

Child care regulations have been established to ensure the health, safety and welfare of children when in an out of home setting. Regulations are established based on legislation, federal law and best practices as outlined in *Caring for Our Children* (American Academy of Pediatrics in collaboration with the National Resource Center for Health and Safety in Child Care (U.S.), the American Public Health Association, and the Maternal and Child Health Bureau of the U.S. Department of Health and Human Services.) In 2015, the regulations were revised as required by legislation passed in 2013 (HB932/SB832 – Dispute Resolution) and 2014 (HB1276/SB716 – Health Eating). In 2014, the Federal Child Care Development Block Grant (CCDBG) was reauthorized. The CCDBG establishes the requirements and processes for states and territories to receive Federal funding through the Child Care Development Fund (CCDF). The funding available through CCDF supports child care subsidies for low income families, measures to protect the health, safety and welfare of children when in child care settings, and improve the quality of child care services. The Federal regulations for CCDF were finalized in the fall of 2016. Maryland’s regulations met the majority of the new requirements required under this funding stream. However, two major aspects of the CCDBG reauthorization were the implementation of comprehensive basic health and safety training for all child care staff and expanded background clearances. During the process of updating the regulations to incorporate the CCDF requirements, corrections and clarifications were identified. The regulations have been reviewed by the Office of Child Care Licensing offices statewide, discussed with the child care provider association leadership, presented at child care conferences, addressed in the quarterly PARTNERS newsletter distributed to all licensed and registered child care providers, discussed at the Office of Child Care Advisory Council, and reviewed by the Office of Attorney General.

## **EXECUTIVE SUMMARY:**

The purpose of the proposed amendment is to implement the requirements of the CCDBG Act, as amended (42 U.S.C. 9858 *et seq.*), along with Section 418 of the Social Security Act (42 U.S.C. 618). The proposed amendments are consistent throughout all four subtitles of regulations. The proposed amendments outline the statutory requirements of the CCDF reauthorization, modifications to provide clarity and more consistency between all subtitles, and corrections to the previous publication. The amendments address the following and apply to all subtitles unless otherwise indicated:

- Removing the term ‘paid’ in reference to individuals needing to have a background clearance
- Adding language to clarify the agencies that may provide information concerning child abuse and neglect information
- Modifying the definition of injurious treatment to include verbally threatening a child
- Adding a definition for Reasonable Accommodations
- Clarifying requirements for medical information for child care providers and staff of child care centers to include that the individual is capable of performing the duties of the position

- Expanded the requirements for background checks to comply with Federal regulation to require checks from states in which the individual resides or resided within the past five years
- Amending the types of individuals required to have background clearances and complete required training
- Amending the crimes for which an applicant/application shall be denied to align with the Federal regulation to include:
  - “a felony conviction for:
    - (1) Murder;
    - (2) Spousal abuse; or
    - (3) Arson.
- Incorporating changes required as a result of Department of Health regulations on lead testing (Code of Maryland Regulations 10.11.04)
- Clarifying how children in care will be counted
- Changing the length of time that a provider must reduce the number of children in care when notified by the Office
- Strengthening the pool security requirements by adding:
  - “C. Any pool on the premises of the facility shall be made inaccessible to children in care and provide for security, including but not limited to having a:
    - (1) Fence that surrounds the pool;
    - (2) Self-closing and self-latching mechanism on the gate, door, or access to the pool;
    - (3) Lock that is operable and secured; and
    - (4) Sensor or alarm in the pool and on the access door.”
- Water Safety – adding language concerning the prohibition of using above-ground swimming pools
- Requiring a provider to immediately move a child, under the age of 12 months, who has fallen asleep in a furnishing other than a crib to an approved napping arrangement
- Adding Health and Safety training requirements for all providers and staff
- Reordering regulations for clarity and consistency across all subtitles
- Adding a requirement for the Office to notify the provider of an approval or disapproval of a substitute within 30 days
- Expanding the prohibitions under Child Discipline to include that the provider or substitute may not “spank, hit, shake, or use any other means of physical discipline”
- Including swaddling as a restricting device for resting children
- Updating references throughout each chapter due to changes in regulations and State agency names
- Including a volunteer in the list of employees who may not consume alcoholic beverages or illegal or nonprescribed controlled dangerous substances while providing child care services.
- Clarifying who is responsible for providing food and beverages to children in care
- Adding advertising as a reason to investigate a facility and issue a citation
- Adding non-compliance with child support enforcement as a reason to suspend a registration or license

- Adding that if an emergency suspension letter is unable to be hand-delivered it may be sent by regular and certified mail to the provider’s address
- Changing who receives the hearing request from the Superintendent’s designee to the Office of Administrative Hearings
- Adding clarifying language under the reasons the office may revoke a registration or license to include “*regardless of intent*”
- Administrative Hearings – reordering the regulation for clarity and adding:
  - “*or for the imposition of civil penalties for providing or advertising unregistered family child care services without a valid family child care certificate of registration.*”, and
  - “(2) *An individual requests a hearing to contest the imposition of civil penalties for providing unregistered child care or advertising family child care services without a valid family child care certificate of registration.*”

**Changes specific to COMAR 13A.15 – Family Child Care**

- Adding a definition for Potentially Hazardous Food to be consistent with all other subtitles
- Adding a requirement that if the home is rented or leased the applicant must obtain written permission to provide child care at the location from the owner or landlord of the home
- Adding the following reasons for the denial of a registration:
  - “*Applicant, regardless of intent submitted false or altered medical documentation for the applicant, resident, coprovider, or additional adult for consideration by the office*”
  - “*Non-compliance with Child Support Enforcement requirements pursuant to Family Law 10-119.3*”
- 13A.15.03.03 – Program Records – eliminating limiting factors for the use of a substitute
- 13A.15.06.03 – Provider Substitute – clarifying that the substitute must provide care in the approved family child care home
- 13A.15.08.01 Family Child Care – General Supervision – adding:
  - “*D. If the home has more than one residential level that is approved for child care:*
    - (1) *The provider or substitute shall ensure that, when awake, active, and indoors at the home, each child younger than 6 years old remains on the same level of the home as the provider or substitute; and*
    - (2) *A child 6 years or older may be on a different level of the home from the provider or substitute if:*
      - (a) *The child’s status is checked by the provider or substitute often enough to ensure the child’s health, safety, and welfare, but at least every 15 minutes;*
      - (b) *The provider has informed the child’s parent that the child is permitted to be on a different level of the home; and*
      - (c) *The different home level is approved by the office for child care use and meets the applicable fire code.*”

- 13A.15.08.01 – Supervision of Resting Children – adding that the provider or substitute shall remain on the same level as a child under 2 years of age and all children must be observed at least every 15 minutes during rest time

### **Changes specific to COMAR 13A.16 - Child Care Centers**

- 13A.16.03.09 – Advertisement (New regulation)
  - “A. An operator may not advertise child care services unless the center holds a current license issued by the office.
  - B. An advertisement of the center shall:
    - (1) Specify that the center is licensed; and
    - (2) Include the license number issued to the center by the office.”
- 13A.16.06.13 – Substitutes – adding the following text:
  - “F. Approval by Office.
    - (1) An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.
    - (2) If information received by the office indicates that an individual designated as a substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.
    - (3) The Office shall notify the operator of its decision to approve or disapprove a substitute within 30 days of the request being submitted.”
- 13A.16.08.03 – Group Size and Staffing – reestablishing chart for infant/toddler staff/child ratios and maximum group size. This information was inadvertently removed during last regulation revision.
- 13A.16.14 – Adolescent Centers – removing the term “junior high school”
- 13A.16.16.03 – Approval to Operate an Educational Program – General Requirements – adding “if child care is not a component of the program” to clarify when a bona fide church organization must hold a license or a letter of compliance to offer an educational program
- 13A.16.17.03 – Warnings (New regulation) To ensure alignment with other subtitles
  - “**.03 Warnings.**
    - If an investigation of a complaint or an inspection of a child care center indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:
      - A. The violation found, citing the regulation;
      - B. The time period for correcting the violation; and
      - C. That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the license.“

### **Changes specific to COMAR 13A.17 – Letters of Compliance**

- 13A.17.01.02 – Definitions – adding clarifying language to the definition for (31) “Operated by a tax-exempt religious organization” to include “is a church or bona fide house of worship”
- 13A.17.03.06 – Notifications – adding a timeframe to notify the Office of new staff

- 13A.17.08.06 – Rest Time Supervision (new text) adding the following for consistency across all subtitles:
  - “**.08 Rest Time Supervision.**
  - A. *During a rest period for a group of children:*
    - (1) *The required staff/child ratio applicable to that group shall be maintained until all the children are resting quietly; and*
    - (2) *Once all the children in the group are resting quietly:*
      - (a) *At least one staff member assigned to the group shall continue to remain in the room with the children; and*
      - (b) *Other staff members, if any, assigned to the group may leave the room but shall remain on the premises and within hearing range.”*
- 13A.17.13 – Adolescent Facilities – removing the term ““junior high school”
- 13A.17.14.03 – Approval to Operate an Educational Program – General Requirements – adding “*if child care is not a component of the program*” to clarify when a bona fide church organization must hold a license or a letter of compliance to offer an educational program
- 13A.17.15.03 – Warnings (New regulation) To ensure alignment with other subtitles
  - “**.03 Warnings.**
  - If an investigation of a complaint or an inspection of a facility indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:*
    - A. *The violation found, citing the regulation;*
    - B. *The time period for correcting the violation; and*
    - C. *That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the letter of compliance. “*

### **Changes specific to COMAR 13A.18 – Large Family Child Care Homes**

- 13A.18.02.01 – Requirement to be Registered – adding the following text for consistency and clarity:
  - “(2) *A family child care home is not required to be registered if the provider:*
    - (a) *Is a relative of each child;*
    - (b) *Is a friend of each child's parent or legal guardian and the care is provided on a nonregular basis of less than 20 hours a month; or*
    - (c) *Has received the care of the child from a child placement agency licensed by the Department of Services.”*
- 13A.18.02.02 – Initial Registration – reordering the requirements for clarity
- Adding a requirement that if the home is rented or leased the applicant must obtain written permission to provide child care at the location from the owner or landlord of the home
- 13A.18.02.07 – Denial of a Registration Application – adding the following language for consistency across all subtitles:
  - “*B. The office shall deny a certificate of registration to an applicant who has received a conviction, a probation before judgment disposition, a not criminally*

*responsible disposition, or a pending charge for the commission or attempted commission of:*

*(1) A crime involving:*

*(a) A child;*

*(b) Cruelty to animals;*

*(c) Domestic violence; or*

*(d) A weapons or firearms violation of federal or state laws;*

*(2) A sex offense;*

*(3) A violent crime classified as a felony, including physical assault or battery;*

*(4) Abduction or kidnapping;*

*(5) Abuse of a child or an adult;*

*(6) Confinement of an unattended child;*

*(7) Manufacturing, distributing, or dispensing a controlled dangerous substance;*

*(8) Perjury;*

*(9) Pornography;*

*(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or*

*(11) Reckless endangerment; or*

*C. The office shall deny a certificate of registration to an applicant who has received a felony conviction for:*

*(1) Murder;*

*(2) Spousal abuse; or*

*(3) Arson.*

*D. The office shall deny a certificate of registration upon notification that the applicant is in non-compliance with Child Support Enforcement requirements pursuant to Family Law 10-119.3.”*

**ACTION:**

Request permission to publish the proposed amendments to COMAR 13A.15 – *Family Child Care*, COMAR 13A.16 – *Child Care Centers*, COMAR 13A.17 – *Letters of Compliance*, and COMAR 13A.18 – *Large Family Child Care Homes* for public comment.

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 15 FAMILY CHILD CARE

### Chapter 01 Scope and Definitions

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)–(12) (text unchanged)

(13) Employee.

(a) "Employee" means an individual who [for compensation] is employed to work in a family child care home and who:

(i) Cares for or supervises children in the facility; or

(ii) Has access to children who are cared for or supervised in the facility.

(b) "Employee" includes a [paid] substitute.

(c) (text unchanged)

(d) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, "employee" includes an individual who:

(i) [Is compensated by the provider or a resident to perform a service at the family child care home;

(ii) Has access to children in care] *Meets the definition of an employee as set forth in §B(13) of this*

*regulation ; and*

*[(iii)](ii) Does not clearly meet, or is not excluded from, the definition of independent contractor as set forth in §B(19) of this regulation.*

(14) "Family child care" has the same meaning as family [day] *child* care as defined in [Family Law Article, §5-501(e)] *Education Article 9.5-301(d)*, Annotated Code of Maryland, and means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.

(15)–(17) (text unchanged)

(18) "Identified as responsible for child abuse or neglect" means being determined by a local department of *social services or other state agency* [that] to be responsible for indicated child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(19)–(19-1) (text unchanged)

(20) "Injurious treatment" means:

(a) [Deliberate infliction in any manner of any type of physical pain,] *Physical discipline* including *but not limited to* spanking, hitting, shaking, or any other means of physical discipline, or enforcement of acts which result in physical pain;

(b) Failure to attend to a child's physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, *threatening*, or ridiculing; and

(d) (text unchanged)

(21)–(25) (text unchanged)

(26) *Potentially Hazardous Food.*

(a) *"Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients including synthetic ingredients capable of supporting rapid and progressive growth of infectious, toxigenic microorganisms.*

(b) *"Potentially hazardous food" does not include clean, whole, uncracked, odor-free shell eggs.*

[(26)](27)–[(27)](28) (text unchanged)

(29) *Reasonable Accommodations.*

(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,

(b) “Reasonable accommodations” are not required when providing the accommodations would significantly:

(i) Change the nature of the program; or

(ii) Impose a monetary burden on the provider.

[(28)](30)–[(35)](37) (text unchanged)

## Chapter 02 Registration Application and Maintenance

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 Registration—General Requirements.

A.–E. (text unchanged)

F. Except as provided under §G of this regulation, a residence approved for use under a family child care registration may not also be used to operate a:

(1) (text unchanged)

(2) Child care program that is subject to the requirements of COMAR 13A.16 [or], 13A.17, or 13A.18.

G.–H. (text unchanged)

### .02 Initial Registration.

A. (text unchanged)

B. [An]Except as set forth at §C of this regulation, an applicant for an initial registration shall:

(1)–(2) (text unchanged)

(3) Submit a medical evaluation for the applicant and each resident in the home that:

(a) (text unchanged)

(b) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; [and]

(c) Includes verification that the individual:

(i) Is free of communicable tuberculosis, if indicated; and

(ii) If the applicant, is capable of performing the duties of the position;

[(c)](d) Is signed or verified by the individual who conducted the evaluation;

(4) (text unchanged)

(5) Ensure that an application for a federal and State criminal background check is made at a designated office in the State by each:

(a) (text unchanged)

(b) Individual [paid] to serve as the provider's substitute; and

(c) [Paid employee] Employees and volunteers of the family child care home who [is] are 14 years old or older;

(6)–(7) (text unchanged)

(8) Submit documentation that the applicable training requirements specified in COMAR 13A.15.06.02 have been met; [and]

(9) Submit documentation showing that the home has met all applicable lead-safe environment requirements set forth in COMAR 13A.15.05.02[.]; and

(10) If the family child care home is located in an apartment or at another property that is rented or leased by the applicant, submit written authorization from the lessor, owner, or landlord permitting child care to be provided at that location.

C. Non-Maryland State Criminal Background Check. If an individual subject to the requirements of §B(4) or (5)(b) and (c) of this regulation currently resides or has resided in a state other than Maryland within 5 years before the date of application for registration, the individual shall:

(1) Apply for a state criminal background check to be performed by a duly authorized entity within that state; and

(2) Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.

[C.]D. (text unchanged)

### **.03 Continuing Registration.**

A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:

(1)–(3) (text unchanged)

(4) A completed and notarized release of information form that permits the office to examine records of abuse and neglect of children and adults for:

(a)–(d) (text unchanged)

(e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation, *including volunteers*.

(5) Documentation that the family child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; [and]

(6) *Written authorization from the lessor, owner, or landlord permitting the provider to continue providing child care in the home; and*

[(6)](7) Any other documentation required by law or regulation.

B. Maintenance of Continuing Registration.

(1) (text unchanged)

(2) By the end of each 24-month period after the date of issuance of a continuing registration, the provider shall submit to the office the items specified in §A(3)—[(6)](7) of this regulation.

### **.07 Denial of a Registration Application.**

A. The office may deny a certificate of registration if:

(1) (text unchanged)

(2) An evaluation of the application *or documents required* by the office reveals that the applicant, *regardless of intent*, reported false information;

(3) – (6) (text unchanged)

(7) An evaluation of the medical report or other information about the applicant, *coprovider*, or a resident indicates that the:

(a) Physical or mental health of the applicant, *coprovider*, or resident may pose a risk to children; or

(b) Applicant *or coprovider* is unable to care for children; *or*

(c) *Applicant, regardless of intent submitted false or altered medical documentation for the applicant, resident, coprovider, or additional adult for consideration by the office.*

(8) In addition to the requirements set forth at §B of this regulation, an evaluation of the criminal record of the applicant, *a coprovider*, [a paid] an additional adult, a [paid] substitute, *a volunteer*, or a resident in the home reveals that the individual has a criminal conviction, probation before judgment, or not criminally responsible disposition, or is awaiting a hearing for a criminal charge that indicates other behavior harmful to children;

(9) An evaluation of the information provided in records of abuse and neglect of children and adults reveals that the applicant, *a coprovider*, an additional adult, a substitute, *a volunteer*, or a resident is identified as responsible for abuse or neglect of children or adults, or is currently under investigation for alleged acts of abuse or neglect of children or adults;

(10)–(11) (text unchanged)

B. The office shall deny a certificate of registration to an applicant who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

(1)–(2) (text unchanged)

(3) A violent crime classified as a felony, *including physical assault or battery*;

(4)–(10) (text unchanged)

(11) Reckless endangerment.

C. *The office shall deny a certificate of registration to an applicant who has received a felony conviction for:*

(1) *Murder*;

(2) *Spousal abuse*; *or*

(3) *Arson*.

D. The office shall deny a certificate of registration upon notification that the applicant is in non-compliance with Child Support Enforcement requirements pursuant to Family Law 10-119.3.

[C.]E. (text unchanged)

[D.]F. If an evaluation of criminal records or records of abuse and neglect of children or adults reveals that a coprovider, substitute, volunteer, or an additional adult designated by the applicant may pose a risk to children in care, the office, instead of denying the registration certificate, may require the provider to designate another coprovider, substitute, volunteer, or additional adult.

[E.]G. Denial Before Complete Application.

(1) The office may deny an application for registration at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A or §B, §C, or §D of this regulation.

(2) (text unchanged)

### **.08 Voluntary Surrender of Registration.**

A. A provider may voluntarily surrender a family child care registration at any time by notifying the office in writing.

B. (text unchanged)

## **Chapter 03 Management and Administration**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### **.02 Admission to Care.**

A. The provider may not admit a child to the home for child care or allow a child to remain in care unless the provider has received:

(1) (text unchanged)

(2) Unless the child is temporarily admitted or retained pursuant to §D of this regulation:

(a) A written report of a health assessment of the child on a form supplied or approved by the office; and

(b) Evidence, on a form supplied or approved by the office, that the child has had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene.

B. If a child is younger than 6 years old at the time of admission to the home, the provider may not allow the child to remain in care at the home if the parent does not, within 30 days after the child's admission, submit evidence to the provider on a form supplied or approved by the office that the child has received an appropriate lead screening or test in accordance with applicable State or local requirements.

C. (text unchanged)

D. Temporary Admission.

(1) (text unchanged)

(2) For a child to be temporarily admitted or retained in care, the parent or guardian shall present evidence of the child's appointment with a health care provider or local health department to:

(a) Receive a medical evaluation to include, if applicable, a lead screening or test;

(b)–(d) (text unchanged)

(3)–(4) (text unchanged)

### **.03 Program Records.**

The provider shall:

A.–B. (text unchanged)

C. Maintain a record of each day on which a substitute provides care [for more than 2 hours];

D. If applicable, maintain a record of each volunteer in the family child care program that includes:

(1) (text unchanged)

(2) If [the] a volunteer is present at the home[ more than once per week]:

(a) A brief statement of the volunteer's duties; and

(b) *If present more than once per week, [A] a medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties;*

E.–F. (text unchanged)

G. *Document that the health and safety training, specified at COMAR 13A.15.06.02A(4) and B(1), was completed by the end of each 12-month period, measured from the date of initial registration.*

[G.]H. Maintain each document and record required by this regulation for at least 2 years after its creation.

#### **.04 Child Records.**

A. The provider shall:

(1)–(3) (text unchanged)

[A-1.]B. (text unchanged)

[B.]C. During the period of a child's enrollment and for 2 years after the child's disenrollment, a provider shall maintain a file for each child that includes records of:

(1) The name, current address, and home and work telephone numbers of the parent;

(2) The child's health assessment, immunizations, and allergies, if any, to include:

(a) [If the child is younger than 6 years old, evidence that the child has received an appropriate lead screening as] *As required by State or local law, evidence that the child has received[; and] :*

(i) *An appropriate lead screening, if the child is younger than 6 years old and was born before January 1, 2015; or*

(ii) *A lead test when the child is 12 months old and again when the child is 24 months old, regardless of where the child resides, if the child was born on or after January 1, 2015; and*

(b) If the child is enrolled in school, parental permission for the school to release the child's health information to the provider;

(3)–(6) (text unchanged)

[C.]D. A medical evaluation and, if applicable, documentation of an appropriate lead screening *or test* that are transferred directly from another registered family child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §[B]C(2) of this regulation.

#### **.05 Notifications.**

The provider or substitute shall:

A.–C. (text unchanged)

D. Within 5 working days after an existing resident becomes 18 years old, or after there is a new resident in the home who is 18 years old or older:

(1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about the resident *pursuant to COMAR 13A.15.02.02B(6); and*

(2) Ensure that the resident applies for a federal and State criminal background check *pursuant to COMAR 13A.15.02.02B(5) and C; and*

E.–G. (text unchanged)

## **Chapter 04 Operational Requirements**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.03 Child Capacity.**

A.–D. (text unchanged)

E. The office:

(1) Shall count as a child in care a resident who is younger than 6 years old; and

(2) May count as a child in care a child who is visiting the home if the child[ *]is younger than 8 years old and unaccompanied by an adult.*

(a) Is younger than 8 years old and unaccompanied by an adult; or

(b) Cannot be sent home immediately].

#### **.04 Restriction of Operations.**

- A. (text unchanged)
- B. The office may base a restriction or reduction under §A of this regulation on any of the following factors:
  - (1)–(5) (text unchanged)
  - (6) Failure by a provider approved for a capacity of up to four children younger than 2 years old to meet the infant-toddler training requirement specified at COMAR 13A.15.06.02[G]E; or
  - (7) (text unchanged)
- C. A provider may appeal a restriction or reduction pursuant to §A of this regulation by filing a request for hearing:
  - (1) Not later than 20 calendar days after the notification of the office's action; or
  - (2) In the case of an emergency reduction in capacity, [within 72 hours of] *not later than 30 calendar days after the* notification by the office of its decision to immediately reduce the number of children in care.

### **Chapter 05 Home Environment and Equipment**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.02 Lead-Safe Environment.**

- A. (text unchanged)
- B. If the home is a residential rental property constructed before [1950]1978, which is an affected property as defined in Environment Article, §6-801(b), Annotated Code of Maryland, the provider shall submit a copy of the current lead risk reduction or lead-free certificate.
- C.–D. (text unchanged)

#### **.05 Outdoor Activity Area.**

- A. – B. (text unchanged)
- C. *Any pool on the premises of the facility shall be made inaccessible to children in care and provide for security, including but not limited to having a:*
  - (1) *Fence that surrounds the pool;*
  - (2) *Self-closing and self-latching mechanism on the gate, door, or access to the pool;*
  - (3) *Lock that is operable and secured; and*
  - (4) *Sensor or alarm in the pool and on the access door.*

#### **.06 Rest Furnishings.**

- A. – G. (text unchanged)
- H. *A child under 12 months who falls asleep in a furnishing other than a crib shall be immediately moved to an approved sleeping arrangement specified at §C(1) of this regulation.*

### **Chapter 06 Provider Requirements**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.02 Training Requirements.**

- A. Preservice Training. An individual who applies for an initial registration shall:
  - (1) Hold a current certificate indicating successful completion of training in approved:
    - (a) (text unchanged)
    - (b) Cardiopulmonary resuscitation (CPR) through the American Heart Association, or a program with equivalent standards, appropriate for each age group approved for care in the home; *and*

(c) If requesting approval to provide care for children younger than 24 months old, present evidence of having successfully completed, within 5 years before the date of the request, approved training in Sudden Infant Death Syndrome; and]

(2) Provide documentation of having successfully completed:

(a) (text unchanged)

(b) The 90 clock hour course, or its approved equivalent, that satisfies the preservice training requirement for a child care teacher or child care center director under COMAR 13A.16.06.05B(4), *COMAR 13A.16.09(A)(1)(b)*, or *COMAR 13A.16.10B(1)(a)*, as applicable;

(c)–(g) (text unchanged)

(3) Complete approved training on emergency and disaster planning; [and]

(4) *Effective January 1, 2018, complete approved basic health and safety training; and*

[(4)](5) [If applying on or after January 1, 2016, complete] *Complete:*

(a)–(c) (text unchanged)

B. Continued Training. A provider shall successfully complete:

(1) *During each 12-month period of registration, the approved health and safety training information supplied by the office;*

[(1)](2)–[(2)](3) (text unchanged)

C. Emergency and Disaster Planning Training.

(1) The office shall not approve an initial registration application unless the applicant has completed approved training on emergency and disaster planning.

(2) To maintain an initial registration or a continuing registration approved before July 1, 2010, a provider shall complete approved training on emergency and disaster planning as directed by the office, if the provider has not already completed that training.]

[D]C.–[E]D. (text unchanged)

F. Sudden Infant Death Syndrome (SIDS) Training.

(1) The office may not approve a request by an applicant or a provider to provide care for children younger than 24 months old unless the applicant or provider has met the requirements of §A(1)(c) of this regulation.

(2) SIDS training may not be used to satisfy the continued training requirements set forth in §B of this regulation.]

[G.]E. Infant-Toddler Training.

(1) [Effective July 1, 2010, the] *The office [shall] may not approve a request by an applicant or a provider for an infant-toddler capacity of more than two children younger than 2 years old unless the individual has completed 3 semester hours or 45 clock hours of approved training, or the equivalent, related [exclusively] to the care of children younger than 2 years old.*

(2) [A provider approved before July 1, 2010, for an infant-toddler capacity of more than two children younger than 2 years old shall complete, by December 31, 2010, 3 semester hours or 45 clock hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old in order to maintain that approval.] *Sudden Infant Death Syndrome (SIDS) Training.*

(a) *The office may not approve a request by an applicant or a provider to provide care for a child younger than 24 months old unless the applicant or provider presents evidence of having successfully completed, within 5 years before the date of the request, approved SIDS training; and*

(b) *SIDS training may not be used to satisfy the continued training requirements set forth in §B of this regulation.*

[H.]F. [Medication Administration Training. Effective January 1, 2016:]

[(1)] The office may not approve an application for an initial registration [or a continuing registration] unless the applicant has completed [medication administration training approved by the office];

(1) *Approved training in:*

(a) *Supporting breastfeeding practices; and*

(b) *Medication administration; and*

(2) *3 clock hours of approved training in complying with the Americans with Disabilities Act.*

[(2)] G. A currently registered provider shall have completed [medication administration] *approved training [approved by the office.] as specified in §F(1)-(2) of this regulation.*

### **.03 Provider Substitute.**

A. The provider shall designate at least one substitute who is available on short notice to care for the children *at the provider's registered family child care home.*

B. Approval by Office.

(1)–(2) (text unchanged)

(3) *The Office shall notify the provider of its decision to approve or disapprove a substitute within 30 days of the request being submitted.*

C. (text unchanged)

D. A substitute shall:

(1) Be 18 years old or older;

(2) Be familiar with *the requirements of this subtitle*;

(3) Complete, sign, and submit to the office the required forms for substitutes, [which include permission to examine records of abuse and neglect of children and adults] *including*;

(a) *A medical evaluation completed within the past 12 months; and*

(b) *Permission to examine records of abuse and neglect of children and adults.*

(4) [If paid, apply] *Apply* for a federal and State criminal background check at a designated law enforcement office in the State; [and]

(5) *If residing or having resided in a state other than Maryland within 5 years before being hired as a substitute, apply for:*

(a) *A state criminal background check to be performed by a duly authorized entity within that state; and*

(b) *Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency; and*

[(5)](6) Present no risk to the health, safety, or welfare of children.

E.–F. (text unchanged)

**.04 Additional Adult.**

A. Except as set forth in §B of this regulation, before an individual may be used as an additional adult, the provider shall ensure that the individual:

(1)–(3) (text unchanged)

(4) [If the individual will be paid, applies] *Applies* for a federal and State criminal background check at a designated office in the State;

(5) *If residing or having resided in a state other than Maryland within 5 years before being hired as an additional adult:*

(a) *Applies for a state criminal background check to be performed by a duly authorized entity within that state; and*

(b) *Requests the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.*

[(5)](6)–[(6)](7) (text unchanged)

B. (text unchanged)

**.05 Volunteers.**

A. Before permitting an individual to begin volunteer duties at the family child care home, the provider shall:

(1) Ensure that the individual presents no risk to the health, safety, or welfare of children; [and]

(2) Conduct a child health and safety orientation for the individual that meets the requirements set forth in Regulation .03E of this chapter[.];

(3) *Ensure that the individual has applied for a federal and State criminal background check at a designated office in the State; and*

(4) *If residing or having resided in a state other than Maryland within 5 years before being hired as an additional adult:*

(a) *Applies for a state criminal background check to be performed by a duly authorized entity within that state; and*

(b) *Requests the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.*

B.–C. (text unchanged)

**Chapter 07 Child Protection**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.04 Child Discipline.**

- A. (text unchanged)
- B. The provider or substitute may not:
  - (1) Force a child to eat or drink;
  - (2) Punish a child for refusing to eat or drink; [or]
  - (3) Withhold food or beverages as punishment[.]; *or*
  - (4) *Spank, hit, shake, or use any other means of physical discipline.*

### **Chapter 08 Child Supervision**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.01 General Supervision.**

- A. (text unchanged)
- B. Except as provided in Regulation .02C and D of this chapter, when a child is in attendance, the individual responsible for supervising the child shall at all times:
  - (1) – (4) (text unchanged)
  - (5) Provide supervision that is appropriate to the individual age, needs, capabilities, activities, and location of the child and may include, but not be limited to:
    - (a) Making reasonable accommodations for a child with [special needs] *a disability* [in accordance with applicable federal and State laws]; and
    - (b) If applicable, allowing an adult who provides specialized services to a child in care having special needs to provide those services at the home in accordance with the child’s individualized education plan, individualized family services plan, or written behavioral plan.
- C. (text unchanged)
- D. *If the home has more than one residential level that is approved for child care:*
  - (1) *The provider or substitute shall ensure that, when awake, active, and indoors at the home, each child younger than 6 years old remains on the same level of the home as the provider or substitute; and*
  - (2) *A child 6 years or older may be on a different level of the home from the provider or substitute if:*
    - (a) *The child’s status is checked by the provider or substitute often enough to ensure the child’s health, safety, and welfare, but at least every 15 minutes;*
    - (b) *The provider has informed the child’s parent that the child is permitted to be on a different level of the home; and*
    - (c) *The different home level is approved by the office for child care use and meets the applicable fire code.*
- [D.]E. Supervision of Resting Children.
  - (1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:
    - (a) *Remain on the same level as the child;*
    - [(a)] (b) - [(b)] (c) (text unchanged)
  - (2) If a resting or napping child is 2 years old or older, the child:
    - (a) (text unchanged)
    - (b) Shall be observed by the provider or substitute to ensure the child’s safety and comfort at intervals [appropriate to the child’s age and individual need] *of at least every 15 minutes.*
    - [(3) If a resting or napping child is in a different room from the provider or substitute and that room can be closed off from the rest of the home by a door, screen, or similar furnishing, the provider or substitute shall ensure that the door, screen, or similar furnishing remains open so that the view into the room is unobstructed.]
- [E.]F. The provider may use a video and sound monitoring system to meet the sound and sight requirement in §[D]E(1)(a b) of this regulation.
- [F.]G. (text unchanged)

### **[.03 Supervision of Resting Children.**

To determine if a resting child is safe, breathing normally, and in no physical distress:

- A. Each resting child shall be observed at intervals appropriate to the child's age and individual needs; and
- B. A resting child younger than 12 months old shall be observed at least every 15 minutes.]

[.04].03–[.05].04 (text unchanged)

## **Chapter 10 Child Safety**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.01 Emergency Safety.**

The provider or substitute shall:

- A.–C. (text unchanged)
- D. Train each substitute and, if applicable, the additional adult on the contents of the written emergency and disaster plan required at §[B]A of this regulation;
- E. (text unchanged)
- F. During an emergency evacuation or practice, take attendance records, *and emergency cards* out of the home and verify the presence of each child currently in attendance;
- G.–H. (text unchanged)

### **.04 Water Safety.**

A. (text unchanged)

B. *An above-ground swimming pool:*

- (1) *May not be used for swimming activities; and*
- (2) *Shall be made inaccessible to children in care.*

[B.]C. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool [that does not have an operable circulation system approved by the local health department].

### **.06 Rest Time Safety.**

A. (text unchanged)

B. Unless the need for a positioning device that restricts a child's movement while the child is resting is specified in writing by the child's physician, an object or device, including, but not limited to, a strap, wedge, [or] roll, *or swaddling*, that restricts movement may not be used with a child in a crib, portable crib, playpen, cot, bed, mat, or other rest furnishing.

## **Chapter 11 Health**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.03 Infectious and Communicable Diseases.**

A provider or substitute may not knowingly care for a child who has a serious transmissible infection or communicable disease during the period of exclusion for that infection or disease shown [on a list provided by the office] *in the Communicable Disease Summary as published by the Maryland Department of Health.*

### **.04 Medication Administration and Storage.**

A.–F. (text unchanged)

G. Effective January 1, 2016, medication may be administered to a child in care only by an individual who has completed approved medication *administration* training, unless:

(1)–(2) (text unchanged)

#### **.06 Consumption of Alcohol and Drugs.**

A provider, substitute, *volunteer*, or additional adult may not consume an alcoholic beverage or an illegal or nonprescribed controlled dangerous substance while:

A.–B. (text unchanged)

### **Chapter 12 Nutrition**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.01 Nutrition and Food Served.**

A. (text unchanged)

B. [For children in care] *Unless provided by the child's parent*, the provider shall furnish:

(1) – (2) (text unchanged)

C.–G. (text unchanged)

### **Chapter 13 Inspections, Complaints, and Enforcement**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.02 Complaints.**

The office shall investigate:

A. (text unchanged)

B. Complaints of *providing or advertising* unregistered family child care.

#### **.05 Nonemergency Suspension.**

A. (text unchanged)

B. *The office shall suspend the certificate of registration upon notification that the provider is in non-compliance with Child Support Enforcement requirements pursuant to Family Law 10-119.3.*

[B.]C.–[D.]E. (text unchanged)

#### **.06 Emergency Suspension.**

A. (text unchanged)

B. The office shall hand-deliver a written notice to the provider informing the provider of the emergency suspension, giving the reasons for the action, and notifying the provider of the right to request, within 30 days of the delivery of the notice, a hearing before the [Superintendent's designee] *Office of Administrative Hearings*.

C. *If unable to hand-deliver a written notice to the provider, the Office may send the notice by regular and certified mail to the provider's address.*

[C.]D. (text unchanged)

[D.]E. If a hearing is requested by the provider, the [Superintendent's designee] *Office of Administrative Hearings* shall hold a hearing within 7 calendar days of the date of the request.

[E.]F. Within 7 calendar days of the hearing, a decision concerning the emergency suspension shall be made by the [Superintendent's designee] *Office of Administrative Hearings*.

[F.]G.–[G.]H. (text unchanged)

#### **.07 Revocation.**

- A. The office may revoke a certificate of registration if the:
  - (1) (text unchanged)
  - (2) Provider, *regardless of intent*, misrepresented or offered false information on the application or on any form or report required by the office;
  - (3)–(7) (text unchanged)
  - (8) Provider, an additional adult, a substitute, *volunteer*, or a resident is identified as responsible for abuse or neglect of children or adults;
  - (9) Provider, an additional adult, a substitute, *volunteer*, or a resident has a criminal conviction, probation before judgment, or a not criminally responsible disposition, or is awaiting a hearing on a charge for a crime that:
    - (a) Is listed at COMAR 13A.15.02.07B(1)—(11) *or C(1)-(3)*; or
    - (b) Indicates other behavior harmful to children;
  - (10)–(14) (text unchanged)
- B. If the office decides to revoke a certificate of registration, the office shall notify the provider in writing at least 20 calendar days in advance of the revocation, stating:
  - (1)–(4) (text unchanged)
  - (5) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the [delivery] *date* of the notice;
  - (6)–(8) (text unchanged)
- C. (text unchanged)

**.08 Penalties.**

A. An individual found to be operating a family child care home[, or advertising a family child care service,] without a valid family child care registration is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

- (1)–(2) (text unchanged)
- B. (text unchanged)

**.09 Civil Citations.**

A. The office may issue a civil citation imposing a civil penalty to an individual who provides *or advertises* unregistered family child care in violation of the requirements of this subtitle.

- B.–D. (text unchanged)

## Chapter 14 Administrative Hearings

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.01 Scope.**

A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact on family child care registrations, such as registration denials, revocations, suspensions, reductions in capacity, or limitations on the ages or numbers of children who may be admitted to a family child care home[.] *or for the imposition of civil penalties for providing or advertising unregistered family child care services without a valid family child care certificate of registration.*

- B. (text unchanged)

**.03 Hearing Requests.**

A. A hearing shall be held when [an applicant or provider requests a hearing to contest]:

(1) *An applicant or provider requests a hearing to contest:*

[(1)](a) The denial of an application for registration;

[(2)](b) A revocation or suspension of a registration; or

[(3)](c) Any other action that adversely impacts on registration, including, but not limited to:

[(a)](i) The setting of a provider's capacity at a number below that requested,

[(b)](ii) A reduction in capacity, or

[(c)](iii) A limitation on the ages or numbers of children who may be admitted to the family child care home.

(2) *An individual requests a hearing to contest the imposition of civil penalties for providing unregistered child care or advertising family child care services without a valid family child care certificate of registration.*

**B. Non-emergency Action Hearing Requests.**

(1) All non-emergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the provider *or the individual contesting the imposition of a civil penalty*, and the effective date and nature of the action appealed from.

(2)–(5) (text unchanged)

C. (text unchanged)

**.04 Preliminary Conference.**

A. [The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.]*A preliminary conference may be held before a hearing on an action if an appellant requests the conference.*

B.–D. (text unchanged)

## **Chapter 15 Public Access to Licensing Records**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.03 Request for Information from Licensing Records.**

A. (text unchanged)

B. The written request shall:

(1) Contain the applicant's name, address, and telephone number; *and*

[(2) Be signed by the applicant; and]

[(3)](2) Reasonably identify by brief description the record sought.

[C. A request may be made in any form or format if it does not involve:

(1) Physical inspection of licensing records; or

(2) Preparation of a written or electronic:

(a) Copy of licensing records; or

(b) Report of information from licensing records.]

[D.]C. (text unchanged)

**.04 Compelling Public Purpose.**

A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under [State Government Article, §10-617(h)(2)] *General Provisions Article §433(b)*, Annotated Code of Maryland.

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 16 CHILD CARE CENTERS

### COMAR 13A.16.01 Scope and Definitions

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

#### .01 Scope.

A. (text unchanged)

B. Exemptions. This subtitle does not apply to:

(1)–(2) (text unchanged)

(3) A youth camp, as defined by Health-General Article, §14-401[(j)](o), Annotated Code of Maryland;

(4) A child care service operated [by the federal government or on federal property] *under the auspices of the Department of Defense*;

(5)–(11) (text unchanged)

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)–(3) (text unchanged)

(4) "Adolescent center" means a child care center that offers programs exclusively to children in middle school [and junior high school].

(5)–(10) (text unchanged)

(11) Assistant Child Care Teacher.

(a) (text unchanged)

(b) "Assistant child care teacher" includes a staff member known before [December 17, 2008] *July 1, 2008*, as an assistant group leader.

(12)–(15) (text unchanged)

(16) Child Care Teacher.

(a) (text unchanged)

(b) "Child care teacher" includes a staff member known before [December 17, 2007] *July 1, 2008*, as:

(i)–(ii) (text unchanged)

(17)–(24) (text unchanged)

(25) Employee.

(a) "Employee" means an individual:

(i) Who [for compensation] is employed by the center operator to work at or for the center; and

(ii) (text unchanged)

(b)–(c) (text unchanged)

(i) [Is compensated by the operator to perform a service at the center] *Meets the definition of an employee as set forth in §B(25) of this regulation; and*

(ii) [Has access to children in care; and

(iii)] Does not clearly meet, or is not excluded from, the definition of independent contractor set forth in §B[(29)](30) of this regulation.

(26) "Family child care" means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old, in place of parental care for less than 24 hours a day, in a residence other than the child's residence and for which the provider is paid, in accordance with [Family Law Article, §§5-550—5-557.1] *Education Article §9.5-301(d)*, Annotated Code of Maryland.

(27)–(28) (text unchanged)

(29) "Identified as responsible for child abuse or neglect" means being determined by a local department of *social services or other state agency* to be responsible for indicated child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(30)–(32) (text unchanged)

(33) "Injurious treatment" means:

(a) [Deliberate infliction in any manner of any type of physical pain] *Physical discipline*, including but not limited to spanking, hitting, shaking, or any other means of physical discipline or enforcement of acts which result in physical pain;

(b) (text unchanged)

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, *threatening*, or ridiculing; and

(d) (text unchanged)

(34)–(42) (text unchanged)

(43) "Operated by a tax-exempt religious organization" means that the operator *is a church or bona fide house of worship* or has submitted a copy of the determination letter from the Internal Revenue Service which recognizes the organization as [a bona fide church organization] exempt from taxation under the Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3).

(44)–(49) (text unchanged)

(50) *Reasonable Accommodations*.

(a) "*Reasonable accommodations*" means changes made to a child care facility's program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,

(b) "*Reasonable accommodations*" are not required when to provide the accommodations would significantly:

(i) *Change the nature of the program; or*

(ii) *Impose a monetary burden on the provider.*

[(50)] (51)–[(60)](61) (text unchanged)

## COMAR 13A.16.02 License Application and Maintenance

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 License—General Requirements.

A.–B. (text unchanged)

C. Approved Montessori School.

(1) (text unchanged)

(2) The following regulations under this subtitle do not apply to an approved Montessori school:

(a) COMAR 13A.16.02.03C(4) concerning an annual fire inspection, if the school has documentation verifying compliance with fire safety regulations applicable to a nonpublic nursery school pursuant to COMAR 13A.09.09.11A;

(b) COMAR 13A.16.06.05[.]B(4) concerning the preservice training requirement for directors;

(c) COMAR 13A.16.06.09[.]A(1)(5) concerning qualification requirements for a child care teacher in a preschool center;

(d) COMAR 13A.16.06.09[.]B(1)(a) concerning the core of knowledge completion requirement for continued training;

(e) COMAR 13A.16.06.10[.]B(1)(a) concerning the requirement for preservice training; and

(f) (text unchanged)

D.–H. (text unchanged)

I. *The operator shall not allow an individual to:*

(1) *Be assigned to a group of children or have access to a child in care until the individual has successfully passed the child abuse and neglect clearance, and Federal or State criminal background check; and*

(2) *Be alone with a child or group of children until all checks have been successfully passed.*

### .02 Initial License.

A. An individual or organization not currently licensed and wanting to operate a child care center shall:

- (1)–(3) (text unchanged)
- (4) Ensure that an application for a federal and Maryland State criminal background check is submitted for:
  - (a)–(b) (text unchanged)
  - (c) Each employee, including [paid] substitutes *and volunteers*; and
  - (d) (text unchanged)

B. Before the proposed opening date, the applicant shall submit the following items to the office, if not submitted at the time the written application form was submitted:

(1) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:

- (a) The director;
  - (b) Each employee, *including substitutes and volunteers*;
  - (c)–(e) (text unchanged)
- (2)–(12) (text unchanged)

C. *Non-Maryland State Criminal Background Check. If an individual subject to the requirements of §A(4) of this regulation currently resides or has resided in a state other than Maryland within 5 years before the date of application for registration, the individual shall:*

(1) *Apply for a state criminal background check to be performed by a duly authorized entity within that state; and*

(2) *Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.*

### **.03 Continuing License.**

A.–B. (text unchanged)

C. Maintaining a Continuing License.

- (1) (text unchanged)
- (2) By the end of each 12-month period after the date of issuance of a continuing license, the operator shall provide to the office documentation of compliance with applicable continued training requirements set forth at COMAR 13A.16.06.05-.12.
- (3)–(4) (text unchanged)

### **.04 Provisional and Conditional Status.**

A. (text unchanged)

B. Conditional Status.

- (1)–(2) (text unchanged)
- (3) Immediately upon receipt of the revised license, the operator shall:
  - (a) (text unchanged)
  - (b) Display the revised license as required by Regulation .01[D]E of this chapter.
- (4)–(5) (text unchanged)

### **.06 Denial of License.**

A. An office may deny an application for an initial license or a continuing license if:

- (1) (text unchanged)
- (2) An evaluation of the application form, *medical, or any documents required by the office* reveals that the applicant, *regardless of intent*, reported false information;
- (3)–(7) (text unchanged)

B.–C. (text unchanged)

## **COMAR 13A.16.03 Management and Administration**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### **.01 Multi-Site Centers.**

A child care center may have more than one location and may be treated as one center for purposes of this [chapter] *subtitle* only if:

A.–B. (text unchanged)

**.02 Admission to Care.**

A.–D. (text unchanged)

E. If a child is younger than 6 years old at the time of admission, the operator may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the operator on a form supplied or approved by the Office that the child has received an appropriate lead screening *or test* in accordance with applicable State or local requirements.

F. Temporary Admission to Care.

(1) (text unchanged)

(2) For a child to be temporarily admitted or retained in care, the parent shall present evidence of the child's appointment with a health care provider or local health department to:

(a) Receive a medical evaluation to include, if applicable, a lead screening *or test*;

(b)–(d) (text unchanged)

(3)–(4) (text unchanged)

**.03 Program Records.**

The operator shall:

A. (text unchanged)

B. Maintain:

(1)–(2) (text unchanged)

(3) Records of food actually served by the center for the most recent 4 weeks as required by COMAR

13A.16.12.01[G]E;

(4)–(5) (text unchanged)

C.–D. (text unchanged)

**.04 Child Records.**

A.–D. (text unchanged)

E. [If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law]*The operator shall maintain documentation that, as required by State or local law, each child admitted to, or continuing in, care has received:*

(i) *An appropriate lead screening, if the child is younger than 6 years old and was born before January 1, 2015; or*

(ii) *A lead test when the child is 12 months old and again when the child is 24 months old, regardless of where the child resides, if the child was born on or after January 1, 2015.*

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening *or test* that are transferred directly from a registered family child care home, another licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.

G. Unless a school-age child attends a school-age program located in the child's school, the operator shall obtain, and maintain at the center, an immunization record showing that:

(1) The child has had immunizations appropriate for the child's age which meet the immunization guidelines set by the Maryland Department of Health [and Mental Hygiene];

(2)–(4) (text unchanged)

H.–K. (text unchanged)

**.05 Staff Records.**

The operator shall:

A.–B. (text unchanged)

C. During an individual's employment at the center and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:

(1) The individual's:

(a) Training, *including initial and yearly basic health and safety training*, if required under this [chapter] *subtitle*;

(b) Experience, if required under this [chapter] *subtitle*; and

- (2)–(5) (text unchanged)  
D.–E. (text unchanged)

**.06 Notifications.**

The operator shall:

A. Within 5 working days of its occurrence, provide written notification to the office about the:

(1) Addition of a new employee or staff member that includes:

(a) (text unchanged)

(b) Information about the individual's work assignment; [and]

(c) *Proof of compliance with the laws and regulations pertaining to criminal background checks; and*

[(c)](d) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about the individual; and

(2) (text unchanged)

B. Within 15 working days of adding the new employee or staff member, provide to the office:

(1) (text unchanged)

(2) [If the individual is paid by the center operator, proof] *Proof of compliance with the laws and regulations pertaining to criminal background checks;*

C.–D. (text unchanged)

E. Immediately notify the office of:

(1) An employee *or resident* who is under investigation for:

(a)–(b) (text unchanged)

(2) (text unchanged)

F. –G. (text unchanged)

**.09 Advertisement.**

A. *An operator may not advertise child care services unless the center holds a current license issued by the office.*

B. *An advertisement of the center shall:*

(1) *Specify that the center is licensed; and*

(2) *Include the license number issued to the center by the office.*

**COMAR 13A.16.05 Physical Plant and Equipment**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

**.05 Lead-Safe Environment.**

A. (text unchanged)

B. If the child care center is a residential rental property constructed before [1950]1978, which is an affected property as defined by Environment Article, §6-801(b), Annotated Code of Maryland, the operator shall submit a copy of the current lead risk reduction or lead free certificate.

C.–D. (text unchanged)

**.12 Outdoor Activity Area.**

A.–E. (text unchanged)

F. *Any pool on the premises of the facility shall be made inaccessible to children in care and provide for security, including but not limited to having a:*

(1) *Fence that surrounds the pool;*

(2) *Self-closing and self-latching mechanism on the gate, door, or access to the pool;*

(3) *Lock that is operable and secured; and*

(4) *Sensor or alarm in the pool and on the access door.*

**.13 Swimming Facilities.**

A. (text unchanged)

- B. An above-ground swimming pool: [may not be used for swimming activities.]  
(1) *May not be used for swimming activities: and*  
(2) *Shall be made inaccessible to children in care.*
- C. *A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool.*

## **COMAR 13A.16.06 Staff Requirements**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. § 6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### **.03 Suitability for Employment.**

A. A child care center operator may not employ an individual who[, as reported on or after October 1, 2005,] has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

- (1)–(2) (text unchanged)  
(3) A violent crime classified as a felony, *including physical assault or battery*;  
(4)–(9) (text unchanged)  
(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; [or]  
(11) Reckless endangerment[.]; *or*  
(12) *A felony conviction for:*  
(a) *Murder;*  
(b) *Spousal abuse; or*  
(c) *Arson.*

B. If[, as reported on or after October 1, 2005,] an individual has been identified as responsible for child abuse or neglect or received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime or offense that is not included in §A of this regulation, the office:

- (1)–(2) (text unchanged)  
C.–F. (text unchanged)

### **.04 Staff Health.**

A. Medical Evaluation.

(1) An operator shall obtain a medical evaluation[, including a tuberculosis screen, if indicated,], *conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant*, on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the center, from each prospective:

- (a)–(b) (text unchanged)  
(2) *The medical evaluation shall be signed by the individual who conducted the evaluation and include verification that the staff member:*  
(a) *Is free of communicable tuberculosis, if indicated; and*  
(b) *Has the capability to perform the duties of the staff member's position.*

[(2)](3) The medical evaluation may transfer directly from one center to another [when] if [there has been no gap in employment longer than 3 months] *the evaluation was completed within 24 months before the transfer.*

- (4) *The medical evaluation shall be updated every two years, measured from the individual's date of hire.*

B. Exclusion from Work. Except with the approval of the office and the health officer, an operator may not permit an individual with a serious transmissible infection or communicable disease listed [on a chart supplied by the office] *in the Communicable Diseases Summary as published by the Maryland Department of Health* to work at the child care center during the period of exclusion from child care *as recommended [on the chart for that infection or disease] by the summary.*

### **.05 Directors of All Child Care Centers—General Requirements.**

A. (text unchanged)

B. To qualify as a director of a center, an individual shall:

- (1)–(2) (text unchanged)

- (3) Have successfully completed:
  - (a)—(b) (text unchanged)
  - (c) [Effective January 1, 2016,] 3 clock hours of approved training in complying with the Americans with Disabilities Act;
  - (4) Have successfully completed 6 semester hours or 90 clock hours, or their equivalent, of approved preservice training, or hold the Child Development Associate National Credential that is issued by the Council for Professional Recognition; [and]
  - (5) *Effective January 1, 2018, have completed approved basic health and safety training; and*
  - [(5)](6) Within 6 months after date of hire, complete a regulation training to the requirements of this subtitle that is conducted by the office, if hired on or after January 1, 2009.
- C. A director shall:
  - (1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of employment as a director, that consists of a:
    - (a) (text unchanged)
    - (b) Maximum of 6 clock hours of elective training; [and]
  - (2) Document completion of the continued training on the professional development plan[.]; *and*
  - (3) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of employment in the position.*

**.06 Directors of Preschool Centers—Specific Requirements.**

- A. In a preschool center with infants or toddlers in care, a director, in addition to meeting the requirements of §§B—[D]F of this regulation, as applicable, shall have:
  - (1) 3 semester hours of approved training, or the equivalent, related [exclusively] to the care of infants and toddlers; and
  - (2) [Effective January 1, 2016, approved] *Approved* training in supporting breastfeeding practices.
- B. – F. (text unchanged)

**.09 Child Care Teachers in Preschool Centers.**

- A. To qualify *or continue to qualify* as a child care teacher in a preschool center, an individual shall [be 19 years old or older, and meet one of the following criteria]:
  - (1) *Be 19 years old or older;*
  - (2) *Have a high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;*
  - (3) *Have successfully completed 6 semester hours or 90 clock hours or their equivalent of approved pre-service training, or hold the Child Development Associate Credential issued by the Child Development Associate National Credentialing Program;*
  - (4) *Have completed 3 clock hours of approved training in complying with the Americans with Disabilities Act;*
  - (5) *Effective January 1, 2018, have completed approved basic health and safety training;*
  - (6) *9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit; and*
  - (7) *Have at least:*
    - (a) *1 year of experience working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting, or as a registered family child care provider caring for preschoolers; or*
    - (b) *1 year of college, or a combination of experience and college that together are equivalent to 1 year; and meet one of the criteria set forth at §A(5) of this regulation.*
- [(1)] The individual holds or has successfully completed:
  - (a) A high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;
  - (b) 6 semester hours or 90 clock hours or their equivalent of approved pre-service training, or hold the Child Development Associate Credential issued by the Child Development Associate National Credentialing Program;
  - [(c)] 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit;

(d) Effective January 1, 2016, 3 clock hours of approved training in complying with the Americans with Disabilities Act; and

(e) At least one of the following:

(i) 1 year of experience working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting, or as a registered family child care provider caring for preschoolers; or

(ii) 1 year of college, or a combination of experience and college that together are equivalent to 1 year;]

*B. An individual meets the requirements of §A(3) of this regulation if the individual:*

[(2)](1) Holds an associate's or higher degree with approved courses in early childhood education;

[(3)](2) Qualified before July 1, 2008, as a child care teacher in a preschool center and has been continuously employed since that time at the same or another preschool center; [or]

[(4)] The individual:]

[(a)](3) Has been approved as a teacher by the Department for early childhood in nursery school through third grade; or

[(b)](4) Is certified by the Department or by any other state for early childhood in nursery school through third grade.

[B.]C. A child care teacher in a preschool center shall:

(1) (text unchanged)

(2) Document completion of the continued training on the professional development plan[.]; *and*

(3) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of employment in the position.*

[C.]D. A child care teacher wishing to supervise a group of infants or toddlers shall:

(1) Unless qualified by the office before July 1, 2008, to supervise a group of infants or toddlers:

(a) Meet the requirements of §A of this regulation and have completed 3 semester hours of approved training, or the equivalent, related [exclusively] to the care of infants and toddlers; or

(b) Meet the requirements of §A(1), (2) *and* (4)-(7) [(a), (c), and (d)] of this regulation and have completed 6 semester hours of approved training, or the equivalent, related exclusively to the care of infants and toddlers; and

(2) [Effective January 1, 2016, have] *Have* completed approved training in supporting breastfeeding practices.

#### **.10 Child Care Teachers in School Age Centers.**

A. To qualify as a child care teacher in a school age center, an individual shall:

(1) Be 19 years old or older;

(2) Hold a high school diploma or a certificate of high school equivalence or have successfully completed courses for credit from an accredited college or university; [and]

(3) *Have completed 3 clock hours of approved training in the Americans with Disabilities Act compliance;*

(4) *Effective January 1, 2018, have completed approved basic health and safety training; and*

[(3)](5) Meet [the] one of the criteria set forth in §B of this regulation.

B. The individual shall meet one of the following:

(1) The individual has successfully completed:

(a) (text unchanged)

(b) 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit; *and*

[(c)] Effective January 1, 2016, 3 clock hours of training in ADA compliance; and]

[(d)] (c) (text unchanged)

(2)—(4) (text unchanged)

C. A child care teacher in a school age center shall:

(1) (text unchanged)

(2) Document completion of the continued training on the professional development plan[.]; *and*

(3) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of employment in the position.*

#### **.11 Assistant Child Care Teacher.**

A. To qualify as an assistant child care teacher in a school age center, an individual shall:

- (1)—(2) (text unchanged)
- (3) Have completed 9 clock hours of approved pre-service training in communicating with staff, parents, and the public, or have completed at least one academic college course for credit; [and]
- (4) *Effective January 1, 2018, have completed approved basic health and safety training; and*
- [(4)](5) (text unchanged)
- B. (text unchanged)
- C. An assistant child care teacher in a school age center shall:
  - (1) (text unchanged)
  - (2) Document completion of the continued training on the professional development plan[.]; *and*
  - (3) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of employment in the position.*
- D.—E. (text unchanged)

**.12 Aides.**

- A. An aide shall:
  - (1)—(2) (text unchanged)
  - (3) *Effective January 1, 2018, have completed approved basic health and safety training.*
- B. An aide in a child care center shall:
  - [(3)](1) (text unchanged)
  - [(4)](2) Document completion of the continued training on the professional development plan[.]; *and*
  - (3) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of employment in the position.*
- [B.]C. (text unchanged)

**.13 Substitutes.**

- A.—E. (text unchanged)
- F. *Approval by Office.*
  - (1) *An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.*
  - (2) *If information received by the office indicates that an individual designated as a substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.*
  - (3) *The Office shall notify the operator of its decision to approve or disapprove a substitute within 30 days of the request being submitted.*

## **COMAR 13A.16.07 Child Protection**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

**.02 Abuse/Neglect Reporting.**

- A. An operator, [or] employee, *substitute, or volunteer* who has reason to believe that a child has been:
  - (1)—(2) (text unchanged)
- B.—C. (text unchanged)
- D. An operator may not require an employee, *substitute, or volunteer* to report through the operator or director, rather than directly to the local department or a law enforcement agency, when the employee has reason to believe that a child has been abused or neglected.

**.03 Child Discipline.**

- A. (text unchanged)
- B. The operator may not:
  - (1) Force a child to eat or drink;
  - (2) Punish a child for refusing to eat or drink; [or]
  - (3) Withhold food or beverages as punishment[.]; *or*

(4) *Spank, hit, shake, or use any other means of physical discipline.*

C. The operator shall:

(1)—(2) (text unchanged)

(3) Ensure that the child discipline policy is followed by each employee, *substitute*, volunteer, and other individual connected with the center.

**.06 Child Security.**

A.—B. (text unchanged)

C. Unless an employee or staff member has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child abuse and neglect records, the individual may not be alone with an unrelated child in care.

D. An employee or staff member who has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child abuse and neglect records shall:

(1)—(2) (text unchanged)

E. (text unchanged)

**COMAR 13A.16.08 Child Supervision**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

**.01 Individualized Attention and Care.**

An operator shall ensure that:

A. Each child receives:

(1) Attention to the child's individual needs, including but not limited to;

(a) Making reasonable accommodations for a child with [special needs in accordance with applicable federal and State laws] *a disability*; and

(b) Allowing an adult who provides specialized services to a child *in care* [with special needs access] to provide those [service] *services* on the facility premises as specified in the child's individualized education plan, individualized family service [play] *plan*, or written behavioral plan; and

(2) (text unchanged)

B. – E. (text unchanged)

**.03 Group Size and Staffing.**

A. Assignment of Staff. One or more child care teachers shall be assigned to each group of children as needed to meet the requirements for group size and staffing set forth at §§C—[G]E of this regulation.

B. (text unchanged)

C. Same-Age Groups. [In a group of children of the same age, the following staff/child ratio and maximum group size requirements apply:]

(1) *In a group of children where each child is younger than 2 years old, the following staff/child ratio and maximum group size requirements apply:*

<i>Child Ages</i>	<i>Staff/Child Ratio</i>	<i>Maximum Group Size</i>
<i>Infants</i>	<i>1 to 3</i>	<i>6</i>
<i>Toddlers</i>	<i>1 to 3</i>	<i>9</i>
<i>Infants and toddlers, with 1 to 2 infants in the group</i>	<i>1 to 3</i>	<i>9</i>
<i>Infants and toddlers, with 3 or more infants in the group</i>	<i>1 to 3</i>	<i>6</i>

(2) *In a group of children of the same age who are 2 years old or older, the following staff/child ratio and maximum group size requirements apply:*

<i>Child Ages</i>	<i>Staff/Child Ratio</i>	<i>Maximum Group Size</i>
<i>2 years old</i>	<i>1 to 6</i>	<i>12</i>

3 or 4 years old	1 to 10	20
5 years old and older	1 to 15	30

D. (text unchanged)

E. Group Size and Staffing in Approved Educational Programs.

(1) (text unchanged)

(2) A nursery school may not exceed a staff/child ratio or group size requirement set forth at §[G]E(1) of this regulation, except that a Montessori school that has been approved by the Department may exceed a staff/child ratio or group size requirement by no more than 1/3.

(3) (text unchanged)

#### **.06 Supervision During Transportation.**

When child transportation is conducted to or from:

A. The center by the center operator, there shall be at least one adult, *who has successfully passed federal and State criminal background checks and a review of child abuse and neglect records pursuant to COMAR 13A.16.07.06 C*, other than the driver present in the vehicle if:

(1) – (2) (text unchanged)

B. (text unchanged)

### **COMAR 13A.16.09 Program Requirements**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.01 Schedule of Daily Activities for All Children.**

A.—B. (text unchanged)

C. Screen Time Activities.

(1)—(5) (text unchanged)

(6) The [provider]operator shall give the parent of each enrolled child a written screen time policy that addresses the use of passive and interactive technology during child care hours.

#### **.04 Rest Furnishings.**

A.—F. (text unchanged)

G. *A child under 12 months who falls asleep in a furnishing other than a crib shall be moved immediately to an approved sleeping arrangement specified at §.04A of this regulation.*

### **COMAR 13A.16.10 Safety**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.02 First Aid and CPR.**

A.—B. (text unchanged)

C. Whenever a child in care is being transported under center auspices to or from the center, there shall be at least one adult present in the vehicle who is currently certified in approved CPR and first aid. This requirement may be met by the driver of the vehicle *if the driver is an employee of the center.*

D.—E. (text unchanged)

#### **.05 Rest Time Safety.**

A. (text unchanged)

B. Unless the need for a positioning device is specified in writing by a child's physician, a restricting device of any type, *including swaddling*, may not be applied to a resting child.

## COMAR 13A.16.11 Health

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .02 Infectious and Communicable Diseases.

A. (text unchanged)

B. Except in centers for children with acute illness, an operator may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that infection or disease as shown [on a chart provided by the office] *in the Communicable Disease Summary as published by the Maryland Department of Health*, unless the health officer grants approval for the child to attend child care during that period.

### .03 Preventing Spread of Disease.

A. (text unchanged)

B. Hands shall be washed according to the posted approved procedure by a center employee, *substitute*, volunteer, or child in care at least:

(1)—(3) (text unchanged)

C. (text unchanged)

### .04 Medication Administration and Storage.

A.—E. (text unchanged)

F. [Effective July 1, 2011:]*Medication Administration Training*.

(1) (text unchanged)

(2) Medication may be administered to a child in care only by an employee who has completed approved medication *administration* training.

G.—H. (text unchanged)

### .06 Alcohol and Drugs.

An operator may not allow the consumption of alcoholic beverages or use of illegal or nonprescribed controlled dangerous substances:

A. (text unchanged)

B. By an employee, *substitute*, or a volunteer during an off-site program activity.

## COMAR 13A.16.12 Nutrition

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 Food Service.

A. Food and Beverages.

(1) (text unchanged)

(2) For children in care, *unless provided by the child's parent*, the operator shall furnish:

(a)—(b) (text unchanged)

(3)—(6) (text unchanged)

B.—E. (text unchanged)

## COMAR 13A.16.13 Centers for Children with Acute Illness

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*); Pro-Children Act of 1994 (20 U.S.C. §6081 *et seq.*); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .02 Applicability of Subtitle.

An applicant for a center offering care under this chapter shall meet the requirements of this subtitle with the exception of:

- A.—D. (text unchanged)
- E. COMAR 13A.16.10.01A[(2)](3)(c) concerning emergency evacuation and disaster drills for children; and
- F. (text unchanged)

## COMAR 13A.16.14 Adolescent Centers

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*); Pro-Children Act of 1994 (20 U.S.C. §6081 *et seq.*); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 Requirements for Approval.

An applicant for a center offering care to children attending a middle school [or a junior high school] shall:

- A.—B. (text unchanged)

## COMAR 13A.16.15 Drop-In Centers

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*); Pro-Children Act of 1994 (20 U.S.C. §6081 *et seq.*); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .03 Applicability of Subtitle.

An applicant for a drop-in center license shall meet the requirements of this subtitle with the exception of:

- A. – D. (text unchanged)
- E. COMAR 13A.16.10.01A[(2)](3)(c) concerning emergency evacuation and disaster drills for children; and
- F. (text unchanged)

## COMAR 13A.16.16 Educational Programs in Nonpublic Nursery Schools

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*); Pro-Children Act of 1994 (20 U.S.C. §6081 *et seq.*); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
  - (1)—(16) (text unchanged)
  - (17) "Teacher" means an individual who:
    - (a) (text unchanged)
    - (b) Meets the requirements of Regulation .06[B]C of this chapter.

### .03 Approval to Operate an Educational Program — General Requirements.

A. An individual or entity may operate an educational program in a nonpublic nursery school only if the individual or entity holds a valid child care license or letter of compliance issued by the Department.

B. A bona fide church organization may be approved to operate an educational program without holding a child care center license or a letter of compliance *if child care is not a component of the program*.

C.—H. (text unchanged)

#### **.04 Approval to Operate an Educational Program — Specific Requirements.**

A.—D. (text unchanged)

E. An operator may not seek approval of a change in the terms of the approval under any one or combination of the following circumstances:

(1)—(2) (text unchanged)

(3) The office is implementing a sanction or an enforcement action against the child care center license, the letter of compliance, or other approval document, as applicable, pursuant to COMAR 13A.[15]16, *COMAR 13A.17* or COMAR 13A.[16]18; or

(4) (text unchanged)

F.—H. (text unchanged)

### **COMAR 13A.16.17 Inspections, Complaints, and Enforcement**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.01 Complaints.**

[The office shall investigate both written and oral complaints that relate to a violation of a regulation, including anonymous complaints, and prepare a written report of the findings.]

*The office shall investigate:*

A. *Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and*

B. *Complaints of providing or advertising unlicensed child care.*

#### **.03 Warnings.**

*If an investigation of a complaint or an inspection of a child care center indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:*

A. *The violation found, citing the regulation;*

B. *The time period for correcting the violation; and*

C. *That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the license.*

#### **[.03].04 Intermediate Sanctions.**

A.—B. (text unchanged)

#### **[.04].05 Suspension.**

A. (text unchanged)

B. The office shall notify the operator in writing of the license suspension by certified mail 20 calendar days in advance, and the notice shall specify:

(1)—(6) (text unchanged)

(7) That, if the suspension is upheld by the [Superintendent] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care until the office determines that the health, safety, or welfare of a child in the center no longer is threatened;

(8)—(9) (text unchanged)

C.—D. (text unchanged)

**[.05].06 Emergency Suspension.**

A. (text unchanged)

B. The office shall hand deliver written notice of the emergency suspension to the operator stating:

(1)—(2) (text unchanged)

(3) That the operator is entitled to a hearing before the [Superintendent] *Office of Administrative Hearings* within 7 calendar days of the operator's request for a hearing;

(4) That the [Superintendent] *Office of Administrative Hearings* shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;

(5)—(7) (text unchanged)

C. *If unable to hand-deliver a written notice to the operator, the Office may send notice regular and certified mail to the operator's address.*

[C.]D. The office shall notify the parents of the children in care of the emergency suspension.

**[.06].07 Revocation.**

A. The office may revoke a license if:

(1) (text unchanged)

(2) An operator, *regardless of intent*, misrepresented or offered false information on the application or on any form or report required by the office;

(3) (text unchanged)

(4) The operator fails to comply with the:

(a) Prohibitions on the use of an individual as an employee, *substitute*, or a volunteer as set forth in COMAR 13A.16.06.03A and B, *COMAR 13A.16.06.13F*, [and] *or COMAR 13A.16.06.15B*; or

(b) Child security requirements set forth in COMAR 13A.16.07.06;

(5) (text unchanged)

(6) Violations required to be corrected during a period of suspension have not been corrected and the period has ended; [or]

(7) The license is a continuing license that was placed on conditional status, and the:

(a) Conditional status has lapsed; and

(b) Operator has failed to meet the requirements for reinstatement of the continuing license[.]; *or*

(8) *Evaluation of information provided to, or acquired by, the office indicates that the operator is unable to provide for the welfare of children.*

B. If the office decides to revoke a license, the office shall notify the operator in writing 20 calendar days before the effective date of the revocation, stating:

(1)—(6) (text unchanged)

(7) That, if the revocation is upheld by the [Superintendent] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care; and

(8) (text unchanged)

**[.07].08 Penalties.**

A. (text unchanged)

B. Civil Penalty.

(1) A person who maintains and operates a child care center *or advertises child care services* without a license, or who violates any regulation in this subtitle, is subject to a civil penalty imposed in a civil action of not more than \$1,000 for each violation.

(2)—(3) (text unchanged)

C. *An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.*

D. Appeals.

(1) *An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.*

(2) *Appeals are conducted in accordance with the provisions of COMAR 13A.16.18.*

**COMAR 13A.16.18 Administrative Hearings**

**.01 Scope.**

A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact child care center licenses and letters of compliance. These actions include denials, suspensions, or revocations of licenses or letters of compliance, reductions in capacity or limitations on the ages or numbers of children who may be admitted to the child care center, *or for the imposition of civil penalties for providing or advertising unlicensed child care services without a valid child care license*, and employment exclusions pursuant to COMAR 13A.16.06.03A or B.

B. (text unchanged)

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) – (9) (text unchanged)

[(10)] (10) "Letter of compliance" means a letter issued by the Department to a religious organization which meets the requirements of [Family Law Article, §5-573, Annotated Code of Maryland. ]

[(11)] (10) — [(16)] (15) (text unchanged)

**.03 Hearing Requests.**

A. A hearing shall be held when [an applicant, licensee, or holder of a letter of compliance requests a hearing to contest]:

(1) *An applicant or licensee requests a hearing to contest:*

[(1)] (a) The denial of an application for a license [ or letter of compliance];

[(2)] (b) A revocation or suspension of a license [ or letter of compliance]; or

[(3)] (c) Any other action that adversely impacts on the licensee [ or holder of the letter of compliance],

including, but not limited to:

[(a)] (i) The setting of capacity at a number below that requested,

[(b)] (ii) A reduction in capacity, or

[(c)] (iii) A limitation on the ages or numbers of children who may be admitted to the child care center.

(2) *An individual requests a hearing to contest the imposition of civil penalties for providing unlicensed child care or advertising child care services without a valid license.*

B. Nonemergency Action Hearing Requests.

(1) All non-emergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the licensee or [holder of the letter of compliance] *the individual contesting the imposition of a civil penalty*, and the effective date and nature of the action appealed from.

(2) – (5) (text unchanged)

C. (text unchanged)

**.04 Preliminary Conference.**

A. [The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.] *A preliminary conference may be held before a hearing on an action if an appellant requests the conference.*

B.—D. (text unchanged)

**.05 Denial or Dismissal of a Hearing Request.**

A. The Office of Administrative Hearings may deny a request for a hearing if:

(1) The issue appealed is not one which adversely affects the licensee [or holder of the letter of compliance];

or

(2) (text unchanged)

B. (text unchanged)

**COMAR 13A.16.19 Public Access to Licensing Records**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.03 Request for Information from Licensing Records.**

A. (text unchanged)

B. The written request shall:

(1) (text unchanged)

[(2) Be signed by the applicant; and

(3)](2) (text unchanged)

[C. A request may be made in any form or format if it does not involve:

(1) Physical inspection of licensing records; or

(2) Preparation of a written or electronic:

(a) Copy of licensing records; or

(b) Report of information from licensing records. ]

[D.]C.—[D.]E. (text unchanged)

**.04 Compelling Public Purpose.**

A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under [State Government Article, §10-617(h)(2)] *General Provisions Article §433(b)*, Annotated Code of Maryland.

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 17 CHILD CARE — LETTERS OF COMPLIANCE

### COMAR 13A.17.01 Scope and Definitions

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### .02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1)–(2) (text unchanged)

(3) "Adolescent facility" means a child care facility that offers programs exclusively to children in middle school [and junior high school].

(4)–(6) (text unchanged)

(7) "Capacity" means the total number of children, specified by the letter of compliance [of the facility], who may be in care at any one time.

(8)–(16) (text unchanged)

(17) Employee.

(a) "Employee" means an individual:

(i) Who [for compensation] is employed by the facility operator to work at or for the facility;

and

(ii) (text unchanged)

(b)–(c) (text unchanged)

(i) [Is compensated by the operator to perform a service at the facility;] *Meets the definition of an employee as set forth in § B(17) of this regulation; and*

(ii) [Has access to children in care; and

(iii)] Does not clearly meet, or is not excluded from, the definition of independent contractor set forth in §B(21) of this regulation.

(18)–(19) (text unchanged)

(20) "Identified as responsible for child abuse or neglect" means being determined by a local department of social services or other state agency to be responsible for indicated child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(21) (text unchanged)

(22) "Injurious treatment" means:

(a) [Deliberate infliction in any manner of any type of physical pain] *Physical discipline*, including but not limited to spanking, hitting, shaking, or any other means of physical discipline or enforcement of acts which result in physical pain;

(b) (text unchanged)

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, *threatening*, or ridiculing; and

(d) (text unchanged)

(23)–(24) (text unchanged)

(25) "Letter of compliance" means a letter issued by the Department to a tax-exempt religious organization that meets the requirements under [Family Law Article, §5-574] *Education Article §9.5-401-420*, Annotated Code of Maryland.

(26)–(30) (text unchanged)

(31) "Operated by a tax-exempt religious organization" means that a letter holder *is a church or bona fide house of worship* or has submitted a copy of the determination letter from the Internal Revenue Service that recognizes the organization as [a bona fide church organization,] exempt from taxation under the Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3).

(32)–(36) (text unchanged)

(37) *Reasonable Accommodations.*

(a) “*Reasonable accommodations*” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program.

(b) “*Reasonable accommodations*” are not required when to provide the accommodations would significantly:

(i) *Change the nature of the program; or*

(ii) *Impose a monetary burden on the provider.*

[(37)](38)–[(46)](47) (text unchanged)

## **COMAR 13A.17.02 Letter of Compliance Application and Maintenance**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.01 Letter of Compliance — General Requirements.**

A.–B. (text unchanged)

C. *The operator shall not allow an individual to:*

(1) *Be assigned to a group of children or have access to a child in care until the individual has successfully passed the child abuse and neglect clearance, and Federal or State criminal background check; and*

(2) *Be alone with a child or group of children until all checks have been successfully passed.*

### **.02 Initial Letter of Compliance.**

A. **Application Requirements.** An individual or organization that does not currently hold a letter of compliance and wishes to operate a nursery school or child care program under this subtitle shall:

(1)–(2) (text unchanged)

(3) Ensure that an application for a federal and *Maryland* State criminal background check is submitted for:

(a)–(b) (text unchanged)

(c) Each employee, including [paid] substitutes *and volunteers*; and

(d) (text unchanged)

B. Before the proposed opening date, the applicant shall submit the following items to the office, if not submitted at the time the written application form was submitted:

(1) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:

(a) (text unchanged)

(b) Each employee, *including substitutes and volunteers*;

(c)–(e) (text unchanged)

(2)–(12) (text unchanged)

C. *Non-Maryland State Criminal Background Check. If an individual subject to the requirements of §A(3) of this regulation currently resides or has resided in a state other than Maryland within 5 years before the date of application for registration, the individual shall:*

(1) *Apply for a state criminal background check to be performed by a duly authorized entity within that state; and*

(2) *Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.*

### **.05 Response of the Office to Application.**

A. (text unchanged)

B. Except as specified at §C of this regulation, the office shall, within 30 days after completing the procedures in §A of this regulation, promptly:

(1) (text unchanged)

(2) For a continuing [license] *letter of compliance* application, issue or deny a continuing [license] *letter of compliance*.

C. (text unchanged)

**.06 Denial of Letter of Compliance.**

A. An office may deny an application for an initial letter of compliance or a continuing letter of compliance if:

- (1) (text unchanged)
  - (2) An evaluation of the application form, *medical, or any documents required* by the office reveals that the applicant, *regardless of intent*, reported false information;
  - (3) The applicant has a history of regulatory violations that demonstrates an inability to provide for the health or safety of children;
  - (4)–(7) (text unchanged)
- B.–C. (text unchanged)

**COMAR 13A.17.03 Management and Administration**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.02 Admission to Care.**

A.–C. (text unchanged)

D. If a child is younger than 6 years old at the time of admission, the operator may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the operator on a form supplied or approved by the office that the child has received an appropriate lead screening *or test* in accordance with applicable State or local requirements.

E. Temporary Admission to Care.

- (1) (text unchanged)
- (2) For a child to be temporarily admitted or retained in care, the parent shall present evidence of the child's appointment with a health care provider or local health department to:
  - (a) Receive a medical evaluation to include, if applicable, a lead screening *or test*;
  - (b)–(d) (text unchanged)
- (3)–(4) (text unchanged)

**.03 Program Records.**

The operator shall:

- A. (text unchanged)
- B. Maintain:
  - (1)–(2) (text unchanged)
  - (3) Records of food actually served by the facility for the most recent 4 weeks as required by COMAR 13A.17.12.01[G]E;
  - (4) (text unchanged)
  - (5) A current copy of [Family Law Article, §5-570] *Education Article §9.5-401-420 et seq.*, Annotated Code of Maryland, and this subtitle on the premises and make them available to parents upon request.

**.04 Child Records.**

A.–D. (text unchanged)

E. [If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law]*The operator shall maintain documentation that, as required by State or local law, each child admitted to, or continuing in, care has received:*

- (i) *An appropriate lead screening, if the child is younger than 6 years old and was born before January 1, 2015; or*
- (ii) *A lead test when the child is 12 months old and again when the child is 24 months old, regardless of where the child resides, if the child was born on or after January 1, 2015.*

F.–H. (text unchanged)

I. The operator shall record or maintain on file:

- (1) Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.17.11.01;
  - (2) Each injury or accident required by Regulation .06[B]D and [C]E of this chapter to be reported;
  - (3)–(6) (text unchanged)
- J. (text unchanged)

**.05 Staff Records.**

The operator shall:

- A. Maintain [for review] *and, upon request* by the office, *submit* a current and complete:
  - (1)–(2) (text unchanged)
- B. During an individual's employment at the facility and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:
  - (1) *Training, including basic health and safety training and yearly updates, if required under this subtitle;*
    - [(1)](2)–[(4)](5) (text unchanged)
- C.–D. (text unchanged)

**.06 Notifications.**

The operator shall:

- A. Within 5 business days of its occurrence, provide written notification to the office about the:
  - (1) Addition of a new employee or staff member that includes:
    - (a) The individual's full name, date of birth, and date of hire;
    - (b) Information about the individual's work assignment; [and]
    - (c) *Proof of compliance with the laws and regulations pertaining to criminal background checks; and*
      - [(c)](d) (text unchanged)
  - (2) (text unchanged)
- B. *Within 15 working days of adding the new employee or staff member, provide to the office:*
  - (1) *If applicable, documentation that the individual meets the requirements of this chapter for the assignment, unless documentation already is on file in the office; and*
  - (2) *Proof of compliance with the laws and regulations pertaining to criminal background checks.*
- [B]C. Have on file in the nursery school or child care program the following information about each employee or staff member:
  - (1)–(2) (text unchanged)
  - (3) [If the individual is paid, proof] *Proof of compliance with laws and regulations pertaining to criminal background checks;*
    - [C]D.–[D]E. (text unchanged)
- [E]F. Immediately notify the office of:
  - (1) An employee *or resident who* is under investigation for:
    - (a)–(b) (text unchanged)
  - (2) (text unchanged)
- [F]G. Within 5 working days after there is a new resident on the premises who is 18 years old or older:
  - (1) (text unchanged)
  - (2) Direct the resident to apply for a federal and State criminal background check *pursuant to COMAR 13A.17.02.02A(3) and C;* and
- [G]H. (text unchanged)

**.09 Advertisement.**

- A. *An operator may not advertise child care services unless the facility holds a current letter of compliance issued by the office.*
- B. *An advertisement of the facility shall:*
  - (1) *Specify that the facility holds a letter of compliance; and*
  - (2) *Include the letter of compliance number issued to the facility by the office.*

**COMAR 13A.17.05 Physical Plant and Equipment**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

**.05 Lead-Safe Environment.**

A. (text unchanged)

B. If the child care facility is a pre-[1950]1978 residential rental property, which is an affected property as defined by the Environment Article, §6-801(b), Annotated Code of Maryland, the operator shall submit a copy of the current lead risk reduction or lead free certificate.

C.–D. (text unchanged)

**.12 Outdoor Activity Area.**

A.–E. (text unchanged)

C. Any pool on the premises of the facility shall be made inaccessible to children in care and provide for security, including but not limited to having a:

- (1) Fence that surrounds the pool;
- (2) Self-closing and self-latching mechanism on the gate, door, or access to the pool;
- (3) Lock that is operable and secured; and
- (4) Sensor or alarm in the pool and on the access door.

**.13 Swimming Facilities.**

A. (text unchanged)

B. An above-ground swimming pool [may not be used for swimming activities.] :

- (1) May not be used for swimming activities: and
- (2) Shall be made inaccessible to children in care.

C. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool.

**COMAR 13A.17.06 Staff Requirements**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

**.02 Staff Orientation and Training.**

A. On or before assignment, an operator shall document that each employee and staff member has been informed in writing about all areas pertinent to the health and safety of the children, including:

[A.](1)–[K.](11) (text unchanged)

B. Effective January 1, 2018, complete basic health and safety training.

**.03 Suitability for Employment.**

A. A child care facility operator may not employ an individual who[, as reported on or after October 1, 2005,] has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

- (1)–(2) (text unchanged)
- (3) A violent crime classified as a felony, including physical assault or battery;
- (4)–(9) (text unchanged)
- (10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance;

[or]

- (11) Reckless endangerment[.]; or
- (12) A felony conviction for:
  - (a) Murder;
  - (b) Spousal abuse; or
  - (c) Arson.

B. If[, as reported on or after October 1, 2005,]an individual has been identified as responsible for child abuse or neglect or received a conviction, a probation before judgment disposition, a not criminally

responsible disposition, or a pending charge for the commission or attempted commission of a crime or offense that is not included in the list set forth at §A of this regulation, the office:

(1)–(2) (text unchanged)

C.–E. (text unchanged)

#### **.04 Staff Health.**

A. Medical Evaluation.

(1) An operator shall obtain a medical evaluation[, including a tuberculosis screen, if indicated,], *conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant*, on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the center, from each prospective:

(a) (text unchanged)

(b) Except for a health care professional serving as a consultant pursuant to Regulation [.14C] .06C of this chapter, support staff who will be present at the center while children are in care.

(2) *The medical evaluation shall be signed by the individual who conducted the evaluation and include verification that the staff member:*

(a) *Is free of communicable tuberculosis, if indicated; and*

(b) *Has the capability to perform the duties of the staff member's position.*

[(2)](3) The medical evaluation may transfer directly from one center to another when [there has been no gap in employment longer than 3 months] *the evaluation was completed within the previous 24 months of the transfer.*

(5) *The medical evaluation shall be updated every two years based on the individual's initial date of hire.*

B. Exclusion from Work. Except with the approval of the office and the health officer, an operator may not permit an individual with a serious transmissible infection or communicable disease listed [on a chart supplied by the office] *in the Communicable Diseases Summary as published by the Maryland Department of Health* to work at the child care center during the period of exclusion from child care *as recommended* [on the chart for that infection or disease] *by the summary.*

#### **.05 Substitutes.**

A.–B. (text unchanged)

C. *Approval by Office.*

(1) *An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.*

(2) *If information received by the office indicates that an individual designated as a substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.*

(3) *The Office shall notify the operator of its decision to approve or disapprove a substitute within 30 days of the request being submitted.*

## **COMAR 13A.17.07 Child Protection**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.02 Abuse/Neglect Reporting.**

A. An operator, [or] staff member, *substitute, or volunteer* who has reason to believe that a child has been:

(1)–(2) (text unchanged)

D. An operator may not require a staff member, *substitute, or volunteer* to report through the operator or director, rather than directly to the local department or a law enforcement agency, when the staff member has reason to believe that a child has been abused or neglected.

#### **.03 Child Discipline.**

A. (text unchanged)

- B. The operator may not:
  - (1) (text unchanged)
  - (2) Punish a child for refusing to eat or drink; [or]
  - (3) Withhold food or beverages as punishment[.]; *or*
  - (4) *Spank, hit, shake, or use any other means of physical discipline.*
- C. The operator shall:
  - (1)–(2) (text unchanged)
  - (3) Ensure that the child discipline policy is followed by each employee, *substitute*, volunteer, and other individual connected with the facility.

**.06 Child Security.**

- A. (text unchanged)
- B. Unless an employee or staff member has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child and adult abuse and neglect records, the individual may not be alone with an unrelated child in care.
- C. A facility employee or staff member who has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child and adult abuse and neglect records shall:
  - (1)–(2) (text unchanged)

**COMAR 13A.17.08 Child Supervision**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.06 Supervision During Transportation.**

- When child transportation is conducted to or from:
- A. The child care facility by the facility operator, there shall be at least one adult, *who has successfully passed federal and State criminal background checks and a review of child abuse and neglect records pursuant to COMAR 13A.17.07.06 B* other than driver present in the vehicle if:
    - (1)–(2) (text unchanged)
  - B. (text unchanged)

**.08 Rest Time Supervision.**

- A. *During a rest period for a group of children:*
  - (1) *The required staff/child ratio applicable to that group shall be maintained until all the children are resting quietly; and*
  - (2) *Once all the children in the group are resting quietly:*
    - (a) *At least one staff member assigned to the group shall continue to remain in the room with the children; and*
    - (b) *Other staff members, if any, assigned to the group may leave the room but shall remain on the premises and within hearing range.*

**COMAR 13A.17.10 Safety**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.01 Emergency Safety Requirements.**

- A. (text unchanged)
- B. If the child care facility is included within a comprehensive emergency and disaster plan, the facility operator shall ensure that:
  - (1) The comprehensive plan contents meet all emergency and disaster plan requirements set forth at §A[(2)](3)(a) and (b) of this regulation; and
  - (2)–(7) (text unchanged)

**.02 First Aid and CPR.**

A.–B. (text unchanged)

C. Whenever a child in care is being transported under child care facility auspices to or from the facility, there shall be at least one adult present in the vehicle who is currently certified in approved CPR and first aid. This requirement may be met by the driver of the vehicle, *if the driver is an employee of the center.*

D.–E. (text unchanged)

**COMAR 13A.17.11 Health**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.02 Infectious and Communicable Diseases.**

A. (text unchanged)

B. Except in facilities for children with acute illness, an operator may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that infection or disease as shown [on a chart provided by the office] *in the Communicable Disease Summary as published by the Maryland Department of Health*, unless the health officer grants approval for the child to attend child care during that period.

**.03 Preventing Spread of Disease.**

A. (text unchanged)

B. Hands shall be washed according to the posted approved procedure by a facility employee, *substitute*, volunteer, or child in care at least:

(1)–(3) (text unchanged)

C. (text unchanged)

**.04 Medication Administration and Storage.**

A.–E. (text unchanged)

F. [Effective July 1, 2011:] *Medication Administration Training.*

(1) (text unchanged)

(2) Medication may be administered to a child in care only by an employee who has completed approved medication *administration* training.

G.–H. (text unchanged)

**.06 Alcohol and Drugs.**

An operator may not allow the consumption of alcoholic beverages or use of illegal or nonprescribed controlled dangerous substances:

A. (text unchanged)

B. By an employee, *substitute*, or a volunteer during an off-site program activity.

**COMAR 13A.17.12 Nutrition**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

**.01 Food Service.**

A. Food and Beverages.

(1) (text unchanged)

(2) For children in care, *unless provided by the child's parent*, the operator shall furnish:

(a)–(b) (text unchanged)

(3)–(6) (text unchanged)

## COMAR 13A.17.13 Adolescent Facilities

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 Requirements for Approval.

An applicant for a child care program offering care to children attending a middle school [or a junior high school] shall:

A.–B. (text unchanged)

## COMAR 13A.17.14 Educational Programs in Nonpublic Nursery Schools

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1)–(7) (text unchanged)

(8) "Letter of compliance" means a document issued by the Department pursuant to COMAR 13A.[16]17 that authorizes the recipient to operate a letter of compliance facility.

(9)–(14) (text unchanged)

### .03 Approval to Operate an Educational Program — General Requirements.

A. (text unchanged)

B. A bona fide church organization may be approved to operate an educational program without holding a child care center license or a letter of compliance *if child care is not a component of the program.*

C.–G. (text unchanged)

## COMAR 13A.17.15 Inspections, Complaints, and Enforcement

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 Complaints.

[The office shall investigate both written and oral complaints that relate to a violation of a regulation, including anonymous complaints, and prepare a written report of the findings.]

*The office shall investigate:*

A. *Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and*

B. *Complaints of providing or advertising unlicensed child care.*

### .03 Warnings.

*If an investigation of a complaint or an inspection of a facility indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:*

A. *The violation found, citing the regulation;*

B. *The time period for correcting the violation; and*

*C. That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the letter of compliance.*

**[.03].04 Intermediate Sanctions.**

A. – B (text unchanged)

**[.04].05 Suspension.**

A. (text unchanged)

B. The office shall notify the operator in writing of the suspension by certified mail 20 calendar days in advance, and the notice shall specify:

(1)–(6) (text unchanged)

(7) That, if the suspension is upheld by the [Superintendent's designee] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care until the office determines that the health, safety, or welfare of a child in the facility no longer is threatened;

(8)–(9) (text unchanged)

C.–D. (text unchanged)

**[.05].06 Emergency Suspension.**

A. (text unchanged)

B. The office shall hand deliver written notice of the emergency suspension to the operator stating:

(1)–(2) (text unchanged)

(3) That the operator is entitled to a hearing before the-[Superintendent] *Office of Administrative Hearings* within 7 calendar days of the operator's request for a hearing;

(4) That the [Superintendent] *Office of Administrative Hearings* shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;

(5)–(7) (text unchanged)

*C. If unable to hand-deliver a written notice to the operator, the Office may send notice regular and certified mail to the operator's address.*

[C.]D. (text unchanged)

**[.06].07 Revocation.**

A. The office may revoke a letter of compliance if:

(1) (text unchanged)

(2) The operator, *regardless of intent*, misrepresented or offered false information on the application or on any form or report required by the office;

(3) (text unchanged)

(4) The operator fails to comply with the:

(a) Prohibitions on the use of an individual as an employee, *substitute*, or as a volunteer as set forth, respectively, in COMAR 13A.17.06.03A and-B and *COMAR 13A.17.06 .07B*; or

(b) (text unchanged)

(5) (text unchanged)

(6) Violations required to be corrected during a period of suspension have not been corrected and the period has ended; [or]

(7) The letter of compliance is a continuing letter of compliance that was replaced by a conditional letter of compliance, and the:

(a) Conditional letter of compliance has lapsed; and

(b) Operator has failed to meet the requirements for reinstatement of the continuing letter of compliance[.]; *or*

*(8) The evaluation of information provided to or acquired by the office indicates that the operator is unable to care for the welfare of children.*

B. If the office decides to revoke a letter of compliance, the office shall notify the operator in writing 20 calendar days before the effective date of the revocation, stating:

(1)–(6) (text unchanged)

(7) That, if the revocation is upheld by the [Superintendent] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care; and

(8) (text unchanged)

C. (text unchanged)

**[.07].08 Penalties.**

A. (text unchanged)

B. Civil Penalty.

(1) A person who maintains and operates a nursery school or child care program *or advertises a child care program* without a license or letter of compliance, or who violates any regulation in this subtitle, is subject to a civil penalty imposed in a civil action of not more than \$1,000 for each violation, and each day a violation occurs or the facility operates illegally is considered a separate violation.

(2) (text unchanged)

C. *An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.*

D. Appeals.

(1) *An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.*

(2) *Appeals are conducted in accordance with the provisions of COMAR 13A.17.16.*

**COMAR 13A.17.16 Administrative Hearings**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

**.01 Scope.**

A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact on child care center licenses and letters of compliance. These actions include denials, suspensions, or revocations of licenses or letters of compliance, as well as reductions in capacity or limitations on the ages or numbers of children who may be admitted to the child care center, *or for the imposition of civil penalties for providing or advertising an unlicensed child care program without a valid letter of compliance.*

B. (text unchanged)

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)–(6) (text unchanged)

(7) Emergency Action.

(a) "Emergency action" means an action which is effective immediately because of danger to children's health or safety.

(b) "Emergency action" may include an emergency suspension, an immediate reduction in capacity, an immediate limitation on the ages or numbers of children who may be admitted to care, and an [appeal filed by an individual]-*an employment exclusion* pursuant to [COMAR 13A.16.06.03D or 13A.17.06.03 [D] A or B.

(8)–(9) (text unchanged)

(10) "Letter of compliance" means a letter issued by the Department to a religious organization which meets the requirements of [Family Law Article, §5-573] *Education Article §9.5-404*, Annotated Code of Maryland.

(11)–(16) (text unchanged)

**.03 Hearing Requests.**

A. A hearing shall be held when [an applicant, licensee, or holder of a letter of compliance requests a hearing to contest]:

(1) *An applicant or holder of a letter of compliance requests a hearing to contest:*

[(1)] (a) The denial of an application for a [license or] letter of compliance;

[(2)] (b) A revocation or suspension of [a license or] letter of compliance; or

[(3)] (c) Any other action that adversely impacts on the [licensee or] holder of the letter of compliance, including, but not limited to:

[(a)] (i)–[(c)] (iii) (text unchanged)

(2) *An individual requests a hearing to contest the imposition of civil penalties for providing child care or advertising child care services without a valid letter of compliance.*

B. Non-emergency Action Hearing Requests.

(1) All non-emergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the [licensee or] holder of the letter of compliance *or the individual contesting the imposition of a civil penalty*, and the effective date and nature of the action appealed from.

(2)–(5) (text unchanged)

C. (text unchanged)

#### **.04 Preliminary Conference.**

A. [The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.] *A preliminary conference may be held before a hearing on an action if an appellant requests the conference.*

#### **.05 Denial or Dismissal of a Hearing Request.**

A. The Office of Administrative Hearings may deny a request for a hearing if:

(1) The issue appealed is not one which adversely affects the [licensee or] holder of the letter of compliance; or

(2) (text unchanged)

### **COMAR 13A.17.17 Public Access to Licensing Records**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

#### **.03 Request for Information from Licensing Records.**

A. (text unchanged)

B. The written request shall:

(1) Contain the applicant's name, address, and telephone number;

[(2) Be signed by the applicant; and

(3)](2) Reasonably identify by brief description the record sought.

[C. A request may be made in any form or format if it does not involve:

(1) Physical inspection of licensing records; or

(2) Preparation of a written or electronic:

(a) Copy of licensing records; or

(b) Report of information from licensing records. ]

[D.]C. The custodian of record may charge a reasonable fee for:

(1)–(3) (text unchanged)

#### **.04 Compelling Public Purpose.**

A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under [State Government Article, §10-617(h)(2),] *General Provisions Article § 4-333(b)*, Annotated Code of Maryland.

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 18 LARGE FAMILY CHILD CARE HOMES

### COMAR 13A.18.01 Scope and Definitions

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. § 6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

#### .02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1)—(14) (text unchanged)

(15) Employee.

(a) "Employee" means an individual who [for compensation] is employed to work in a child care home and who:

(i) Cares for or supervises children in the facility; or

(ii) Has access to children who are cared for or supervised in the facility.

(b) "Employee" includes a [paid] substitute *or volunteer*.

(c) "Employee" does not include an individual who is:

(i) An independent contractor; or

(ii) A [registered] *licensed* or certified health care professional who is compensated by the provider or the parent of a child in care to provide a specified health care service to the child.

(d) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, "employee" includes an individual who:

(i) [Is compensated by the provider or a resident to perform a service at the child care home;

(ii) Has access to children in care] *Meets the definition of an employee as set forth in §B(15) of this regulation; and*

[(iii)](ii) Does not clearly meet, or is not excluded from, the definition of independent contractor as set forth at §B(21) of this regulation.

(16) "Family child care" *has the same meaning as family child care as defined in Education Article §9.5-301(d) and* means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.

(17) "Family child care teacher" means a staff member who:

(a) Is approved by the office to supervise children in care at a large family child care home; and

(b) Meets the professional requirements of COMAR 13A.18.[05]06.06.

(18)—(19) (text unchanged)

(20) "Identified as responsible for child abuse or neglect" means being determined by a local department of *social services or other state agency* to be responsible for child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(21)—(22) (text unchanged)

(23) "Injurious treatment" means:

(a) [Deliberate infliction in any manner of any type of physical pain,] *Physical discipline* including *but not limited to* spanking, hitting, shaking, or any other means of physical discipline, or enforcement of acts which result in physical pain;

(b) Failure to attend to a child's physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, *threatening*, or ridiculing; and

(d) (text unchanged)

(24)—(37) (text unchanged)

(38) *Reasonable Accommodations*.

(a) "Reasonable accommodations" means changes made to a child care facility's program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,

(b) "Reasonable accommodations" are not required when providing the accommodations would significantly:

(i) Change the nature of the program; or

(ii) Impose a monetary burden on the provider.

[(38)](39)—[(43)](44) (text unchanged)

[(44)](45) Staff Member.

(a) "Staff member" means an individual 16 years old or older, whether paid or not, who is assigned responsibility for child care in a child care home [and whose assignment helps to maintain the staff/child ratios required by COMAR 13A.18.08.03].

(b) (text unchanged)

[(45)](46) "Successfully passed" means, when used in connection with[:]*a criminal background check or a review of records of abuse and neglect of children or adults conducted on an individual, that the individual:*

(a) A criminal background check, that an individual:

(i) Has not received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at COMAR 13A.18.06.03A; or

(ii) If having received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime not listed at COMAR 13A.18.06.03A, has been assessed by the office as suitable for employment pursuant to COMAR 13A.18.06.03B; or

(b) A review of records of abuse and neglect of children or adults, that if an individual is:

(i) An employee of, or applying for employment by, the provider, the individual has been assessed by the office as being suitable for employment, pursuant to COMAR 13A.18.06.03B; or

(ii) An independent contractor, the individual has not been identified as responsible for the abuse or neglect of a child.]

(a) Does not have a disposition listed at COMAR 13A.15.02.07B(1)—(11) or C(1)-(3);

(b) Does not have other behavior deemed harmful to children; or

(b) Has not been identified as responsible for the abuse or neglect of a child or an adult.

[(46)] (47)—[(48)] (49) (text unchanged)

[(49)] (50) ["Volunteer]" means an individual who:]

(a) [Is 13 years old or older;] "Volunteer" means an individual who:

(i) Is 13 years old or older;

[(b)](ii)—[(c)](iii) (text unchanged)

(b) "Volunteer" does not mean an additional adult or a substitute.

## COMAR 13A.18.02 Registration Application and Maintenance

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 Registration — General Requirements.

#### A. Requirement to Be Registered.

(1) (text unchanged)

(2) A family child care home is not required to be registered if the provider:

(a) Is a relative of each child;

(b) Is a friend of each child's parent or legal guardian and the care is provided on a nonregular basis of less than 20 hours a month; or

(c) Has received the care of the child from a child placement agency licensed by the Department of Human Resources.

[(2)](3) (text unchanged)

B.—E. (text unchanged)

- F. Except as provided under §G of this regulation, a residence approved for use as a child care home may not also be used to operate a:
- (1) (text unchanged)
  - (2) Child care program that is subject to the requirements of COMAR 13A.15, 13A.16, or COMAR 13A.17.
- G.—H. (text unchanged)

**.02 Initial Registration.**

- A.—B. (text unchanged)
- C. Before the proposed opening date of the child care home, an applicant for initial registration shall:
- (1) Ensure that an application for a federal and *Maryland* State criminal background check is submitted for:
    - (a) (text unchanged)
    - (b) Each employee, including [paid] substitutes *and volunteers*; and
    - (c) Each resident in the home who is 18 years old or older; *and*
  - (2) Submit [the following items to the office, if not submitted at the time the written application form was submitted:
    - (a) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:
      - (i) The applicant;
      - (ii) Each employee;
      - (iii) Each substitute, whether paid or unpaid;
      - (iv) Each resident in the home who is 18 years old or older; and
      - (v) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;
    - (b) A medical evaluation for the applicant and each resident in the home that:
      - (i) Was completed within 12 months before the date of application for registration;
      - (ii) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; and
      - (iii) Is signed or verified by the individual who conducted the evaluation;
    - (c) Evidence of compliance with all applicable zoning and building codes;
    - (d) A written plan of operation;
    - (e) An emergency and disaster plan that meets the requirements of COMAR 13A.18.10.01A(3)(a) and (b);
    - (f) Workers' Compensation insurance information;
    - (g) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;
    - (h) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;
    - (i) Documentation that all applicable training requirements set forth at COMAR 13A.18.06.05—.06 have been met by the applicant and each staff member;
    - (j) A 4-week menu of food to be served to children in care at the child care home;
    - (k) A written child discipline policy;
    - (l) If the child care home is located in a condominium or residence which requires homeowners' association membership, written proof of homeowner's liability insurance coverage as required by Maryland law; and
    - (m) Documentation that the home has met all lead safety requirements, as applicable, set forth in COMAR 13A.18.05.05; and
    - (n) All other documentation required by law or regulation, including but not limited to:
      - (i) Proof of an on-site inspection and approval by the local fire authority having jurisdiction;
      - (ii) A building use and occupancy permit, if applicable; and
      - (iii) Workers' Compensation insurance, if applicable.] *to the office each of the items specified under §D of this regulation that was not submitted at the time the written application form was submitted.*

**D. The applicant shall submit:**

- (1) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:
  - (a) The applicant;

- (b) Each employee;
- (c) Each substitute;
- (d) Each volunteer;
- (e) Each resident in the home who is 18 years old or older; and
- (f) If required by the office, any other individual with access to the child care area during the approved hours of operation;

(2) A medical evaluation for the applicant, each resident in the home, and each employee or staff member as specified under COMAR 13A.18.06.04 that:

- (a) Was completed within 12 months before the date of application for registration;
- (b) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant;
- (c) Includes verification:
  - (i) Is free of communicable tuberculosis, if indicated, and
  - (ii) For the applicant, capability to perform the duties of their position.
- (d) Is signed or verified by the individual who conducted the evaluation;
- (3) Evidence of compliance with all applicable zoning and building codes;
- (4) A written plan of operation;
- (5) An emergency and disaster plan that meets the requirements of COMAR 13A.18.10.01A(3)(a) and (b);
- (6) Workers' Compensation insurance information;
- (7) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;
- (8) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;
- (9) Documentation that all applicable training requirements set forth at COMAR 13A.18.06.05—.07 have been met by the applicant and each staff member;
- (10) A 4-week menu of food to be served to children in care at the child care home;
- (11) A written child discipline policy;
- (12) If the child care home is located in a condominium or residence which requires homeowners' association membership, written proof of homeowner's liability insurance coverage as required by Maryland law;
- (13) Documentation that the home has met all lead safety requirements, as applicable, set forth in COMAR 13A.18.05.05;
- (14) If the home is located in an apartment or other property that is rented or leased by the applicant, submit written authorization from the lessor, owner or landlord permitting child care in the home; and
- (15) All other documentation required by law or regulation, including but not limited to:
  - (a) Proof of an on-site inspection and approval by the local fire authority having jurisdiction; and
  - (b) A building use and occupancy permit, if applicable.

[D.]E. (text unchanged)

F. *Non-Maryland State Criminal Background Check.* If an individual subject to the requirements of §C(1)(b) of this regulation currently resides or has resided in a state other than Maryland within 5 years before the date of application for registration, the individual shall:

- (1) Apply for a state criminal background check to be performed by a duly authorized entity within that state; and
- (2) Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.

### **.03 Continuing Registration.**

A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:

- (1)—(2) (text unchanged)
- (3) A medical evaluation that meets the requirements of Regulation .02[B]D(2)[(b)]of this chapter for:
  - (a) (text unchanged)
  - (b) Each resident in the home who has child care responsibilities; [and]
  - (c) Each volunteer; and
  - [(c)](d) Each staff member;
- (4) A completed and notarized release of information form that permits the office to examine records of abuse and neglect of children and adults for:

- (a)—(c) (text unchanged)
- (d) *Each volunteer;*
- [(d)](e)—[(e)](f) (text unchanged)

(5) Documentation that the child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; [and]

(6) *Written authorization from the lessor, owner or landlord permitting the provider to continue providing child care in the home; and*

[(6)](7) (text unchanged)

**B. Maintenance of Continuing Registration.**

(1) (text unchanged)

(2) By the end of each 24-month period after the date of issuance of a continuing registration, the provider shall make available to the office the items specified in §A(2)—[(6)](7) of this regulation.

**.04 Provisional Status and Conditional Registration.**

**A. Provisional Status.**

(1) (text unchanged)

(2) An initial registration may not be approved if the office has not yet received evidence that the applicant and, as applicable, each individual specified in Regulation .02[B]C(1) and [(2)(a)] .02D(1) of this chapter has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records.

(3)—(4) (text unchanged)

**.05 Resumption of Service.**

A. (text unchanged)

B. The application to resume service shall meet all initial registration application requirements, except that:

(1) (text unchanged)

(2) The office may accept as applicable to the new application the:

(a)—(b) (text unchanged)

(c) Results of the original criminal background checks conducted pursuant to Regulation .02[B]C(1) of this chapter;

(d) Results of the original child and adult abuse and neglect clearances conducted pursuant to Regulation .02[B(2)(a)]D(1) of this chapter, if the clearances were completed within 12 months of the application; and

(e) (text unchanged)

**.06 Response of the Office to Application.**

A.—B. (text unchanged)

C. Within 30 days of receipt of a completed application for conversion of a small center license to a large family child care home registration pursuant to Regulation .02[D] of this chapter, the office shall issue a certificate of registration to the applicant.

**.07 Denial of a Registration Application.**

A. The office may deny a certificate of registration if:

(1) (text unchanged)

(2) An evaluation of the application *or any documents* required by the office reveals that the applicant, *regardless of intent*, reported false information;

(3)—(6) (text unchanged)

(7) An evaluation of the medical report or other information about the applicant or a resident indicates that the:

(a) (text unchanged)

(b) Applicant is unable to care for children; *or*

(c) *Applicant, regardless of intent submitted false or altered medical documentation for the applicant, resident, substitute, or employee for consideration by the office.*

(8) [An] *In addition to the requirements set forth at §B of this regulation, an evaluation of the criminal record of the applicant, an employee including a [paid] substitute, volunteer, or a resident in the home reveals that the individual has a criminal conviction, probation before judgment, or not criminally responsible disposition, or is awaiting a hearing for a criminal charge that indicates behavior harmful to children;*

(9) An evaluation of the information provided in records of abuse and neglect of children and adults reveals that the applicant, a staff member including a substitute, a *volunteer*, or a resident is identified as responsible for abuse or neglect of children or adults, or is currently under investigation for alleged acts of abuse or neglect of children or adults;

(10)—(11) (text unchanged)

*B. The office shall deny a certificate of registration to an applicant who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:*

*(1) A crime involving:*

*(a) A child;*

*(b) Cruelty to animals;*

*(c) Domestic violence; or*

*(d) A weapons or firearms violation of federal or state laws;*

*(2) A sex offense;*

*(3) A violent crime classified as a felony, including physical assault or battery;*

*(4) Abduction or kidnapping;*

*(5) Abuse of a child or an adult;*

*(6) Confinement of an unattended child;*

*(7) Manufacturing, distributing, or dispensing a controlled dangerous substance;*

*(8) Perjury;*

*(9) Pornography;*

*(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or*

*(11) Reckless endangerment; or*

*C. The office shall deny a certificate of registration to an applicant who has received a felony conviction for:*

*(1) Murder;*

*(2) Spousal abuse; or*

*(3) Arson.*

*D. The office shall deny a certificate of registration upon notification that the applicant is in non-compliance with Child Support Enforcement requirements pursuant to Family Law 10-119.3.*

[B.]E.—[C.]F. (text unchanged)

[D.]G. Denial Before Complete Application.

(1) The office may deny an application for registration at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A, §B, § C, or § D of this regulation.

(2) (text unchanged)

### **.08 Voluntary Surrender of Registration.**

A. A provider may voluntarily surrender a child care home registration at any time by notifying the office *in writing*.

B. (text unchanged)

## **COMAR 13A.18.03 Management and Administration**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.02 Admission to Care.**

A.—C. (text unchanged)

D. If a child is younger than 6 years old at the time of admission, the provider may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the provider on a form supplied or approved by the Office that the child has received an appropriate lead screening *or test* in accordance with applicable State or local requirements.

**.03 Program Records.**

The provider shall:

A. (text unchanged)

B. Maintain:

(1)—(2) (text unchanged)

(3) Records of food actually served by the provider for the most recent 4 weeks as required by COMAR

13A.18.12.01[G]I(2);

(4)—(5) (text unchanged)

C.—D. (text unchanged)

E. *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of initial registration.*

**.04 Child Records.**

A.—D. (text unchanged)

E. [If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as] *As required by State or local law[.], evidence that the child has received:*

(1) *An appropriate lead screening for a child younger than 6 years old and born prior to January 1, 2015;*

(2) *A lead test at age 12 months and again when the child is 24 months regardless of where the child resides, for any child born on or after January 1, 2015.*

F. (text unchanged)

G. There shall be an immunization record showing that:

(1) The child has had immunizations appropriate for the child's age which meet the immunization guidelines set by the Maryland Department of Health [and Mental Hygiene];

(2)—(4) (text unchanged)

H.—K. (text unchanged)

L. Temporary Admission.

(1) (text unchanged)

(2) For a child to be temporarily admitted or retained in care, the parent or guardian shall present evidence of the child's appointment with a health care provider or local health department to:

(a) Receive a medical evaluation to include, if applicable, a lead screening *or test*;

(b)—(d) (text unchanged)

(3)—(4) (text unchanged)

**.05 Staff Records.**

The provider shall:

A.—E. (text unchanged)

F. If using volunteers in the child care program, maintain a record for each volunteer that includes:

(1) The date on which the volunteer received the child health and safety orientation required by COMAR 13A.18.06.02; [and]

[(2) If the volunteer is present at the child care home more than once per week:]

[(a)](2) (text unchanged)

[(b)](3) *If present more than once per week, [A] a medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties.*

**.06 Notifications.**

The provider shall:

A. Within 5 working days of its occurrence, provide written notification to the office about the:

(1) Addition of a new staff member, that includes:

(a) The individual's full name, date of birth, and date of hire;

(b) Information about the individual's work assignment; [and]

(c) *Proof of compliance with the laws and regulations pertaining to criminal background checks; and*

[(c)](d) (text unchanged)

(2) (text unchanged)

B.—D. (text unchanged)

E. Immediately notify the office of:

(1) *The provider, resident of the home, [An] or an employee who is under investigation for:*

(a)—(b) (text unchanged)

(2) (text unchanged)

F. Within 5 working days after there is a new resident who is 18 years old or older:

(1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children *or* adults for information about the resident *pursuant to COMAR*

*13A.18.02.02D(1)*; and

(2) Ensure that the resident applies for a federal and State criminal background check *pursuant to COMAR 13A.18.02.02C(1) and F*; and

G. (text unchanged)

## COMAR 13A.18.04 Operational Requirements

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .04 Restriction of Operations.

A. (text unchanged)

B. The office may base a restriction or reduction under §A of this regulation on any of the following factors:

(1)—(5) (text unchanged)

(6) Failure to comply with group size and staffing requirements set forth at [Chapter 08.03 of this subtitle] *COMAR 13A.18.08.03*; or

(7) (text unchanged)

C. A provider may appeal a restriction or reduction pursuant to §B of this regulation by filing a request for hearing:

(1) Not later than 20 calendar days after the notification of the office's action; or

(2) In the case of an emergency reduction in capacity, [within 72 hours of] *not later than 30 calendar days after the* notification by the office of its decision to immediately reduce the number of children in care.

## COMAR 13A.18.05 Home Environment and Equipment

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### .03 Rooms Used for Care.

A.—E. (text unchanged)

F. If approved to provide care for infants or toddlers, the provider shall designate space for mothers to [breasfeed] *breasfeed* or express breast milk that:

(1)—(4) (text unchanged)

### .05 Lead-Safe Environment.

A. (text unchanged)

B. If the child care home is a residential rental property constructed before [1950] *1978*, which is an affected property as defined by Environment Article, §6-801(b), Annotated Code of Maryland, the provider shall submit a copy of the current lead risk reduction or lead free certificate.

C.—D. (text unchanged)

### .12 Outdoor Activity Area.

A.—H. (text unchanged)

I. *Any pool on the premises of the facility shall be made inaccessible to children in care and provide for security, including but not limited to having a:*

(1) *Fence that surrounds the pool;*

- (2) *Self-closing and self-latching mechanism on the gate, door, or access to the pool;*
- (3) *Lock that is operable and secured; and*
- (4) *Sensor or alarm in the pool and on the access door.*

### **.13 Swimming Facilities.**

A.—B. (text unchanged)

C. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool[, that does not have an operable circulation system approved by the local health department].

## **COMAR 13A.18.06 Provider and Staff Requirements**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.03 Suitability for Employment.**

A. A provider may not employ an individual who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

- (1)—(2) (text unchanged)
- (3) A violent crime classified as a felony, *including physical assault or battery;*
- (4)—(9) (text unchanged)
- (10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; [or]
- (11) Reckless endangerment[.] *or;*
- (12) *A felony conviction for:*
  - (a) *Murder;*
  - (b) *Spousal abuse; or*
  - (c) *Arson.*

B.—F. (text unchanged)

### **.04 Staff Health.**

A. Medical Evaluation.

(1) A provider shall obtain a medical evaluation[, including a tuberculosis screen, if indicated,] on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the child care home, from each prospective:

- (a)—(c) (text unchanged)
- (2) *The medical evaluation must include verification that the individual:*
  - (i) *Is free of communicable tuberculosis, if indicated, and*
  - (ii) *For the applicant and staff, capable of performing the duties of their position.*

[(2)](3) The medical evaluation may transfer directly from one child care home to another, or from a licensed child care center to the child care home, if the evaluation was completed within the previous [12]24 months of the transfer.

- (4) *The medical evaluation shall be updated every two years.*

B. (text unchanged)

### **.05 Child Care Home Directors.**

A.—D. (text unchanged)

E. Except as set forth at §F of this regulation, to qualify as a director in a large family child care home, an individual shall:

- (1)—(2) (text unchanged)
- (3) (text unchanged)
  - (a) 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit; [and]
  - (b) 3 semester hours or their equivalent of approved administrative training; [and]
  - (c) Effective January 1, 2016:

- (i) (text unchanged)
- (ii) Approved training in supporting breastfeeding practices[.]; *and*
- (d) *Effective January 1, 2018, approved basic health and safety training.*
- (4) (text unchanged)
- (5) Unless previously approved by the office to direct a child care program serving children younger than 2 years old, have completed 3 semester hours of approved training, or the equivalent, related [exclusively] to the care of children younger than 2 years old; and
- (6) (text unchanged)
- F. An individual is considered qualified as a director when that individual has:
  - (1) *Completed training specified at §E(3)(c) and (d) of this regulation; and*
  - [(1)](2) (text unchanged)
  - [(2)](3) Completed 3 semester hours of approved training, or the equivalent, related [exclusively] to the care of children younger than 2 years old.
- G. A director shall:
  - (1)—(3) (text unchanged)
  - (4) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of registration or employment in the position.*

**.06 Family Child Care Teachers.**

- A. (text unchanged)
- B. [Except as set forth at §C of this regulation, to] *To qualify or continue to qualify* as a family child care teacher, an individual:
  - (1) Shall hold or have successfully completed:
    - (a) (text unchanged)
    - (b) [Either] 9 clock hours of approved pre-service training in communicating with staff, parents, and the public or at least one academic college course for credit; [and]
    - (c) [Either] *Approved pre-service training in child development and curriculum documented by:*
      - (i) 6 semester hours or 90 clock hours or their equivalent [of approved pre-service training];
      - (ii) (text unchanged)
      - (iii) Accreditation by the National Association for Family Child Care as a family child care provider;
  - [and]
    - (d) *3 clock hours of approved training in complying with the Americans with Disabilities Act; and*
    - (e) *Effective January 1, 2018, approved basic health and safety training.*
  - (2) (text unchanged)
- C. An individual shall qualify as a family child care teacher if the individual has met the requirements of §B of this regulation, and:
  - (1)—(4) (text unchanged)
- D. A family child care teacher in a child care home shall:
  - (1) (text unchanged)
  - (2) Document completion of the continued training on the professional development plan[.]; *and*
  - (3) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of employment in the position.*
- E. Before a family child care teacher may supervise a child younger than 2 years old, the individual shall[, unless previously qualified by the office to supervise an infant or a toddler]:
  - [(1) Meet the requirements of §§A—B of this regulation and have completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old; or
  - (2) Be 19 years old or older and:
    - (a) Meet the requirements of §B(1)(a) and (b) and §B(2) of this regulation; and
    - (b) Have completed 6 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old.]
      - (1) *Effective January 1, 2016, complete approved training in supporting breastfeeding practices; and*
      - (2) *Unless previously qualified by the office to supervise an infant or a toddler:*
        - (a) *Meet the requirements of §§A—B of this regulation and have completed 3 semester hours of approved training, or the equivalent, related to the care of children younger than 2 years old; or*
        - (b) *Be 19 years old or older and:*
          - (i) *Meet the requirements of §B(1)(a), (b), (d) and (e) and §B(2) of this regulation; and*

(ii) *Have completed 6 semester hours of approved training, or the equivalent, related to the care of children younger than 2 years old.*

**.07 Aides.**

A. An aide shall:

(1)—(2) (text unchanged)

(3) *Effective January 1, 2018, complete the approved basic health and safety training; and*

[(3)](4) *According to the individual's professional development plan, complete approved continued training, at the rate of at least 6 clock hours per full year of employment as a child care aide, that consists of a:*

(a)—(b) (text unchanged)

[(4)](5) *Document completion of the continued training on the professional development plan [.] and*

(6) *Document that the health and safety training, as required by the office, was updated by the end of each 12-month period, measured from the date of employment in the position.*

B.—C. (text unchanged)

**.08 Substitutes.**

A. (text unchanged)

B. A substitute shall:

(1)—(3) (text unchanged)

(4) [If paid, apply] *Apply for a federal and State criminal background check at a designated law enforcement office in the State; and*

(5) (text unchanged)

C.—D. (text unchanged)

*E. Non-Maryland State Criminal Background Check. If an individual subject to the requirements of §B(4) of this regulation currently resides or has resided in a state other than Maryland within 5 years before the date of application for registration, the individual shall:*

(1) *Apply for a state criminal background check to be performed by a duly authorized entity within that state; and*

(2) *Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.*

*F. Approval by Office.*

(1) *An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.*

(2) *If information received by the office indicates that an individual designated as a substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.*

(3) *The Office shall notify the provider of its decision to approve or disapprove a substitute within 30 days of the request being submitted.*

**.10 Volunteers.**

A. (text unchanged)

B. *The provider may not use as a volunteer an individual who has [been prohibited, or automatically would be prohibited, from employment at the child care home pursuant to Regulation .03A or B of this chapter.] not successfully passed a criminal background check or a review of records of abuse and neglect of children or adults pursuant to COMAR 13A.18.02.02(C) or (D)(1).*

## **COMAR 13A.18.07 Child Protection**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

**.02 Abuse/Neglect Reporting.**

A. A provider, employee, [or] substitute, *or volunteer* who has reason to believe that a child has been:

(1)—(2) (text unchanged)

B.—C. (text unchanged)

D. A provider may not require an employee, [or] substitute, *or volunteer* to report through the provider, rather than directly to the local department or a law enforcement agency, when the employee, [or] substitute, *or volunteer* has reason to believe that a child has been abused or neglected.

### **.03 Child Discipline.**

A. (text unchanged)

B. The provider may not:

(1) Force a child to eat or drink;

(2) Punish a child for refusing to eat or drink; [or]

(3) Withhold food or beverages as punishment[.]; *or*

(4) *Spank, hit, shake, or use any other means of physical discipline;*

C. (text unchanged)

## **COMAR 13A.18.08 Child Supervision**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.01 Individualized Attention and Care.**

A provider shall ensure that:

A. Each child receives:

(1) Attention to the child's individual needs, including but not limited to;

(a) Making reasonable accommodations for a [children] *child* with a [special needs] *disability* [in accordance with applicable federal and State laws]; and

(b) Allowing an adult who provides specialized services to a child [with special needs] access to provide those services on the facility premises as specified in the child's individual education plan, individual family service plan, or written behavioral plan; and

(2) (text unchanged)

B.—E. (text unchanged)

### **.02 Supervision by Qualified Staff.**

A. (text unchanged)

B. The provider shall assign qualified *family* child care teachers to each group of children as needed to meet the requirements for group size and staffing set forth at Regulation .03 of this chapter.

C.—D. (text unchanged)

### **.06 Supervision During Transportation.**

When child transportation is conducted to or from:

A. (text unchanged)

B. An off-site activity by an independent contractor and at least one child in care is being transported, the provider shall ensure that there is at least one *qualified and cleared* adult other than the driver present in the vehicle.

### **.08 Rest Time Supervision.**

A. (text unchanged)

B. During a rest period for a group of children who are 2 years old or older:

(1) (text unchanged)

(2) Once all the children in the group are resting quietly:

(a) At least one *family* child care teacher or aide assigned to the group shall continue to remain in the room with the children; and

(b) (text unchanged)

C. To determine if a resting child is safe, breathing normally, and in no physical distress[:

- (1) Each] *each* resting child shall be observed at intervals [appropriate to the child's age and individual need] *of at least every 15 minutes*]; and
- (2) A resting child younger than 12 months old shall be observed at least every 15 minutes].

## **COMAR 13A.18.09 Program Requirements**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.04 Rest Furnishings.**

A.—F. (text unchanged)

G. *A child under 12 months who falls asleep in a furnishing other than a crib shall be moved immediately to an approved sleeping arrangement specified at §04A(4) of this regulation.*

## **COMAR 13A.18.10 Safety**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.01 Emergency Safety Requirements.**

A. Emergency and Disaster Plan.

(1)—(6) (text unchanged)

(7) During an emergency evacuation or practice, a staff member shall take attendance records, *and emergency cards* out of the child care home and determine the presence of each child currently in attendance.

B. If the child care home is included within a comprehensive emergency and disaster plan, the provider shall ensure that:

(1) The comprehensive plan contents meet all emergency and disaster plan requirements set forth at §A[(2)](3)(a) and (b) of this regulation; and

(2) (text unchanged)

C. (text unchanged)

### **.05 Rest Time Safety.**

A. (text unchanged)

B. Unless the need for a positioning device is specified in writing by a child's physician, a restricting device of any type, *including swaddling*, may not be applied to a resting child.

## **COMAR 13A.18.11 Health**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 *et seq.*) and §418 of the Social Security Act (42 U.S.C. 618).

### **.02 Infectious and Communicable Diseases.**

A. (text unchanged)

B. A provider may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that infection or disease as shown [on a chart provided by the office] *in the Communicable Disease Summary as published by the Maryland Department of Health*, unless the health officer grants approval for the child to attend child care during that period.

### **.03 Preventing Spread of Disease.**

A. (text unchanged)

B. Hands shall be washed according to the posted approved procedure by the provider, each staff member, each volunteer, *each substitute*, and each child in care at least:

(1)—(3) (text unchanged)

C. (text unchanged)

### **.04 Medication Administration and Storage.**

A.—E. (text unchanged)

F. Medication Administration Training.

(1) (text unchanged)

(2) Medication may be administered to a child in care only by a staff member who has completed approved medication *administration* training.

G.—H. (text unchanged)

## **COMAR 13A.18.12 Nutrition**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### **.01 Food Service.**

A. (text unchanged)

B. [For children in care] *Unless provided by the child's parent*, the provider shall furnish:

(1)—(2) (text unchanged)

C.—I. (text unchanged)

### **.06 Feeding Infants and Toddlers.**

A.—C. (text unchanged)

D. Only whole, pasteurized milk will be served to a child younger than 2 years old who is not receiving formula or breast milk, except that skim milk, reconstituted nonfat dry milk, or 1[—]or 2 percent milk may be served upon the written prior approval of the child's parent and health care provider.

E. (text unchanged)

## **COMAR 13A.18.14 Inspections, Complaints, and Enforcement**

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### **.02 Complaints.**

The office shall investigate:

A. (text unchanged)

B. Complaints of *providing or advertising* unregistered family child care.

### **.05 Nonemergency Suspension.**

A. (text unchanged)

B. *The office shall suspend the certificate of registration upon notification that the provider is in non-compliance with Child Support Enforcement requirements pursuant to Family Law 10-119.3.*

[B.]C. The office shall notify the provider in writing of the suspension at least 20 calendar days before the effective date stating:

(1) The effective date and period of the suspension;

(2) The reason for suspension;

- (3) The regulation with which the provider has failed to comply that is the basis for the suspension;
  - (4) Corrections required to ensure reinstatement of the certificate of registration;
  - (5) That the provider shall stop providing child care on the effective date of the suspension unless the provider requests a hearing;
  - (6) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;
  - (7) The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;
  - (8) That the suspension shall be stayed if a hearing is requested;
  - (9) That, if the suspension is upheld following the hearing, the provider shall cease providing child care for the period of the suspension;
  - (10) That the suspension may lead to revocation; and
  - (11) That the provider is required to surrender the certificate of registration to the office when the suspension becomes effective.
- [C.]D.—[D.]E. (text unchanged)

#### **.06 Emergency Suspension.**

- A. (text unchanged)
  - B. The office shall hand-deliver a written notice to the provider informing the provider of the emergency suspension, giving the reasons for the action, and notifying the provider of the right to request, within 30 days of the delivery of the notice, a hearing before the [Superintendent's designee] *Office of Administrative Hearings*.
  - C. *If unable to hand-deliver a written notice to the provider, the Office may send notice regular and certified mail to the provider's address.*
- [C.]D. When the certificate of registration is to be suspended immediately:
- (1)—(3) (text unchanged)
- [D.]E. If a hearing is requested by the provider, the [Superintendent's designee] *Office of Administrative Hearings* shall hold a hearing within 7 calendar days of the date of the request.
- [E.]F. Within 7 calendar days of the hearing, a decision concerning the emergency suspension shall be made by the [Superintendent's designee] *Office of Administrative Hearings*.
- [F.]G.—[G.]H. (text unchanged)

#### **.07 Revocation.**

- A. The office may revoke a certificate of registration if the:
  - (1) (text unchanged)
  - (2) Provider, *regardless of intent*, misrepresented or offered false information on the application or on any form or report required by the office;
  - (3)—(7) (text unchanged)
  - (8) The provider fails to comply with the:
    - (a) Prohibitions on the use of an individual as an employee or a volunteer as set forth in COMAR 13A.18.06.03A — B and F, [and] *or COMAR 13A.16.03.10B*; or
    - (b) (text unchanged)
  - (9)—(11) (text unchanged)
- B. If the office decides to revoke a certificate of registration, the office shall notify the provider in writing at least 20 calendar days in advance of the revocation, stating:
  - (1)—(4) (text unchanged)
  - (5) That the provider is entitled to a hearing if requested in writing within 20 calendar days of [the delivery of] the *date of the* notice;
  - (6)—(8) (text unchanged)
- C. (text unchanged)

#### **.08 Penalties.**

- A. An individual found to be operating a child care home, [or advertising a family child care service,] without a valid family child care registration is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:
  - (1)—(2) (text unchanged)
- B. (text unchanged)

#### **.09 Civil Citations.**

A. The office may issue a civil citation imposing a civil penalty to an individual who provides unregistered family child care *or advertises a family child care home* in violation of the requirements of this subtitle.

B. – D. (text unchanged)

## COMAR 13A.18.15 Administrative Hearings

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### .01 Scope.

A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact on child care home registrations, such as registration denials, revocations, suspensions, reductions in capacity, limitations on the ages or numbers of children who may be admitted to a child care home, *or for the imposition of civil penalties for providing or advertising unregistered family child care services without a valid family child care certificate of registration*, or employment exclusions pursuant to COMAR 13A.18.06.03A or B of this subtitle.

B. (text unchanged)

### .03 Hearing Requests.

A. A hearing shall be held when [an applicant or provider requests a hearing to contest]:

(1) *An applicant or provider requests a hearing to contest:*

[(1)] (a) The denial of an application for registration;

[(2)] (b) A revocation or suspension of a registration; or

[(3)] (c) Any other action that adversely impacts on registration, including, but not limited to:

[(a)] (i) The setting of a provider's capacity at a number below that requested;

[(b)] (ii) A reduction in capacity; or

[(c)] (iii) A limitation on the ages or numbers of children who may be admitted to the child care home.

(2) *An individual requests a hearing to contest the imposition of civil penalties for providing unregistered child care or advertising family child care services without a valid family child care certificate of registration.*

B. Nonemergency Action Hearing Requests.

(1) All nonemergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the provider *or the individual contesting the imposition of a civil penalty*, and the effective date and nature of the action appealed from.

(2)—(5) (text unchanged)

C. (text unchanged)

### .04 Preliminary Conference.

A. [The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.] *A preliminary conference may be held before a hearing on an action if an appellant requests the conference.*

B.—D. (text unchanged)

## COMAR 13A.18.16 Public Access to Licensing Records

Authority: Education Article, §§9.5-301-308, 9.5-311-312, and 9.5-320—9.5-321; Human Services Article, §1-202; General Provisions Article 4-333; Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.) and §418 of the Social Security Act (42 U.S.C. 618).

### .03 Request for Information from Licensing Records.

A. (text unchanged)

B. The written request shall:

(1) Contain the applicant's name, address, and telephone number; *and*

[(2)] Be signed by the applicant; and

(3)](2) Reasonably identify by brief description the record sought.

[C. A request may be made in any form or format if it does not involve:

- (1) Physical inspection of licensing records; or
- (2) Preparation of a written or electronic:
  - (a) Copy of licensing records; or
  - (b) Report of information from licensing records. ]

[D.]C. (text unchanged)

**.04 Compelling Public Purpose.**

A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under [State Government Article, §10-617(h)(2)] *General Provisions Article §433(b)*, §10-617(h)(2), Annotated Code of Maryland.