



**Mohammed Choudhury**  
State Superintendent of Schools

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

**FROM:** Mohammed Choudhury, State Superintendent of Schools

**DATE:** September 26, 2023

**SUBJECT:** Safe Sleep Proposed Regulations for:  
COMAR 13A.15  
*Family Child Care*

COMAR 13A.16  
*Child Care Centers*

COMAR 13A.18  
*Large Family Child Care Homes*

**PERMISSION TO PUBLISH**

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**Purpose**

The purpose of this item is to request permission to publish amendments to COMAR 13A.15 *Family Child Care*, COMAR 13A.16 *Child Care Centers*, and COMAR 13A.18 *Large Family Child Care Homes* to ensure that early care and education programs are adhering to the latest research on safe sleep practices.

**Standard Regulation Promulgation Process**

Under Maryland law, a state agency, such as the State Board, may propose a new or amended 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 Administrative, Executive, and Legislative Review (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, Maryland State Department of Education (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 the 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 be recommended to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

## Executive Summary and Background

### Proposed Regulation: Safe Sleep

The proposed regulations seek to align the requirements for safe sleep in child care settings with the latest research recommendations from the American Academy of Pediatrics (AAP). As an initial matter, these regulations clarify that cribs, portable cribs, and playpens used for child care must adhere to the *current* safety standards set by the U.S. Consumer Product Safety Commission.

Additionally, these regulations mandate that sleep surfaces for children under 12 months old must be firm, flat, and non-inclined unless specifically authorized in writing by a physician or other licensed health care provider, which is in alignment with the AAP's guidance to reduce the risk of Sudden Infant Death Syndrome (SIDS).

While such authorizations have historically been given by physicians, the addition of "other licensed health care provider" to these regulations is intended to increase access for families so long as evaluation of a child for an inclined sleeping surface or positioning device is within the scope of the provider's license.

Furthermore, the use of weighted rest items, including blankets, sleepers, and swaddles, is prohibited for children under 12 months, consistent with the AAP's recommendations to create a safe sleep environment. These regulations collectively aim to ensure a safe and nurturing environment for children in child care programs while adhering to the latest research-backed guidelines from the AAP.

In addition, the proposed regulations provide guidance for the use of tummy time by adding it as an example of an age-appropriate activity that providers may include in their written schedule of daily activities. Tummy time, during short periods while a child under 12 months old is awake, is crucial for their development and well-being. This practice helps strengthen their neck and upper body muscles, promoting motor skill development. It also reduces the risk of positional plagiocephaly (flat head syndrome) by varying their head's position. Moreover, tummy time encourages exploration and interaction with their surroundings, supporting cognitive and sensory development. Overall, incorporating brief tummy time sessions into a baby's awake time fosters healthy physical and cognitive growth during their early months.

### Stakeholder Engagement

MSDE met with the Office of Child Care (OCC) Advisory Council to discuss this proposed regulation and receive feedback. The OCC Advisory Council is a public body, created by statute, that is responsible for providing guidance and recommendations related to child care services and regulations in Maryland. The Council serves as an advisory body to MSDE, offering insights and expertise on matters concerning early childhood education and child care programs. Its primary focus is to ensure the well-being, safety, and quality of child care services within the State, making recommendations for policy changes and improvements in the child care system as needed. The stakeholders consulted were supportive of the proposed amendments.

- OCC Advisory Council Member Meeting (August 17, 2023)

**Action**

Request that the State Board grant permission to publish amendments to COMAR 13A.15 *Family Child Care*, COMAR 13A.16 *Child Care Centers*, and COMAR 13A.18 *Large Family Child Care Homes* regarding safe sleep practices.

**Attachments**

- COMAR 13A.15.05.06 *Rest Furnishings*
- COMAR 13A.15.09.01 *Activities*
- COMAR 13A.15.10.06 *Rest Time Safety*
- COMAR 13A.16.09.01 *Schedule of Daily Activities for All Children*
- COMAR 13A.16.09.04 *Rest Furnishings*
- COMAR 13A.16.10.05 *Rest Time Safety*
- COMAR 13A.18.09.01 *Schedule of Daily Activities for All Children*
- COMAR 13A.18.09.04 *Rest Furnishings*
- COMAR 13A.18.10.05 *Rest Time Safety*

**Title 13A STATE BOARD OF EDUCATION**  
**Subtitle 15 Family Child Care**

Authority: Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, 9.5-321 and 9.5-414; Family Law Article, §§5-550—5-558; General Provisions Article, §4-333; Human Services Article, §1-202; 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 and 42 U.S.C. 9858 et seq.); Social Security Act §418 (42 U.S.C. 618)

**Chapter 05 Home Environment and Equipment**

**.06 Rest Furnishings.**

A. – D. (text unchanged)

E. Each crib, portable crib, and playpen that is used for child care shall meet the *current* standards of the U.S. Consumer Product Safety Commission.

*F. Each sleep surface used for a child under 12 months old shall be firm, flat, and non-inclined, unless the need for an incline is specified in writing by the child's physician or other licensed health care provider.*

*G. Weighted rest items, including but not limited to blankets, sleepers, and swaddles, may not be used for a child under 12 months.*

[F.] H. – [H.] J. (text unchanged)

**Chapter 09 Program Requirements**

**.01 Activities.**

A. The provider shall prepare, post, and follow a written schedule of daily activities and offer activities that:

(1) (text unchanged)

(2) Are appropriate to the age, needs, and capabilities of the individual child, *such as short periods of tummy time while awake for a child under 12 months*;

(3) – (7) (text unchanged)

B. (text unchanged)

**Chapter 10 Child Safety**

**.06 Rest Time Safety.**

A. Unless specified otherwise in writing by the child's physician *or other licensed health care provider*, a child who:

(1) Cannot roll over without assistance shall be placed for sleep on the child's back; or

(2) Is younger than 12 months old but can roll over unassisted shall be placed for sleep on the child's back, but may be allowed to adopt whatever position the child prefers for sleep.

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 *or other licensed health care provider*, an object or device, including, but not limited to, a strap, wedge, 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.

**Title 13A STATE BOARD OF EDUCATION**  
**Subtitle 16 Child Care Centers**

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; Family Law Article, §§5-550—5-558; General Provisions Article, §4-333; Human Services Article, §1-202; 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 and 42 U.S.C. 9858 et seq.); Social Security Act §418 (42 U.S.C. 618)

**Chapter 09 Program Requirements**

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

A. The operator shall prepare, post, and follow a written schedule of daily activities and offer activities that:

(1) (text unchanged)

(2) Are appropriate to the age, needs, and capabilities of the individual child, *such as short periods of tummy time while awake for a child under 12 months*;

(3) – (7) (text unchanged)

B. – C. (text unchanged)

**Chapter 09 Program Requirements**

**.04 Rest Furnishings.**

A. – B. (text unchanged)

C. Each crib shall meet the *current* standards of the U.S. Consumer Product Safety Commission.

D. – E. (text unchanged)

*F. Each sleep surface used for a child under 12 months old shall be firm, flat, and non-inclined, unless the need for an incline is specified in writing by the child's physician or other licensed health care provider.*

*G. Weighted rest items, including but not limited to blankets, sleepers, and swaddles, may not be used for a child under 12 months.*

[F.] H. – [G.] I. (text unchanged)

**Chapter 10 Safety**

**.05 Rest Time Safety.**

A. Unless specified otherwise in writing by the child's physician *or other licensed health care provider*, a child who:

(1) Cannot roll over without assistance shall be placed for sleep on the child's back; or

(2) Is younger than 12 months old but can roll over unassisted shall be placed for sleep on the child's back, but may be allowed to adopt whatever position the child prefers for sleep.

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

**Title 13A STATE BOARD OF EDUCATION**  
**Subtitle 18 Large Family Child Care Homes**

Authority: Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, 9.5-321 and 9.5-414; Family Law Article §§5-550—5-558; General Provisions Article, §4-333; Human Services Article, §1-202; 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 and 42 U.S.C. 9858 et seq.); Social Security Act §418 (42 U.S.C. 618)

**Chapter 09 Program Requirements**

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

A. The provider shall prepare, post, and follow a written schedule of daily activities and offer activities that:

(1) (text unchanged)

(2) Are appropriate to the age, needs, and capabilities of the individual child, *such as short periods of tummy time while awake for a child under 12 months*;

(3) – (7) (text unchanged)

B. – C. (text unchanged)

**Chapter 09 Program Requirements**

**.04 Rest Furnishings.**

A. – B. (text unchanged)

C. Each crib, portable crib, and playpen shall meet the *current* standards of the U.S. Consumer Product Safety Commission.

D. – E. (text unchanged)

*F. Each sleep surface used for a child under 12 months old shall be firm, flat, and non-inclined, unless the need for an incline is specified in writing by the child's physician or other licensed health care provider.*

*G. Weighted rest items, including but not limited to blankets, sleepers, and swaddles, may not be used for a child under 12 months old.*

[F.] H. – [G.] I. (text unchanged)

**Chapter 10 Safety**

**.05 Rest Time Safety.**

A. Unless specified otherwise in writing by the child's physician *or other licensed health care provider*, a child who:

(1) Cannot roll over without assistance shall be placed for sleep on the child's back; or

(2) Is younger than 12 months old but can roll over unassisted shall be placed for sleep on the child's back, but may be allowed to adopt whatever position the child prefers for sleep.

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