

Subtitle 16 CHILD CARE CENTERS

Notice of Proposed Action

[19-194-P]

The Maryland State Board of Education proposes to:

(1) Amend Regulations .01 and .02 under COMAR 13A.16.01

Scope and Definitions;

(2) Amend Regulations .01—.04 and .06 under COMAR

13A.16.02 License Application and Maintenance;

(3) Amend Regulations .01—.06 and adopt new Regulation .09 under COMAR 13A.16.03 Management and Administration;

(4) Amend Regulations .05, .12, and .13 under COMAR 13A.16.05 Physical Plant and Equipment;

(5) Amend Regulations .03—.06 and .09—.13 under COMAR

13A.16.06 Staff Requirements;

(6) Amend Regulations .02, .03, and .06 under COMAR

13A.16.07 Child Protection;

(7) Amend Regulations .01, .03, and .06 under COMAR

13A.16.08 Child Supervision;

(8) Amend Regulation .04 under COMAR 13A.16.09

Program Requirements;

(9) Amend Regulations .02 and .05 under COMAR 13A.16.10

Safety;

(10) Amend Regulations .02—.04 and .06 under COMAR

13A.16.11 Health;

(11) Amend Regulation .01 under COMAR 13A.16.12

Nutrition;

(12) Amend Regulation .02 under COMAR 13A.16.13

Centers for Children with Acute Illness;

(13) Amend Regulation .01 under COMAR 13A.16.14

Adolescent Centers;

(14) Amend Regulation .03 under COMAR 13A.16.15 Drop-

In Centers;

(15) Amend Regulations .02—.04 under COMAR 13A.16.16

Educational Programs in Nonpublic Nursery Schools;

(16) Amend Regulation .01, adopt new Regulation .03, recodify existing Regulation .03 to be Regulation .04, and amend and recodify existing Regulations .04—.07 to be Regulations .05—.08 under COMAR 13A.16.17 Inspections, Complaints, and

Enforcement;

(17) Amend Regulations .01—.05 under COMAR 13A.16.18

Administrative Hearings; and

(18) Amend Regulation .03 and .04 under COMAR 13A.16.19

Public Access to Licensing Records.

Also, at this time, the Maryland State Board of Education is withdrawing the proposal to amend COMAR 13A.16 Child Care Centers that was published in 46:4 Md. R. 237—248 (February 15, 2019).

This action was considered by the Maryland State Board of Education at its April 23, 2019, meeting.

Statement of Purpose

The purpose of this action is to clarify certain requirements pertaining to the registration and operation of child care centers and establish requirements for criminal background checks, swimming pool security, length of time for taking the basic health and safety training, and medical information being provided.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact. The purpose of the proposed amendments is to implement the requirements of the Child Care and Development Block Grant Act, as amended (42 U.S.C. 9858 et seq.),

along with Section 418 of the Social Security Act (42 U.S.C. 618). Consistent throughout all four subtitles of regulations, the proposed amendments include statutory requirements of the Child Care and Development Fund reauthorization, modifications to provide clarity and more consistency between all subtitles, and corrections to the previous publication. The State reimbursed the cost to child care providers for the cost of fingerprinting to meet the new requirement.

<http://earlychildhood.marylandpublicschools.org/fingerprinting>

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	Actual \$465,166
B. On other State agencies:	(R+)	Approximately \$5,004
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Centers up-front cost of fingerprinting	(+)	Actual \$465,166
(2) Medical information	(+)	Approximately \$805,500
(3) Swimming pool security	(+)	Approximately \$450,000
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. Background Clearances: The State has processed fingerprint reimbursement requests for 901 child care centers for a total of \$465,166 in obligations. The count for reimbursement to child care centers does not include all of the staff printed for each location—only the center itself. The total number of associated staff is not captured completely, but there were approximately 210,000 associated staff fingerprinted overall. The cost to date for reimbursement of fingerprinting costs for FY 18 is \$155,068 and for FY 19 is \$310,098, for a total cost to the State of \$465,166 over FY 18 and FY 19. The State is providing a one-time reimbursement for fingerprinting costs to child care centers for the associated staff.

B. Maryland Department of Public Safety and Correctional Services (DPSCS) Criminal Justice Information System is allowed to keep \$2 from the FBI background check. The State estimates there are approximately 2502 providers going through the fingerprinting process. Therefore, revenue to the DPSCS is estimated to be \$5,004 annually.

D(1). Background Clearances: Child Care Centers and staff incurred up-front costs for meeting fingerprinting requirements. Cost for fingerprinting ranges from \$35 to \$75 per person. The State reimbursed one time only the cost of fingerprinting for providers meeting the new requirement. If the provider/center did not request reimbursement from the State, they would incur the cost of the fingerprinting. In the future, this will be a cost for child care providers.

D(2). Medical Information for Child Care Centers and Staff of Child Care Centers: Medicals will be completed by child care center associated staff every 5 years. The estimated cost of each medical is between \$75 and \$125, depending on health insurance, co-pays, etc. Using these estimates, approximately 16,110 people will be spending \$100 for a medical every 5 years, which would be an approximate cost of \$805,500 every 5 years.

D(3). Swimming Pool Security: Maryland estimates that half of the pools already meet fencing requirements and would not incur additional costs. Each fence would cost an estimated \$3,000 to \$5,000 depending on the size of the pool and the outdoor space. Using these estimates, 112 pool owners would spend an average of \$4,000 per fence for a total of \$448,000 to bring all facilities into compliance. This is a one-time-only cost. All new applicants would need to meet this requirement prior to becoming licensed.

Economic Impact on Small Businesses

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

Intended Beneficiaries

Background Clearances/Fingerprinting: To comply with the Child Care and Development Block Grant (CCDBG) Act referenced in Part A, the State is providing reimbursement to child care centers for the cost of staff fingerprinting. While these child care centers/staff incurred the up-front cost for fingerprinting, the State did reimburse that cost, thereby alleviating the economic impact to child care facilities who request reimbursement.

Health and Safety Training: To comply with the CCDBG Act referenced in Part A, the State utilized the Maryland State Department of Education’s Learning Management System to develop and deliver the online Health and Safety training at no cost to child care providers. The State did not incur any direct costs for the development of the training. For those providers who choose not to take the free online training, or who fail both online attempts, the training can be obtained in a face-to-face setting for an average cost of \$35. This cost is reimbursable to providers who hold a Maryland Child Care Credential at Level 2 or higher. Child care providers can obtain the training in Spanish from Penn State Better Kid Care for \$5. This training is also eligible for reimbursement through the Maryland Credentialing Program. MSDE is currently having a new online Health & Safety training developed that will be asynchronous and allow providers to take the training anytime. The new training is built on a better platform that is easy to maneuver and will test providers as they proceed through the training. This will also be available for no cost to providers or their staff.

Intended Beneficiaries: Households

Families with children enrolled in a licensed child care facility will benefit because their children will receive care and education services from staff and administration who have met higher standards for criminal background checks, health and safety training, and updated staff medical information, and whose facilities will meet requirements for protecting children from swimming pool dangers.

Intended Beneficiaries: Businesses

The amendments are not expected to have an impact on any businesses beyond the child care businesses that comply with the new requirements.

Other Direct or Indirect Impacts: Adverse

Background clearances: Facilities who incurred the cost of fingerprinting (\$35—\$75 per person) and choose not to request reimbursement did not benefit from the alleviation of those costs by the State. Future fingerprinting costs will range from \$35—\$75 per

person and will be completed every 5 years from the initial fingerprinting date.

Medical information for child care providers and staff of child care centers: Individuals working in child care centers will incur the cost of medicals every 5 years. The estimated cost of each medical is between \$75 and \$125, depending on health insurance, co-pays, and other variables.

Swimming Pool Security: An estimated 112 pool owners who are licensed child care centers would spend an average of \$4,000 per facility, as a one-time cost, to come into compliance with swimming pool security requirements. New applicants for child care licensure/registration would need to meet this requirement prior to becoming licensed. This additional cost may encourage some child care providers to raise the fees they charge to families.

Other Direct or Indirect Impacts: Positive

Improving the quality of child care and early education in Maryland is expected to enhance the overall reputation of Maryland’s early care and education industry, and this may help attract businesses to Maryland. Higher-quality child care and early education services for children may result in those children more effectively developing the skills they will need to succeed in school and in life and may positively affect the State workforce in the years to come. Maryland’s compliance with the federal CCDBG Act ensures that federal funding continues, which in turn supports working families in Maryland through the Child Care Subsidy program and other quality initiatives to improve long-term benefits to children.

Long-Term Impacts

No long-term effects on Maryland small businesses are anticipated which may differ from, compound, mitigate, or offset the initial effects described above.

Estimates of Economic Impact

(1) Cost of providing goods and services:

Some child care providers who incur costs related to the amendments may charge higher fees to families for their services. Because child care fees are determined independently by each provider, the overall change, if any, in those expenses cannot be determined.

(2) Effect on the workforce:

Families in Maryland’s workforce with young children and school-age children using child care center services will have the ability to choose from licensed child care programs that are meeting higher standards for: criminal background checks, health and safety training, staff medicals, and, if applicable, fencing requirements for swimming pools. Access to this information may enable families to make informed decisions when choosing a program for their children; and may be seen as a benefit for business growth in Maryland.

(3) Capital investment, taxation, competition, and economic development:

These proposals are not expected to have any direct effect on capital investment, taxation, competition, or economic development. However, as noted above, they may help provide a more attractive environment for business growth.

(4) Consumer choice:

Consumer choice is expected to be affected positively by making higher quality child care services available to families seeking those services.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Tara Bartosz, Assistant to the Director, Office of Child Care, Division of Early Childhood, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-7806 (TTY 410-333-6442), or email to earlychildhoodregs.msde@maryland.gov, or fax to 410-333-6226. Comments will be accepted through November 12, 2019. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on December 3, 2019, at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

13A.16.01 Scope and Definitions

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-502, 5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

.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)] *§14-401(o)*, Annotated Code of Maryland;
 - (4)—(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) (text unchanged)
 - (c) 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 any individual who:
 - (i) [Is compensated by the operator to perform a service at the center] *Meets the definition of an employee as set forth in this subsection; and*
 - (ii) Has access to children in care; and]

[(iii) (ii) Does not clearly meet, or is not excluded from, the definition of independent contractor set forth in [§B(29)] *§B(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)—(60) (text unchanged)

13A.16.02 License Application and Maintenance

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

.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.16.02.03(4)] *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)] *13A.16.06.05B(4)* concerning the preservice training requirement for directors;

(c) COMAR [13A.16.06.09.A(1)(b)] *13A.16.06.09A(3)* concerning qualification requirements for a child care teacher in a preschool center;

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

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

(f) (text unchanged)

D.—H. (text unchanged)

I. *The operator may not allow an employee, staff member, substitute, or volunteer 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 a federal or State criminal background check; or*

(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) Each individual [14] 18 years old or older living on the child care center premises.

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(4) of this regulation currently resides or has resided in a state other than Maryland within 5 years before the date of application for a child care center license, 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] *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 [01D] .01E 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 documents, 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)

13A.16.03 Management and Administration

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

.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.16.12.01G] *13A.16.12.01E*;

(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, unless the child is a school-age child who attends a school-age program located in the child's school.] *The operator shall maintain documentation that, as required by State or local law, each child admitted to, or continuing in, care has received:*

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

(2) 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.—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

(c) (text unchanged)

(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) (text unchanged)

(2) Ending of employment, for whatever reason, of an individual that includes the:

(a) (text unchanged)

(b) Date of the individual’s last day of employment[.];

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) If the individual is paid by the center operator, 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 individual living on the child care premises who is under investigation for:

(a)—(b) (text unchanged)

(2) (text unchanged)

F. Within 5 working days after there is a new [resident] individual living on the child care premises 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] an individual living on the child care premises; and

(2) Direct the [resident] individual living on the child care premises to apply for a federal and State criminal background check pursuant to COMAR 13A.16.02.02A(4) and C; and

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.

13A.16.05 Physical Plant and Equipment

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] 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)

.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 have security features, including but not limited to a:

(1) Fence that surrounds the pool at least 4 feet in height;

(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.

13A.16.06 Staff Requirements

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] 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)

.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) *The felony of:*
 - (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 there has been no gap in employment longer than 3 months] *if the evaluation was completed within 24 months before the transfer.*

(4) *The medical evaluation shall be updated every 5 years, measured from the individual's previous medical evaluation date.*

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 [a] *the child care center* during the period of exclusion from child care 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, 2020, have completed approved basic health and safety training within 90 days of employment; and*
- [(5)] (6) (text unchanged)

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, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

.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)] 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;

(2) The individual holds an associate's or higher degree with approved courses in early childhood education;

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

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

(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 preservice 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, 2020, have completed approved basic health and safety training within 90 days of employment;*

(6) *Have 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(6) of this regulation.*

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

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

(2) *Has been 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;*

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

(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) *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 child care teacher, 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, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

[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)(a), (c), and (d)] §A(1), (2), and (4)—(7) 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) *(text unchanged)*

(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 Americans with Disabilities Act compliance;*

(4) *Effective January 1, 2020, have completed approved basic health and safety training within 90 days of employment; 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) *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 child care teacher, 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, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

.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 preservice 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, 2020, have completed approved basic health and safety training within 90 days of employment; and*

[(4)] (5) *(text unchanged)*

B. *(text unchanged)*

C. *An assistant child care teacher in a school age center shall:*

(1) *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 an assistant child care teacher, that consists of a:*

(a) *(text unchanged)*

(b) *Maximum of 3 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, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

D.—E. *(text unchanged)*

.12 Aides.

A. *An aide shall:*

(1) *(text unchanged)*

(2) *Work under the direct supervision of the staff person in charge of the group of children to whom the aide is assigned; and*

(3) *Effective January 1, 2020, have completed approved basic health and safety training within 90 days of employment.*

B. *An aide in a child care center shall:*

[(3)] (1) *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) *(text unchanged)*

(b) *Maximum of 3 clock hours of elective training; [and]*

[(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, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

[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 upon evaluation of all criminal background check information and child protective services clearances.

13A.16.07 Child Protection

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] 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)

.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, employee, substitute, or volunteer 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 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 and adult 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 and adult abuse and neglect records shall:

(1)—(2) (text unchanged)

E. (text unchanged)

13A.16.08 Child Supervision

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] 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)

.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 [with special needs access] in care to provide those services on the facility premises as specified in the child’s individualized education plan, individualized family service 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:

Child Ages	Staff/Child Ratio	Maximum Group Size
2 years old	1 to 6	12
3 or 4 years old	1 to 10	20
5 years old and older	1 to 15	30]

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

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

(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:

Child Ages	Staff/Child Ratio	Maximum Group Size
2 years old	1 to 6	12
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(1)] §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 and adult abuse and neglect records pursuant to COMAR 13A.16.07.06D*, other than the driver present in the vehicle if:

(1)—(2) (text unchanged)

B. (text unchanged)

13A.16.09 Program Requirements

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

.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 §A of this regulation.*

13A.16.10 Safety

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

.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.

13A.16.11 Health

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

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

13A.16.12 Nutrition

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

.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)

13A.16.13 Centers for Children with Acute Illness

Authority: *Education Article*, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article*, §4-333; *Human Services Article*, §1-202; [State Government Article, §10-617;] *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)

.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)(c)] 13A.16.10.01A(3)(c) concerning emergency evacuation and disaster drills for children; and

F. (text unchanged)

13A.16.14 Adolescent Centers

Authority: *Education Article*, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article*, §4-333; *Human Services Article*, §1-202; [State Government Article, §10-617;] *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)

.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)

13A.16.15 Drop-In Centers

Authority: *Education Article*, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article*, §4-333; *Human Services Article*, §1-202; [State Government Article, §10-617;] *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)

.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)(c)] 13A.16.10.01A(3)(c) concerning emergency evacuation and disaster drills for children; and

F. (text unchanged)

13A.16.16 Educational Programs in Nonpublic Nursery Schools

Authority: *Education Article*, [§§2-206 and 2-303] §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-570, 5-573, and 5-577;] *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)

.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 [.06B] .06C of this chapter.

.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.—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] 13A.16, COMAR 13A.17, or COMAR [13A.16] 13A.18; or

(4) (text unchanged)

F.—H. (text unchanged)

13A.16.17 Inspections, Complaints, and Enforcement

Authority: *Education Article*, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article*, §4-333; *Human Services Article*, §1-202; [State Government Article, §10-617;] *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)

.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.*

[.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 by regular and certified mail to the operator’s address.*

[C.] D. (text unchanged)

[.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, a substitute, or a volunteer as set forth in COMAR 13A.16.06.03A and B [and .15C], *COMAR 13A.16.06.13F, or COMAR 13A.16.06.15B*; 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 license is a continuing license that was placed on conditional status, and the:

(a) (text unchanged)

(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)

C. (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.*

13A.16.18 Administrative Hearings

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-573 and 5-580;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-204;] 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)*

.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, *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. (text unchanged)

B. Terms Defined.

(1)—(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, 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)—[(b)] (ii) (text unchanged)

[(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; or*

(3) *An individual requests a hearing to contest the prohibition of employment at a child care center.*

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 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)

13A.16.19 Public Access to Licensing Records

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] 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)*

.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) (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. (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.

KAREN B. SALMON, Ph.D.
State Superintendent of School

Subtitle 17 CHILD CARE—LETTERS OF COMPLIANCE

Notice of Proposed Action

[19-191-P]

The Maryland State Board of Education proposes to:

(1) Amend Regulation **.02** under **COMAR 13A.17.01 Scope and Definitions;**

(2) Amend Regulations **.01**, **.02**, **.05**, and **.06** under **COMAR 13A.17.02 Letter of Compliance Application and Maintenance;**

(3) Amend Regulations **.02—06** and adopt new Regulation **.09** under **COMAR 13A.17.03 Management and Administration;**

(4) Amend Regulations **.05**, **.12**, and **.13** under **COMAR 13A.17.05 Physical Plant and Equipment;**

(5) Amend Regulations **.02—05** under **COMAR 13A.17.06 Staff Requirements;**

(6) Amend Regulations **.02**, **.03**, and **.06** under **COMAR 13A.17.07 Child Protection;**

(7) Amend Regulation **.06** and adopt new Regulation **.08** under **COMAR 13A.17.08 Child Supervision;**

(8) Amend Regulations **.01** and **.02** under **COMAR 13A.17.10 Safety;**

(9) Amend Regulations **.02—04** and **.06** under **COMAR 13A.17.11 Health;**

(10) Amend Regulation **.01** under **COMAR 13A.17.12 Nutrition;**

(11) Amend Regulation **.01** under **COMAR 13A.17.13 Adolescent Facilities;**

(12) Amend Regulations **.02** and **.03** under **COMAR 13A.17.14 Educational Programs in Nonpublic Nursery Schools;**

(13) Amend Regulation **.01**, adopt new Regulation **.03**, recodify existing Regulation **.03** to be Regulation **.04**, and amend and recodify existing Regulations **.04—07** to be Regulations **.05—08** under **COMAR 13A.17.15 Inspections, Complaints, and Enforcement;**

(14) Amend Regulations **.01—05** under **COMAR 13A.17.16 Administrative Hearings;** and

(15) Amend Regulations **.03** and **.04** under **COMAR 13A.17.17 Public Access to Licensing Records.**

Also, at this time, the Maryland State Board of Education is withdrawing the proposal to amend **COMAR 13A.17 Child Care—Letters Of Compliance** that was published in 46:4 Md. R. 249—257 (February 15, 2019).

This action was considered by the Maryland State Board of Education at its April 23, 2019, meeting.

Statement of Purpose

The purpose of this action is to clarify certain requirements pertaining to the operation of child care programs operated by tax exempt religious organizations and establish requirements for criminal background checks, swimming pool security, length of time for taking the basic health and safety training, and medical information being provided.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact. The purpose of the proposed amendments is to implement the requirements of the Child Care and Development Block Grant Act, as amended (42 U.S.C. 9858 et seq.), along with Section 418 of the Social Security Act (42 U.S.C. 618). Consistent throughout all four subtitles of regulations, the proposed amendments include statutory requirements of the Child Care and