

13A.17.17 Public Access to Licensing Records

Authority: *Education Article, §§9.5-401, 9.5-404, 9.5-405, 9.5-409, 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.

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State Superintendent of Schools

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

Notice of Proposed Action

[19-192-P]

The Maryland State Board of Education proposes to amend:

- (1) Regulation **.02** under **COMAR 13A.18.01 Scope and Definitions**;
- (2) Regulations **.01—08** under **COMAR 13A.18.02 Registration Application and Maintenance**;
- (3) Regulations **.02—06** under **COMAR 13A.18.03 Management and Administration**;
- (4) Regulation **.04** under **COMAR 13A.18.04 Operational Requirements**;
- (5) Regulations **.05, .12, and .13** under **COMAR 13A.18.05 Home Environment and Equipment**;
- (6) Regulations **.03—08 and .10** under **COMAR 13A.18.06 Provider and Staff Requirements**;
- (7) Regulations **.02 and .03** under **COMAR 13A.18.07 Child Protection**;
- (8) Regulations **.01, .02, .06, and .08** under **COMAR 13A.18.08 Child Supervision**;
- (9) Regulation **.04** under **COMAR 13A.18.09 Program Requirements**;
- (10) Regulation **.01** under **COMAR 13A.18.10 Safety**;
- (11) Regulations **.02—04** under **COMAR 13A.18.11 Health**;
- (12) Regulations **.01 and .06** under **COMAR 13A.18.12 Nutrition**;
- (13) Regulations **.02 and .05—09** under **COMAR 13A.18.14 Inspections, Complaints and Enforcement**;

(14) Regulations **.01, .03, and .04** under **COMAR 13A.18.15 Administrative Hearings**; and

(15) Regulations **.03 and .04** under **COMAR 13A.18.16 Public Access to Licensing Records**.

Also, at this time, the Maryland State Board of Education is withdrawing the proposal to amend **COMAR 13A.18 Large Family Child Care Homes** that was published in 46:4 Md. R. 258—269 (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 large family child care homes 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 large family child care home 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 \$31,011
B. On other State agencies:	(R+)	Approximately \$275
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Large family child care homes	(+)	Actual \$31,011
(2) Medical information	(+)	Approximately \$53,700
(3) Swimming pool security	(+)	Approximately \$30,000
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 60 large family child care home (LFCCH) providers (2% of the 2965 payment is in LFCCH) as of January 31, 2019, for a total of \$31,011 in obligations. The cost to date for reimbursement of fingerprinting costs for FY 18 is \$10,400 and for FY 19 is \$19,950 (July 1, 2018 through January 31, 2019). It is estimated that the 2019 is \$20,673 for a total cost for FY 19 of \$20,000. Therefore, the total estimated cost to the State is \$31,011 over FY 18 and FY 19. The State provided a one-time reimbursement for fingerprinting costs to LFCCH providers.

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 137 providers going through the fingerprinting process. Therefore, estimated revenue to the DPSCS is estimated to be \$274 annually.

D(1). Background Clearances: LFCCH and their 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 LFCCH provider did not request reimbursement from the State, they would incur the cost of the fingerprinting.

D(2). Medical information for child care providers and staff of LFCCH: The current number of Statewide personnel in child care centers, letter of compliance facilities, and LFCCH is 43,000 staff. There are 10,700 substitutes in family child care who would be affected by the requirement to have medicals every 2 years. This is approximately 53,700 people needing bi-annual medicals, assuming they all remain employed for the 2-year period. Many will transfer to other sites but will remain employed in Maryland child care. The estimated cost of each medical is between \$75 and \$125, depending on health insurance, co-pays, etc. Using these estimates, approximately 1,074 people (2% of the 53,700 people are in LFCCH) will be spending \$100 for a medical every 2 years, which would be an approximate cost of \$53,700 per year.

D(3). Swimming Pool Security: LFCCH will be required to have secure, safe fencing around any pool in their home. 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, seven pool owners would spend an average of \$4,000 per fence for a total of \$30,000 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 business. 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 provided reimbursement to large family child care homes for the cost of fingerprinting. While these large family child care homes and staff incurred the up-front cost for fingerprinting, the State reimbursed 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 and their staff.

Intended Beneficiaries: Households

Families with children enrolled in a large family child care home 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: Large family child care homes who incurred the cost of fingerprinting (\$35—\$75 per person) and chose 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 family child care or child care centers will incur the cost of medicals every 2 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 seven pool owners who are licensed large family child care homes would spend an average of \$4,000 per large family child care home, 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 large family child care homes 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 large family child care homes will have the ability to choose from regulated facilities 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.18.01 Scope and Definitions

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505—5-557.1, and 5-560—5-563;] 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 Definitions.

A. (text unchanged)

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)—(ii) (text unchanged)

(b) “Employee” includes a [paid] substitute or volunteer.

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

(i) (text unchanged)

(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] *Meets the definition of an employee as set forth in this subsection; and*

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

[(iii) (i) (text unchanged)]

(16) “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, for which the provider is paid in cash or in kind] *has the meaning stated in Education Article, §9.5-301, Annotated Code of Maryland.*

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

(a) (text unchanged)

(b) Meets the professional requirements of COMAR [13A.18.05.06] *13A.18.06.06.*

(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) (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)

(24)—(43) (text unchanged)

(44) 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) “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.18.02.07B or C;*

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

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

(46)—(48) (text unchanged)

(49) “Volunteer” means an individual who:

(a) (text unchanged)

(b) Works in the child care home but is not a compensated employee; [and]

(c) Is not enrolled as a child in care at the child care home[.]; and

(d) *Is not an additional adult or a substitute.*

13A.18.02 Registration Application and Maintenance

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563;] 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 Registration — General Requirements.

A. Requirement to Be Registered.

(1) (text unchanged)

(2) *A large 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 Services.*

[(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, COMAR 13A.16, or COMAR 13A.17.

G.—H. (text unchanged)

I. *The provider 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 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 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] *Submit to the office each item specified under §D of this regulation that was 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.]

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 that the individual:
 - (i) Is free of communicable tuberculosis, if indicated; and
 - (ii) If the applicant, is capable of performing the duties of their position; and
- (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, 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) 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 [.02C(2)(b)] .02D(2) 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) (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)—(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) If the home is located in an apartment or other property that is rented or leased by the applicant, 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 .02C(1) and [(2)(a)] D(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)

B. (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 [.02B(1)] .02C(1) of this chapter;

(d) Results of the original child and adult abuse and neglect clearances conducted pursuant to Regulation [.02C(2)(a)] .02D(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 [02D] .02 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) Physical or mental health of the applicant or resident may pose a risk to children; [or]

(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 disposition, 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 if an applicant or resident 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) A crime involving pornography;

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

(11) Reckless endangerment.

C. *The office shall deny a certificate of registration if an applicant or resident 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 noncompliance with Child*

Support Enforcement requirements pursuant to Family Law Article, §10-119.3, Annotated Code of Maryland.

[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)

13A.18.03 Management and Administration

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563;] 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 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.

E. (text unchanged)

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

(4)—(5) (text unchanged)

C. Negotiate and maintain a written agreement with the child's parent that specifies:

(1)—(4) (text unchanged)

(5) If overnight care is to be provided to the child, the sleeping arrangements approved by the parent; [and]

D. Give, or advise the parent how to obtain, information supplied by the office concerning:

(1) (text unchanged)

(2) How to file a complaint with the office against a child care provider[.]; and

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[.], there shall be 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; or*

(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. A medical evaluation and, if applicable, documentation of an appropriate lead screening *or test* that are transferred directly from another registered child care home, a 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)

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)—[(b)] (3) (text unchanged)

.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) (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.—D. (text unchanged)

E. Immediately notify the office of:

(1) [An] *The provider, a resident of the home, 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)

13A.18.04 Operational Requirements

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; 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 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) (text unchanged)

(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.

13A.18.05 Home Environment and Equipment

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-550, 5-551, 5-557.1, and 5-560;] 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 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.—I. (text unchanged)

J. *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.—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].

13A.18.06 Provider and Staff Requirements

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-502, 5-505, 5-550—5-557.1, and 5-560—5-563;] 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 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) *The felony of:*
 - (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)—(b) (text unchanged)
- (2) *The medical evaluation shall include verification that the individual:*
 - (a) *Is free of communicable tuberculosis, if indicated; and*
 - (b) *If the applicant or a staff member, is 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 2 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) Have successfully completed:
 - (a) (text unchanged)
 - (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, 2020, approved basic health and safety training within 90 days of employment;*
 - (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;*

[(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) (text unchanged)
- (2) According to the professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of service as a director, that consists of a:
 - (a) (text unchanged)
 - (b) Maximum of 6 clock hours of elective training; [and]
- (3) Document completion of the continued training on the professional development plan[.]; *and*
- (4) *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 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 preservice training in communicating with staff, parents, and the public or at least one academic college course for credit; [and]
 - (c) [Either] *Approved preservice 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, 2020, approved basic health and safety training within 90 days of employment; and*

(2) Shall have completed at least one of the following:

- (a)—(b) (text unchanged)
- (c) 1 year of college, or a combination of experience and college that together are equivalent to 1 year[.];

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) 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.

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 and 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 (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, 2020, complete the approved basic health and safety training within 90 days of employment;

[(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) (text unchanged)

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

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

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.18.02.02C or D(1).

13A.18.07 Child Protection

Authority: Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1 and 5-560—5-563;] 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. 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, an employee, substitute, volunteer, or other individual connected to the child care home 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. (text unchanged)

13A.18.08 Child Supervision

Authority: *Education Article*, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563;] *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.

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 [children] 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 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 adult, other than the driver present in the vehicle, 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.18.07.06D.

.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 resting child shall be observed at intervals [appropriate to the child’s age and individual needs] of at least every 15 minutes; and

(2) (text unchanged)

13A.18.09 Program Requirements

Authority: *Education Article*, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1 and 5-560—5-563;] *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(4) of this regulation.

13A.18.10 Safety

Authority: *Education Article*, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1 and 5-560—5-563;] *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 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)(a) and (b)] §A(3)(a) and (b) of this regulation; and

(2) (text unchanged)

C. (text unchanged)

13A.18.11 Health

Authority: *Education Article*, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1, 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. 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)

13A.18.12 Nutrition

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321*; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1 and 5-560—5-563;] *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. (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)

13A.18.14 Inspections, Complaints, and Enforcement

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321*; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563;] *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 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 noncompliance with Child Support Enforcement requirements pursuant to Family Law Article, §10-119.3, Annotated Code of Maryland.*

[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 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) [The provider] *Provider* 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.18.06.03A, B, and F, [and .10B] *COMAR 13A.18.06.08F, or COMAR 13A.18.06.10B*; or

(b) (text unchanged)

(9)—(10) (text unchanged)

(11) Provider admits a child for treatment foster care in the home, unless the child is placed in the home in a preadoptive capacity; [or]

(12) [The child] *Child* care home is no longer the primary residence of the provider[.];

(13) *Provider or a resident is identified as responsible for abuse or neglect of children or adults; or*

(14) *Provider or a resident has a criminal conviction, a probation before judgment disposition, or a not criminally responsible disposition, or is awaiting a hearing on a charge for a crime that:*

(a) *Is listed at COMAR 13A.18.02.07B or COMAR 13A.18.02.07C; or*

(b) *Indicates behavior harmful to children.*

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)

13A.18.15 Administrative Hearings

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321*; [Family Law Article, §§5-515—5-517 and 5-554;] *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 [on] child care home registrations, such as registration denials, revocations, and suspensions, reductions in capacity, limitations on the ages or numbers of children who may be admitted to a child care home, the imposition of civil penalties for providing or advertising unregistered family child care services without a valid large family child care certificate of registration, [or] and 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)—[(2)] (b) (text unchanged)

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

[(a)] (i)—[(b)] (ii) (text unchanged)

(c) 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 large family child care certificate of registration; or*

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

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)

13A.18.16 Public Access to Licensing Records

Authority: *Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, and 9.5-321*; [Family Law Article, §§5-501, 5-505, 5-550—5-557.1 and 5-560—5-563;] *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 Schools

Title 15

MARYLAND DEPARTMENT OF AGRICULTURE

Subtitle 18 STATE CHEMIST

15.18.03 Commercial Fertilizer and Soil Conditioner

Authority: *Agriculture Article, §6-203, Annotated Code of Maryland; Chs. 484 and 485, §8, Acts of 2011*

Notice of Proposed Action

[19-195-P]

The Maryland Department of Agriculture proposes to amend Regulation .01 under **COMAR 15.18.03 Commercial Fertilizer and Soil Conditioner.**

Statement of Purpose

The purpose of this action is to amend the definition of the term “soil conditioner” in COMAR 15.18.03.01B(21) to implement Ch. 367, Acts of 2019.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.