

Subtitle 17 CHILD CARE—LETTERS OF COMPLIANCE

Notice of Final Action

[19-191-F]

On December 3, 2019, the Maryland State Board of Education adopted:

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

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

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

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

(5) Amendments to Regulations **.02—04** under **COMAR 13A.17.06 Staff Requirements**;

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

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

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

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

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

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

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

(13) Amendments to Regulation **.01**, new Regulation **.03**, the recodification of existing Regulation **.03** to be Regulation **.04**, and amendments to and the recodification of existing Regulations **.04—07** to be Regulations **.05—08** under **COMAR 13A.17.15 Inspections, Complaints, and Enforcement**;

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

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

This action, which was proposed for adoption in 46:21 Md. R. 920—929 (October 11, 2019), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 13, 2020.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

The changes to the proposed text of the following regulations are nonsubstantive because the agency is removing the proposed text and reverting to the original existing regulatory language: (1) 13A.16.17.07A(2) Revocation; (2) 13A.17.02.06A(2) Denial of Letter of Compliance; (3) 13A.17.03.02D Management and Administration; (4) 13A.17.03.04E Child Records; (5) 13A.17.06.05 Substitutes; and (6) 13A.17.15.07A(2) Revocation.

An amendment to a proposed regulation is considered substantive if it substantively affects “the rights, duties, or obligations of: (1) a member of a regulated group or profession; or (2) a member of the public.” State Government Article, §10-101(h), Annotated Code of Maryland. Regulated stakeholders support MSDE’s reversion to the

original regulatory language in the above regulations. Regulated stakeholders and interested parties are not disadvantaged by the agency removing the proposed changes to the regulations and maintaining the existing language and requirements. The above changes maintain the benefits of the existing regulations and do not increase the burdens on regulated stakeholders that would have been imposed by the regulations as proposed. Because the changes do not change the position of any group affected by the regulation, decrease any benefits, or increase administrative burdens, they are deemed nonsubstantive. Reversion to the original language is consistent with nonsubstantive changes as discussed in 75 Md. Op. Atty. 27 (1990).

13A.17.02 Letter of Compliance Application and Maintenance

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; 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)*

.06 Denial of Letter of Compliance.

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

(1) proposed 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) proposed text unchanged)

B.—C. (proposed text unchanged)

13A.17.03 Management and Administration

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; 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 Admission to Care.

A.—C. (proposed text unchanged)

D. If a child is younger than 6 years old at the time of admission, the operator may not allow the child to remain in care if the parent does not, [[within 30 days after the child’s admission,]] *in accordance with COMAR 10.11.04*, submit evidence to the operator on a form supplied or approved by the office that the child has received an appropriate lead screening *or test* [[in accordance with applicable State or local requirements]].

E. Temporary Admission to Care.

(1)—(4) proposed text unchanged)

.04 Child Records.

A.—D. (proposed text unchanged)

E. *The operator shall maintain documentation that, as required by [[State or local law]] COMAR 10.11.04, each child admitted to, or continuing in, care has received:*

(1)—(2) proposed text unchanged)

F.—J. (proposed text unchanged)

13A.17.06 Staff Requirements

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; 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)*

.04 Staff Health.

A. (proposed text unchanged)

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

(a)—(b) (proposed text unchanged)

(3)—(4) (proposed text unchanged)

B. (proposed text unchanged)

.05 Substitutes.

A.—B. (proposed text unchanged)

[[C. *Approval by Office.*

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

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

(3) *The office shall notify the operator of its decision to approve or disapprove a substitute upon evaluation of all criminal background check information and child protective services clearances.]]*

13A.17.15 Inspections, Complaints, and Enforcement

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; 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)*

.07 Revocation.

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

(1) (proposed text unchanged)

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

(3) (proposed text unchanged)

(4) The operator fails to comply with the:

(a) Prohibitions on the use of an individual as an employee, *substitute*, or [as a] volunteer as set forth, respectively, in COMAR 13A.17.06.03A and B[[, *COMAR 13A.17.06.05C,*]] and *COMAR 13A.17.06.07B*; or

(b) (text unchanged)

(5)—(8) (proposed text unchanged)

B.—C. (proposed text unchanged)

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

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

Notice of Final Action

[19-192-F]

On December 3, 2019, the Maryland State Board of Education adopted amendments to:

(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.**

This action, which was proposed for adoption in 46:21 Md. R. 929—940 (October 11, 2019), has been adopted with the nonsubstantive changes shown below.

Effective Date: January 13, 2020.

Attorney General's Certification

In accordance with State Government Article, §10-113, Annotated Code of Maryland, the Attorney General certifies that the following changes do not differ substantively from the proposed text. The nature of the changes and the basis for this conclusion are as follows:

The changes to the proposed text of the following regulations are nonsubstantive because the agency is removing the proposed text and reverting to the original existing regulatory language: (1) 13A.18.02.07A(2) and (7) Denial of a Registration Application; (2) 13A.18.03.02D Admission to Care; (3) 13A.18.03.04E Child Records; (4) 13A.18.06.08 Substitutes; and (5) 13A.18.14.07A(2) Revocation.

An amendment to a proposed regulation is considered substantive if it substantively affects “the rights, duties, or obligations of: (1) a member of a regulated group or profession; or (2) a member of the public.” State Government Article, §10-101(h), Annotated Code of Maryland. Regulated stakeholders support MSDE’s reversion to the original regulatory language in the above regulations. Regulated stakeholders and interested parties are not disadvantaged by the agency removing the proposed changes to the regulations and maintaining the existing language and requirements. The above changes maintain the benefits of the existing regulations and do not increase the burdens on regulated stakeholders that would have been imposed by the regulations as proposed. Because the changes do not