

Small Entity Compliance Guide

**Outdoor Nature-Based (ONB) Child Care License Pilot Program
Regulations
COMAR 13A.14.15**

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Introduction

The Maryland State Department of Education, Office of Child Care (hereinafter “the Agency”), has prepared this document as the “Small Entity Compliance Guide” required by Chapter 212 of the Maryland Laws of 2019. This Guide summarizes and explains regulations adopted by the Agency, including amendments to existing regulations, but is not a substitute for any regulation itself. Only the regulation itself can provide complete and definitive information regarding its requirements.

Purpose of This Regulatory Action

On June 25, 2024, the Agency’s proposed new chapter, Code of Maryland Regulations (COMAR) 13A.14.15, Outdoor Nature-Based (ONB) Child Care License Pilot Program, was considered by the Maryland State Board of Education. The purpose of the proposed new chapter, COMAR 13A.14.15, is to permit child care providers the option to operate a licensed outdoor early care and education program year-round and for a full-day, pursuant to certain standards for the health and safety of children in care that recognize the program may have limited or no access to indoor space. The proposed regulations, which utilize COMAR 13A.16, Child Care Centers, for foundational requirements, also require comprehensive policies and procedures to be submitted with the pilot application.

The proposed new chapter was in response to Education Article §§9.5-1101– 9.5-1104, Annotated Code of Maryland. House Bill 525, enacted as 2023 Md. Laws, Chapter 729, Outdoor Preschool License Pilot Program – Establishment, directed the Agency to begin to promulgate regulations on or before August 31, 2023. The Agency began by convening an advisory group of outdoor, nature-based early learning practitioners that informed and supported the development of the regulations as required by the statute.

Since COVID-19, outdoor programs have gained momentum and resulted in an increase in families seeking ONB programs. Natural settings are believed to lower stress levels, be calming for children, and promote leadership and problem-solving skills. Families seeking ONB programs feel those benefits support the need for these types of programs. The proposed new chapter supports the licensing of ONB programs. As a result, families can now be more at ease when selecting an ONB program that meets minimum health and safety requirements.

Definitions

As referenced in the COMAR 13A.14.15 regulations, the terms included and defined are as follows:

- (1) “Department” means the Maryland State Department of Education.
- (2) “Hazard” means a source of harm that:
 - (a) Is not obvious to the child because the potential for injury is hidden; or
 - (b) Is obvious to the child but is greater than a child can manage to avoid.
- (3) “Office” means the Office of Child Care within the Department.

- (4) “Operator” means an individual or entity that establishes a pilot under the Program.
- (5) “Pilot” means an early learning or child care program:
 - (a) That is primarily operated outdoors; and
 - (b) In which children are enrolled on a regular basis for three or more hours per day.
- (6) “Program” means the Outdoor, Nature-Based Child Care License Pilot Program.
- (7) “Risk Benefit Assessment” means a process used to identify and document hazards and risky play elements associated with childhood outdoor play and make plans to mitigate the risk of injury to children while maintaining developmental benefits for children.
- (8) “Risky Play” means physical activity and play that is challenging and involves risk of physical injury or getting lost.

See COMAR 13A.14.15.03B.

Summary of the Major Provisions

As stated, the regulations:

- Provide the requirements that govern the purpose of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.01).
- Provide the requirements that govern the authority of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.02).
- Provide the requirements that govern the definitions of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.03).
- Define the terms “Department,” “Hazard,” “Office,” “Operator,” “Pilot,” “Program,” “Risk Benefit Assessment,” and “Risky Play,” as it pertains to the proposed new chapter. (COMAR 13A.14.15.03B).
- Provide the requirements that govern the application of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.04).
- Provide the requirements that govern considerations of approval for the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.05).
- Provide the requirements that govern the approval of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.06).
- Provide the requirements that govern the operator qualifications of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.07).
- Provide the requirements that govern program requirements of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.08).

- Provide the requirements that govern the evaluation of the Outdoor Nature-Based (ONB) Child Care License Pilot Program. (COMAR 13A.14.15.09).

Compliance Date for Entities Subject to These Regulations

The implementation date of these regulations depends on when the Agency receives requests for approval to operate Outdoor Nature-Based (ONB) Child Care License Pilot Programs, following final adoption of the regulations.

Entities Subject to These Regulations

The Agency is responsible for the licensing and oversight of child care facilities, including, but not limited to, Outdoor Nature-Based (ONB) Child Care License Pilot Programs. The regulations pertaining to the licensing approval of Outdoor Nature-Based (ONB) Child Care License Pilot Programs will be at COMAR 13A.14.15. Currently, there are no existing licensed Outdoor Nature-Based (ONB) Child Care License Pilot Programs throughout Maryland. However, there are some child care programs that provide ONB care in a hybrid, indoor/outdoor or otherwise limited fashion, while there are some that advertise as ONB programs that are not licensed and approved for care. The entities that will be subject to the new chapter are those that choose to operate an Outdoor Nature-Based (ONB) Child Care License Pilot Program and thus seek approval to provide care within the applicable requirements.

Estimate of Economic Impact on Small Entities

The proposed action has a meaningful economic impact on small business. An analysis of this economic impact is as follows:

Outdoor Nature Based Programs costs of land use agreements, insurance coverage, materials and equipment: ONB programs are not required to have a building structure, which removes the need to lease/rent a facility; however, ONB programs may still need to lease land for child care use. In addition, insurance coverage for ONB programs may need to be of a higher-risk class code. Materials and equipment, such as but not limited to tarps, mats, blankets, sleeping bags and extra outdoor clothing, are required to provide for care. Since this is a will be a new pilot program, it may be a little difficult for an applicant to estimate how much it will cost to get their program up and running, including having staff complete additional training specific to ONB care.

Operational Requirements: Given the limitations on child capacity (12 children in care), business growth is necessarily constrained during the pilot years. Smaller capacity programs often experience more financial hardship when it pertains to meeting and maintaining operational requirements.

Resources

The final regulations published for the Maryland State Department of Education, Office of Child Care, can be found on the Agency's website found at www.marylandpublicschools.org.

Technical Assistance/Contacting the Maryland State Department of Education, Office of Child Care

The Maryland State Department of Education, Office of Child Care, is happy to assist small entities with questions regarding the Outdoor Nature-Based (ONB) Child Care License Pilot Program regulations. Please direct questions by telephone to (410) 767-0120.