

Small Entity Compliance Guide

Family Child Care Regulations COMAR 13A.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 September 24, 2024, the Agency’s proposed amendments were considered by the Maryland State Board of Education. The purpose of the amendments to the family child care regulations found at the Code of Maryland Regulations (COMAR) 13A.15 is to permit family child care providers to operate educational programs in nonpublic nursery schools, similar to how educational programs are operated in other types of child care facilities, such as COMAR 13A.16 – Child Care Centers, COMAR 13A.17 – Letters of Compliance, and COMAR 13A.18 – Large Family Child Care Homes.

The proposed regulations were originally brought to the Maryland State Board of Education in Fall 2022. The regulations were re-proposed in Summer 2023 because the Agency made substantive changes to the original proposal based on feedback from the early childhood community and the Administrative, Executive, and Legislative Review (AELR) Committee. Specifically, the Agency removed the part of the original proposal that would have required the educational program to be operated in a separate room from the child care program for children under age two. Although the Agency had initially included this provision to account for the unique needs of infants including, for example, napping that may occur while older children are receiving educational instruction, the Agency also recognizes the benefits of mixed-age learning environments for early childhood development.

Furthermore, many children from low-income families receive child care in family child care homes, so in addition to providing consistency amongst the subtitles mentioned above, the proposed amendments will result in family child care homes being more consistent with the Kirwan Commission recommendations and the Blueprint legislation. Therefore, the proposed amendment will also lead to the phasing in of high-quality prekindergarten, which would enable children from economically challenging circumstances to begin kindergarten ready to learn like their peers from high-income families.

Definitions

"Nursery School" as referenced in the COMAR 13A.15 regulations “means, an educational program:

- (a) For children who are 2 years old, 3 years old, 4 years old, or any sequence of these ages; and
- (b) That, unless approved by the Department before July 1, 2007, to operate for more than 6 hours per day, may not operate in excess of 6 hours per day.”

See COMAR 13A.15.01.02B(25).

Summary of the Major Provisions

As stated, the regulations:

- Define the terms “nursery school,” “preschooler,” and “school age child,” as it pertains to the amendments regarding the educational program, while formatting all the revisions to the definitions numerically. (COMAR 13A.15.01.02B).
- Amend the operational requirements regulation to further limit the maximum total capacity of a family child care home that operates an educational program to eight (8) children with no more than two (2) children younger than two years old. (COMAR 13A.15.04.03C).
- Provide the requirements that govern the operation of educational programs in nonpublic nursery schools for family child care homes. (COMAR 13A.15.13).
- Provide the requirements that govern inspections, complaints, and enforcement of educational programs in nonpublic nursery schools for family child care homes. (COMAR 13A.15.14).
- Amend the civil citations regulation to update a cross reference to the appeals regulation. (COMAR 13A.15.14.09D).
- Amend the chapter numbers for administrative hearings and public access to licensing records. (COMAR 13A.15.15 -.16).

Compliance Date for Entities Subject to These Regulations

The implementation date of these regulations depends on when the Agency receives requests for approval from family child care providers who would like to operate a nonpublic nursery school, following final adoption of the regulations.

Entities Subject to These Regulations

The Agency is responsible for the registration and oversight of child care facilities, including, but not limited to, family child care homes. The regulations pertaining to the registration of family child care homes can be found at COMAR 13A.15. For Fiscal Year 2024, there were 4,450

existing family child care homes throughout Maryland. The entities that will be subject to the amendments in particular are those family child care providers who choose to add an education program to their business, and thus seek approval to operate a nonpublic nursery school.

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:

Child care homes up-front cost of curriculum, instructional materials and equipment: Family child care homes requesting approval to operate a nonpublic nursery school will need to purchase curriculum, instructional materials and additional equipment prior to submitting the request for approval. An adverse impact could be that family child care providers will have to raise tuition fees to help cover the cost.

Compensation for the additional staff member: A family child care provider seeking approval for a nonpublic nursery school will be required to pay an Additional Adult to supervise children birth to age 2 during operation of the educational program for older children in care. An adverse impact could be that family child care providers will have to raise tuition fees to help cover the cost of an additional adult or a provider may only choose to care for children ages three and up to avoid having to pay additional staff.

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 family child care regulations. Please direct questions by telephone to (410) 767-0120.