



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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**TO:** Members of the State Board of Education

**FROM:** Karen B. Salmon, Ph.D.

**DATE:** December 3, 2019

**SUBJECT:** COMAR 13A.15  
*Family Child Care*  
COMAR 13A.16  
*Child Care Center*  
COMAR 13A.17  
*Child Care - Letters of Compliance*  
COMAR 13A.18  
*Large Family Child Care Homes*

**ADOPTION**

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**PURPOSE:**

Request adoption of proposed amendments to COMAR 13A.15 *Family Child Care*, COMAR 13A.16 *Child Care Center*, COMAR 13A.17 *Child Care - Letters of Compliance*, and COMAR 13A.18 *Large Family Child Care Homes*.

**REGULATION PROMULGATION PROCESS:**

Under Maryland law, a state agency, such as the State Board, may propose an amendment to a regulation whenever the circumstances arise to do so. After the State Board votes to propose an amendment, the proposed regulation is sent to the Joint Committee on Administrative, Executive, and Legislative Review (AELR) Committee for a 15-day review period. If the AELR Committee does not hold up the proposed regulation for further review, it is published in the Maryland Register for a 30-day public comment period. At the end of the comment period, the Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because suggested revision is not a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may recommend to the Governor that the regulation not be adopted as a final regulation or the AELR Committee may release the regulation for final adoption.

## **BACKGROUND/HISTORICAL PERSPECTIVE:**

Child care regulations, which are established to ensure the health, safety and welfare of children when in an out-of-home setting, are based on legislation, federal law, and best practices as outlined in *Caring for Our Children* (American Academy of Pediatrics in collaboration with the National Resource Center for Health and Safety in Child Care (U.S.), the American Public Health Association, and the Maternal and Child Health Bureau of the U.S. Department of Health and Human Services). In 2015, the regulations were revised as required by legislation passed in 2013 (HB932/SB832 – Dispute Resolution) and 2014 (HB1276/SB716 – Healthy Eating). In 2014, the Federal Child Care Development Block Grant (CCDBG) was reauthorized. The CCDBG established the requirements and processes for states and territories to receive Federal funding through the Child Care Development Fund (CCDF). The funding available through CCDF supports child care subsidies for low income families, supports measures to protect the health, safety and welfare of children when in child care settings, and improves the quality of child care services. The Federal regulations for CCDF were finalized in 2016. Maryland’s regulations met the majority of the new requirements required under this funding stream. However, revisions were necessary for two major aspects of the CCDBG reauthorization: implementation of comprehensive basic health and safety training for all child care staff and expanded background clearances. Proposed amendments to the regulations were published in the Maryland Register from October 11, 2019 to November 12, 2019.

The public comments were reviewed by the Division of Early Childhood (DEC), the Office of Child Care (OCC) Licensing Branch and the Office of the Attorney General (OAG). In addition, the DEC attended an AELR hearing on October 24, 2019. At the AELR hearing, the DEC agreed that an additional public hearing would be held and would address the concerns noted during the hearing. The OCC called a meeting with the OCC Advisory Council membership and placed the meeting notification on the Division website. The meeting was held on Friday, November 1, 2019. There were 27 attendees from both the OCC Advisory Council and the child care community. Every person attending had the opportunity to sign up to provide a five-minute public comment. Five attendees signed up to make public comments. The DEC outlined the changes that were already being made based on comments received from the Maryland Register. After the public comments concluded, the OCC Advisory Council co-chairs, Christina Peusch, Executive Director for the Maryland State Child Care Association (MSCCA) and Jennifer Nizer, Director of the OCC, opened the meeting for discussion. There was conversation in reference to the items provided during the public hearing and additional items were discussed as they were brought up. The meeting began at 1:00pm and concluded at 3:00pm. All comments were documented.

Twenty-eight comments were submitted during the open comment period in the Maryland Register (see attachments). Based on all the public comments and additional corrections and clarifications identified as necessary by the OCC, the following changes are recommended:

- *Denial of Registration and Revocation.* The language “regardless of intent” has been taken out and will refer to the original regulation language.
- *Basic Health and Safety, ADA and Breastfeeding Preservice Training.* The Basic Health and Safety training has been changed to reflect “within 90 days of employment”, rather than a pre-

service requirement. Since these requirements for ADA and Breastfeeding (infant/toddler providers only) are already in regulation, the MSDE has agreed that this will be reviewed during the next iteration of proposed regulations.

- *Staff Health.* The MSDE has agreed to change the language to “The medical evaluation shall be signed by the individual who conducted the evaluation or his or her designee and include verification that the staff member...”
- *Advertisement.* Advertisements are defined in Education Article 9.5-401. To provide clarification, the MSDE has agreed to discuss this in the Compliance Guides used by licensing specialists and child care providers.
- *Individuals Living on the Child Care Premises.* The regulation will remain as it is, but the MSDE will include language in the Compliance Guides to clarify that this provision does not apply to apartment buildings or other premises where persons are living in spaces not associated with the child care.
- *Admission to Care.* The language in COMAR 13A.16.03.02 E and COMAR 13A.16.03.04 E will be changed to reflect the reference COMAR 10.11.04 which is the Maryland Department of Health (MDH) regulations on lead testing for all children in the State of Maryland. The MSDE has agreed to change the language in COMAR 13A.16.03.04 E to: “The operator shall maintain documentation that, as required by COMAR 10.11.04, each child admitted to, or continuing in care has received...” The MSDE has also agreed to change the language in COMAR 13A.16.03.02 E to “the operator may not allow the child to remain in care if the parent does not, in accordance with COMAR 10.11.04...”
- *Substitutes.* The proposed language will be removed, and the regulations will revert to the original text with substitutes treated the same as other staff, which require certain clearances to be obtained prior to working.
- *Supervision.* The proposed language in COMAR 13A.15.08.01 D, E, F, and G will be removed at this time, and the regulation will revert to the original text for COMAR 13A.15.08.01 D, E, and F.

### **EXECUTIVE SUMMARY:**

On December 5, 2017, the proposed Child Care Licensing regulations were presented to the Maryland State Board of Education (the Board) for approval to be posted in the Maryland Register. The Board approved the regulations to be posted for public comment. Although approved by the Board, the MSDE made changes to the Basic Health and Safety requirements prior to the regulations being posted in the Maryland Register based on numerous conversations with stakeholders. With the change that was made, the MSDE brought the proposed regulations back to the Board on May 22, 2018, and requested approval to post COMAR 13A.15, COMAR 13A.16, COMAR 13A.17 and COMAR 13A.18 in the Maryland Register. That request was approved, and the regulations were posted from February 15, 2019, to March 18, 2019 for public comment. After receiving public comments, the MSDE revised some of the regulations and requested the regulations to be published in the Maryland Register for a second public comment period. This request was approved by the Board on April 23, 2019. The regulations were posted on October 11, 2019, and the public comment period closed on November 12,

2019. The MSDE testified before the AELR Committee on October 24, 2019, and held a public hearing with the OCC Advisory Council and the child care community on November 1, 2019, at which time they were able to reach consensus on items of concern.

The attached charts reflect the names of programs, providers, and entities that provided the OCC with public comments, the nature of the comments, the regulation to which the comments pertain, and the response from the MSDE, with appropriate citation, regarding any changes made or if the regulation would proceed with no changes. The MSDE has worked diligently with the provider community to make adjustments wherever possible, ensuring that the health and safety of Maryland's young children remains the OCC's priority. The changes made to the regulations based on public comments have been reviewed by the Office of the Attorney General and are not substantive changes.

**ACTION:**

Request permission to adopt the amendments to COMAR 13A.15 *Family Child Care*, COMAR 13A.16 *Child Care Center*, COMAR 13A.17 *Child Care - Letters of Compliance*, and COMAR 13A.18 *Large Family Child Care Homes*.

**Attachments:**

COMAR 13A.15 *Family Child Care*

COMAR 13A.16 *Child Care Center*

COMAR 13A.17 *Child Care - Letters of Compliance*

COMAR 13A.18 *Large Family Child Care Homes*

Comments and MSDE responses regarding COMAR 13A.15 and COMAR 13A.18

2nd Public Comments - COMAR 13.15 and COMAR 13.18

Comments and MSDE responses regarding COMAR 13A.16 and COMAR 13A.17

2nd Public Comments - COMAR 13.16 and COMAR 13.18

Public Comments

Attachment A

Attachment B

# Title 13A

## STATE BOARD OF EDUCATION

### Subtitle 15 FAMILY CHILD CARE

#### Notice of Proposed Action

[19-193-P]

The Maryland State Board of Education proposes to:

- (1) Amend Regulation **.02** under **COMAR 13A.15.01 Scope and Definitions**;
- (2) Amend Regulations **.01—, .03, .07, and .08** under **COMAR 13A.15.02 Registration Application and Maintenance**;
- (3) Amend Regulations **.02—, .05** under **COMAR 13A.15.03 Management and Administration**;
- (4) Amend Regulation **.04** under **COMAR 13A.15.04 Operational Requirements**;
- (5) Amend Regulations **.02, .05, and .06** under **COMAR 13A.15.05 Home Environment and Equipment**;
- (6) Amend Regulations **.02—, .05** under **COMAR 13A.15.06 Provider Requirements**;
- (7) Amend Regulation **.04** under **COMAR 13A.15.07 Child Protection**;
- (8) Amend Regulation **.01**, repeal existing Regulation **.03**, and recodify existing Regulations **.04** and **.05** to be Regulations **.03** and **.04** under **COMAR 13A.15.08 Child Supervision**;
- (9) Amend Regulations **.01, .04, and .06** under **COMAR 13A.15.10 Child Safety**;
- (10) Amend Regulations **.03, .04, and .06** under **COMAR 13A.15.11 Health**;
- (11) Amend Regulation **.01** under **COMAR 13A.15.12 Nutrition**;
- (12) Amend Regulations **.02** and **.05—, .09** under **COMAR 13A.15.13 Inspections, Complaints, and Enforcement**;
- (13) Amend Regulations **.01, .03, and .04** under **COMAR 13A.15.14 Administrative Hearings**; and
- (14) Amend Regulations **.03** and **.04** under **COMAR 13A.15.15 Public Access to Licensing Records**.

Also, at this time, the Maryland State Board of Education is withdrawing the proposal to amend **COMAR 13A.15 Family Child Care** that was published in 46:4 Md. R. 227—237 (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 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 child care providers for the cost of fingerprinting to meet the new requirement.

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

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)		Actual \$1,000,000
B. On other State agencies:	(R+)		Approximately \$10,542
C. On local governments:	NONE		
	Benefit (+)		
	Cost (-)		Magnitude
D. On regulated industries or trade groups:			
(1) Family child care home cost of fingerprinting	(+)		Actual \$1,000,000
(2) Swimming pool security	(+)		Approximately \$1,000,000

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 1953 family child care providers for a total of \$1,007,860 in obligations. The State has provided a one-time reimbursement for fingerprinting costs to family child care 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 5,271 providers going through the fingerprinting process. Therefore, revenue to the DPSCS is estimated to be \$10,542 annually.

D(1). Background Clearances: Family child care providers and staff will incur up-front costs for meeting fingerprinting requirements. Cost for fingerprinting ranges from \$35 to \$75 per person. The State reimbursed the cost of fingerprinting for providers meeting the new requirement. If the provider does not request reimbursement from the State, they would incur the cost of the fingerprinting.

D(2). Swimming Pool Security: Family child care providers 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 estimates from January 2018 regional office survey, 244 pool owners (family child care providers) would spend an average of \$4,000 per fence for a total of \$975,000 to bring all facilities into compliance. This is a one-time-only cost. All new applicants would need to meet this requirement prior to becoming licensed.

**Economic Impact on Small Businesses**

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

**Intended Beneficiaries**

Background Clearances/Fingerprinting: To comply with the Child Care and Development Block Grant (CCDBG) Act referenced in Part A, the State has provided reimbursement to family child care homes for the cost of staff fingerprinting. While these facilities/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. Family 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 and 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 at no cost to providers or their staff.

**Intended Beneficiaries: Households**

Families with children enrolled in a registered 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 and health and safety training and whose facilities will meet requirements for protecting children from swimming pool dangers.

**Intended Beneficiaries: Businesses**

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

**Other Direct or Indirect Impacts: Adverse**

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

Swimming Pool Security: An estimated 244 pool owners who are registered family child care home programs would spend an average of \$4,000 per facility, as a one-time cost, to come into compliance with swimming pool security requirements. New applicants for family child care home registration would need to meet this requirement prior to becoming licensed. An adverse impact could be that family child care providers have to raise their fees to help cover the cost.

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

(2) Effect on the workforce:

Families in Maryland's workforce with young children and school-age children using family child care services will have the ability to choose from registered facilities that are meeting higher standards for: criminal background checks, health and safety training, and, if applicable, fencing requirements for swimming pools. Access to this information will 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](mailto: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.15.01 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, §§5-550, 5-557.1 and 5-560;] *General Provisions Article, §4-333*; *Human Services Article, §1-202*; [State Government Article, §10-617; Article 88A, §6(b);] 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)—(12) (text unchanged)

(13) Employee.

(a) "Employee" means an individual who [for compensation] is employed to work in a family child care home and who:

(i)—(ii) (text unchanged)

(b) "Employee" includes a [paid] substitute.

(c) (text unchanged)

(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 family child care home;]

(i) *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)]

(14) "Family child care" has the same meaning as family [day] *child* care as defined in [Family Law Article, §5-501(e)] *Education Article, §9.5-301(d)*, Annotated Code of Maryland, and 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.

(15)—(17) (text unchanged)

(18) "Identified as responsible for child abuse or neglect" means being determined by a local department of social services or other state agency to be responsible for indicated child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(19)—(19-1) (text unchanged)

(20) "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)

(21)—(25) (text unchanged)

(26) *Potentially Hazardous Food*.

(a) "*Potentially hazardous food*" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients capable of supporting rapid and progressive growth of infectious, toxigenic microorganisms.

(b) "*Potentially hazardous food*" does not include clean, whole, uncracked, odor-free shell eggs.

[(26)] (27)—[(35)] (36) (text unchanged)

## 13A.15.02 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, §§5-550, 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)

### .01 Registration—General Requirements.

A.—E. (text unchanged)

F. Except as provided under §G of this regulation, a residence approved for use under a family child care registration may not also be used to operate a:

(1) (text unchanged)

(2) Child care program that is subject to the requirements of COMAR 13A.16 [or], 13A.17, or 13A.18.

G—H. (text unchanged)

### .02 Initial Registration.

A. (text unchanged)

B. [An] *Except as set forth at §C of this regulation, an applicant for an initial registration shall:*

(1)—(2) (text unchanged)

(3) Submit a medical evaluation for the applicant and each resident in the home that:

(a) (text unchanged)

(b) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; [and]

(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 the position; and*

[(c)] (d) (text unchanged)

(4) (text unchanged)

(5) Ensure that an application for a federal and State criminal background check is made at a designated office in the State by each:

(a) (text unchanged)

(b) Individual [paid] to serve as the provider's substitute; and

(c) [Paid employee] *Employee or volunteer* of the family child care home who is [14] 18 years old or older;

(6)—(7) (text unchanged)

(8) Submit documentation that the applicable training requirements specified in COMAR 13A.15.06.02 have been met; [and]

(9) Submit documentation showing that the home has met all applicable lead-safe environment requirements set forth in COMAR 13A.15.05.02[.]; and

(10) *If the family child care home is located in an apartment or at another property that is rented or leased by the applicant, submit written authorization from the lessor, owner, or landlord permitting child care to be provided at that location.*

*C. Non-Maryland State Criminal Background Check. If an individual subject to the requirements of §B(4) or (5) 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.*

[C.] D. (text unchanged)

### **.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)—(3) (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)—(d) (text unchanged)

(e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation, *including volunteers.*

(5) Documentation that the family child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; [and]

*(6) If the family child care home is located in an apartment or at another 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 submit to the office the items specified in §A(3)—[(6)] (7) of this regulation.

### **.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 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, *a coprovider*, or a resident indicates that the:

(a) Physical or mental health of the applicant, *coprovider*, or resident may pose a risk to children; [or]

(b) Applicant *or coprovider* is unable to care for children; *or*

(c) Applicant **[, regardless of intent,]** *submitted false or altered medical documentation for the applicant, resident, coprovider, or additional adult for consideration by the office;*

(8) In addition to the requirements set forth at §B of this regulation, an evaluation of the criminal record of the applicant, a [paid] *coprovider*, an additional adult, a [paid] substitute, *a 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 other 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 coprovider*, an additional adult, 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 [to] *if* an applicant [who] *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)—(2) (text unchanged)

(3) A violent crime classified as a felony, *including physical assault or battery;*

(4)—(11) (text unchanged)

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 Article Law, §10-119.3, Annotated Code of Maryland.*

[C.] E. (text unchanged)

[D.] F. If an evaluation of criminal records or records of abuse and neglect of children or adults reveals that a *coprovider*, substitute, *volunteer*, or [an] additional adult designated by the applicant may pose a risk to children in care, the office, instead of

denying the registration certificate, may require the provider to designate another *coprovider*, substitute, *volunteer*, or additional adult.

[E.] 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 [or], B, C, or D of this regulation.

(2) (text unchanged)

#### **.08 Voluntary Surrender of Registration.**

A. A provider may voluntarily surrender a family child care registration at any time by notifying the office *in writing*.

B. (text unchanged)

### **13A.15.03 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, §§5-550, 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)*

#### **.02 Admission to Care.**

A. (text unchanged)

B. If a child is younger than 6 years old at the time of admission to the home, the provider may not allow the child to remain in care at the home if the parent does not, **[[within 30 days after the child's admission]] in accordance with COMAR 10.11.04**, 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]].**

C. (text unchanged)

D. 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)

#### **.03 Program Records.**

The provider shall:

A.—B. (text unchanged)

C. Maintain a record of each day on which a substitute provides care [for more than 2 hours];

D. If applicable, maintain a record of each volunteer in the family child care program that includes:

(1) (text unchanged)

(2) If [the] a volunteer is present at the home [more than once per week]:

(a) (text unchanged)

(b) [A] *And if present more than once per week, a medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties;*

E. Document that, on or before the date of a child's admission to care, the child's parent was given, or was advised how to obtain, information that is supplied by the office concerning:

(1) (text unchanged)

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

F. Record the date and time of each fire evacuation drill and emergency and disaster drill required by this subtitle; [and]

G. *Document that the health and safety training, specified at COMAR 13A.15.06.02A(4) and B(1), was completed by the end of each 12-month period, measured from the date of initial registration; and*

[G.] H. (text unchanged)

#### **.04 Child Records.**

A. (text unchanged)

[A-1.] B. (text unchanged)

[B.] C. During the period of a child's enrollment and for 2 years after the child's disenrollment, a provider shall maintain a file for each child that includes records of:

(1) (text unchanged);

(2) The child's health assessment, immunizations, and allergies, if any, to include:

(a) **[[If the child is younger than 6 years old, evidence that the child has received an appropriate lead screening as] As required [by State or local law,]] in accordance with COMAR 10.11.04, evidence that the child has received[; and]:**

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

(ii) A lead test when the child is 12 months old and again when the child is 24 months old, regardless of where the child resides, if the child was born on or after January 1, 2015; and

(b) (text unchanged)

(3)—(6) (text unchanged)

[C.] D. A medical evaluation and, if applicable, documentation of an appropriate lead screening *or test* that are transferred directly from another registered family child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of [§B(2)] §C(2) of this regulation.

#### **.05 Notifications.**

The provider or substitute shall:

A.—C. (text unchanged)

D. Within 5 working days after an existing resident becomes 18 years old, or after there is a new resident in the home who is 18 years old or older:

(1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about the resident *pursuant to COMAR 13A.15.02.02B(6)*; and

(2) Ensure that the resident applies for a federal and State criminal background check *pursuant to COMAR 13A.15.02.02B(5) and C*;

E. Within 15 working days after notifying the office of a new resident, submit to the office:

(1) A medical report on the resident, on a form supplied or approved by the office, that is based on a medical evaluation completed within the previous 12 months; or

(2) Evidence that a medical evaluation of the resident has been scheduled; [and]

F. When the provider plans a temporary absence of more than 2 hours, notify the parents of the children in care in advance that a substitute will be caring for the children during the provider's absence[.]; *and*

G. (text unchanged)

### **13A.15.04 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, §§5-550, 5-557.1 and 5-560;] *General Provisions Article, §4-333*; *Human Services Article, §1-202*; [State Government Article, §10-617; Article 88A, §6(b);] 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 by a provider approved for a capacity of up to four children younger than 2 years old to meet the infant-toddler training requirement specified at COMAR [13A.15.06.02G] *13A.15.06.02E*; or

(7) (text unchanged)

C. A provider may appeal a restriction or reduction pursuant to §A 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.15.05 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)*

#### **.02 Lead-Safe Environment.**

A. (text unchanged)

B. If the home is a residential rental property constructed before [1950] 1978, which is an affected property as defined in 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)

#### **.05 Outdoor Activity Area.**

A.—B. (text unchanged)

C. *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.

**.06 Rest Furnishings.**

A.—G. (text unchanged)

H. A child under 12 months who falls asleep in a furnishing other than a crib shall be immediately moved to an approved sleeping arrangement specified at §C(1) of this regulation.

**13A.15.06 Provider 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, §§5-550, 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)*

**.02 Training Requirements.**

A. Preservice Training. An individual who applies for an initial registration shall:

(1) Hold a current certificate indicating successful completion of training in approved:

(a) (text unchanged)

(b) Cardiopulmonary resuscitation (CPR) through the American Heart Association, or a program with equivalent standards, appropriate for each age group approved for care in the home;

[(c) If requesting approval to provide care for children younger than 24 months old, present evidence of having successfully completed, within 5 years before the date of the request, approved training in Sudden Infant Death Syndrome; and]

(2) Provide documentation of having successfully completed:

(a) (text unchanged)

(b) The 90 clock hour course, or its approved equivalent, that satisfies the preservice training requirement for a child care teacher or child care center director under COMAR 13A.16.06.05B(4), [.09A(1)(b), or .10B(1)(a)] *COMAR 13A.16.06.09A(3), or COMAR 13A.16.06.10B(1)(a)*, as applicable;

(c)—(g) (text unchanged)

(3) Complete approved training on emergency and disaster planning; [and]

(4) *Effective January 1, 2020, complete approved basic health and safety training within 90 days of initial registration; and*

[(4)] (5) [If applying on or after January 1, 2016, complete] *Complete:*

(a)—(c) (text unchanged)

B. Continued Training. A provider shall successfully complete:

(1) *The health and safety training, as required by the office, by the end of each 12-month period measured each calendar year;*

[(1)] (2)—[(2)] (3) (text unchanged)

[C. Emergency and Disaster Planning Training.

(1) The office shall not approve an initial registration application unless the applicant has completed approved training on emergency and disaster planning.

(2) To maintain an initial registration or a continuing registration approved before July 1, 2010, a provider shall complete approved training on emergency and disaster planning as directed by the office, if the provider has not already completed that training.]

[D.] C.—[E.] D. (text unchanged)

[F. Sudden Infant Death Syndrome (SIDS) Training.

(1) The office may not approve a request by an applicant or a provider to provide care for children younger than 24 months old unless the applicant or provider has met the requirements of §A(1)(c) of this regulation.

(2) SIDS training may not be used to satisfy the continued training requirements set forth in §B of this regulation.]

[G.] E. Infant-Toddler Training.

(1) [Effective July 1, 2010, the] *The office may not approve a request by an applicant or a provider for an infant-toddler capacity of more than two children younger than 2 years old unless the individual has completed 3 semester hours or 45 clock hours of approved training, or the equivalent, related [exclusively] to the care of children younger than 2 years old.*

[(2) A provider approved before July 1, 2010, for an infant-toddler capacity of more than two children younger than 2 years old shall complete, by December 31, 2010, 3 semester hours or 45 clock hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old in order to maintain that approval.]

(2) *Sudden Infant Death Syndrome (SIDS) Training.*

(a) *The office may not approve a request by an applicant or a provider to provide care for a child younger than 24 months old unless the applicant or provider presents evidence of having successfully completed, within 5 years before the date of the request, approved SIDS training.*

(b) *SIDS training may not be used to satisfy the continued training requirements set forth in §B of this regulation.*

[H.] F. [Medication Administration Training, Effective January 1, 2016:]

[(1)] The office may not approve an application for an initial registration or a continuing registration unless the applicant has completed [medication administration training approved by the office; and]:

(1) *Approved training in:*

(a) *Supporting breastfeeding practices; and*

(b) *Medication administration; and*

(2) *3 clock hours of approved training in complying with the Americans with Disabilities Act.*

[(2)] G. A currently registered provider shall have completed [medication administration] *approved training* [approved by the office] *as specified in §F of this regulation.*

### **.03 Provider Substitute.**

A. The provider shall designate at least one substitute who is available on short notice to care for the children *at the provider's registered family child care home.*

B. Approval by Office.

(1)—(2) (text unchanged)

(3) *The office shall notify the provider of its decision to approve or disapprove a substitute within 30 days of the request being submitted.*

C. (text unchanged)

D. A substitute shall:

(1) (text unchanged)

(2) Be familiar with *the requirements of this subtitle;*

(3) Complete, sign, and submit to the office the required forms for substitutes, [which include permission to examine records of abuse and neglect of children and adults;] *including:*

(a) *A medical evaluation completed within the past 12 months; and*

(b) *Permission to examine records of abuse and neglect of children and adults;*

(4) [If paid, apply] *Apply for a federal and State criminal background check at a designated law enforcement office in the State; [and]*

(5) *If residing or having resided in a state other than Maryland within 5 years before being hired as a substitute:*

(a) *Apply for a state criminal background check to be performed by a duly authorized entity within that state; and*

(b) *Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency; and*

[(5)] (6) (text unchanged)

E.— F. (text unchanged)

### **.04 Additional Adult.**

A. Except as set forth in §B of this regulation, before an individual may be used as an additional adult, the provider shall ensure that the individual:

(1)—(3) (text unchanged)

(4) [If the individual will be paid, applies] *Applies for a federal and State criminal background check at a designated office in the State;*

(5) *If residing or having resided in a state other than Maryland within 5 years before being hired as an additional adult:*

(a) *Applies for a state criminal background check to be performed by a duly authorized entity within that state; and*

(b) *Requests the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency;*

[(5)] (6)—[(6)] (7) (text unchanged)

B. (text unchanged)

### **.05 Volunteers.**

A. Before permitting an individual to begin volunteer duties at the family child care home, the provider shall:

(1) Ensure that the individual presents no risk to the health, safety, or welfare of children; [and]

(2) Conduct a child health and safety orientation for the individual that meets the requirements set forth in Regulation .03E of this chapter[.];

(3) *Ensure that the individual has applied for a federal and State criminal background check at a designated office in the State; and*

(4) *Ensure that the individual, if residing or having resided in a state other than Maryland within 5 years before being hired as an additional adult:*

(a) *Applies for a state criminal background check to be performed by a duly authorized entity within that state; and*

(b) *Requests the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.*

B.—C. (text unchanged)

## **13A.15.07 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, §§5-550, 5-557.1, and 5-560;] *General Provisions Article*, §4-333; *Human Services Article*, §1-202; [State Government Article, §10-617; Article 88A, §6(b);] 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 Child Discipline.**

- A. (text unchanged)
- B. The provider or substitute 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.*

### **13A.15.08 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, §§5-550, 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)*

#### **.01 General Supervision.**

- A. (text unchanged)
- B. Except as provided in Regulation .02C and D of this chapter, when a child is in attendance, the individual responsible for supervising the child shall at all times:

- (1)—(4) (text unchanged)
- (5) Provide supervision that is appropriate to the individual age, needs, capabilities, activities, and location of the child [and], *which* may include, but not be limited to:
  - (a) Making reasonable accommodations for a child with [special needs in accordance with applicable federal and State laws] *a disability*; and
  - (b) If applicable, allowing an adult who provides specialized services to a child in care [having special needs] to provide those services at the home in accordance with the child's individualized education plan, individualized family services plan, or written behavioral plan.

- C. (text unchanged)

**[D.]** *If the home has more than one residential level that is approved for child care:*

- (1) *The provider or substitute shall ensure that, when awake, active, and indoors at the home, each child younger than 6 years old remains on the same level of the home as the provider or substitute; and*
- (2) *A child 6 years old or older may be on a different level of the home from the provider or substitute if:*
  - (a) *The child's status is checked by the provider or substitute often enough to ensure the child's health, safety, and welfare, but at least every 15 minutes;*
  - (b) *The provider has informed the child's parent that the child is permitted to be on a different level of the home; and*
  - (c) *The different home level is approved by the office for child care use and meets the applicable fire code requirements.*

**[D.] E. Supervision of Resting Children.**

- (1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:
  - (a) *Remain on the same level as the child;*
  - [(a)] (b)—[(b)] (c) (text unchanged)
- (2) If a resting or napping child is 2 years old or older, the child:
  - (a) (text unchanged)
  - (b) Shall be observed by the provider or substitute to ensure the child's safety and comfort at intervals [appropriate to the child's age and individual need] *of at least every 15 minutes.*
  - [(3) If a resting or napping child is in a different room from the provider or substitute and that room can be closed off from the rest of the home by a door, screen, or similar furnishing, the provider or substitute shall ensure that the door, screen, or similar furnishing remains open so that the view into the room is unobstructed.]

**[E.] F.** The provider may use a video and sound monitoring system to meet the sound and sight requirement in [§D(1)(a)] *§E(1)(b)* of this regulation.

**[F.] G.** (text unchanged)]

**D. Supervision of Resting Children.**

- (1) *If a resting or napping child is younger than 2 years old, the provider or substitute shall:*
  - (a) *Remain within sight and sound of the child; and*
  - (b) *Observe the child at least every 15 minutes to determine that the child is safe, breathing normally, and in no physical distress.*
- (2) *If a resting or napping child is 2 years old or older, the child:*

- (a) May be on a different level of the home from the provider or substitute if:
- (i) That level is approved by the office for child care use; and
  - (ii) The provider has informed the child's parent that the child is permitted to be on a different level of the home; and
- (b) Shall be observed by the provider or substitute to ensure the child's safety and comfort at intervals appropriate to the child's age and individual need.
- (3) If a resting or napping child is in a different room from the provider or substitute and that room can be closed off from the rest of the home by a door, screen, or similar furnishing, the provider or substitute shall ensure that the door, screen, or similar furnishing remains open so that the view into the room is unobstructed.
- E. The provider may use a video and sound monitoring system to meet the sound and sight requirement in §D(1)(a) of this regulation.
- F. A child may not be left unattended on the premises of the home, in a motor vehicle, or during an off-site activity.

### 13A.15.10 Child 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, §§5-550, 5-551, 5-557.1, and 5-560;] *General Provisions Article*, §4-333; *Human Services Article*, §1-202; [State Government Article, §10-617; Article 88A, §6(b);] 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.

- The provider or substitute shall:
- A.—C. (text unchanged)
  - D. Train each substitute and, if applicable, the additional adult on the contents of the written emergency and disaster plan required at [§B] §A of this regulation;
  - E. (text unchanged)
  - F. During an emergency evacuation or practice, take attendance records *and emergency cards* out of the home and verify the presence of each child currently in attendance;
  - G.—H. (text unchanged)

#### .04 Water Safety.

- A. (text unchanged)
  - B. An above-ground swimming pool:
    - (1) May not be used for swimming activities; and
    - (2) Shall be made inaccessible to children in care.
- [B.] 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].

#### .06 Rest Time Safety.

- A. (text unchanged)
- B. Unless the need for a positioning device that restricts a child's movement while the child is resting is specified in writing by the child's physician, an object or device, including, but not limited to, a strap, wedge, [or] roll, *or swaddling*, that restricts movement may not be used with a child in a crib, portable crib, playpen, cot, bed, mat, or other rest furnishing.

### 13A.15.11 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, §§5-550, 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  
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#### .03 Infectious and Communicable Diseases.

A provider or substitute may not knowingly care for a child who has a serious transmissible infection or communicable disease during the period of exclusion for that infection or disease shown [on a list provided by the office] *in the Communicable Disease Summary, as published by the Maryland Department of Health.*

#### .04 Medication Administration and Storage.

- A.—F. (text unchanged)
- G. Effective January 1, 2016, medication may be administered to a child in care only by an individual who has completed approved medication *administration* training, unless:
  - (1)—(2) (text unchanged)

#### .06 Consumption of Alcohol and Drugs.

A provider, substitute, *volunteer*, or additional adult may not consume an alcoholic beverage or an illegal or nonprescribed controlled dangerous substance while:

A.—B. (text unchanged)

### 13A.15.12 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, §§5-550, 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)

#### .01 Nutrition and Food Served.

A. (text unchanged)

B. [For children in care] *Unless provided by the child's parent*, the provider shall furnish:

(1)—(2) (text unchanged)

C.—G. (text unchanged)

### 13A.15.13 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, §§5-515, 5-550, 5-551, 5-554, 5-557.1, and 5-560;] Human Services Article, §1-202; *General Provisions Article*, §4-333; [State Government Article, §10-617; Article 88A,

§6(b);] 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 the 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 **[I. 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) Provider, an additional adult, a substitute, a *volunteer*, or a resident is identified as responsible for abuse or neglect of children or adults;

(9) Provider, an additional adult, a substitute, a *volunteer*, 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.15.02.07B(1)—(11)] *13A.15.02.07B or C*; or

(b) (text unchanged)

(10)—(13) (text unchanged)

(14) [The family] *Family* child care home is no longer the primary residence of the provider.

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] *date* of the notice;

(6)—(8) (text unchanged)

C. (text unchanged)

#### **.08 Penalties.**

A. An individual found to be operating a family 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 *or advertises* unregistered family child care in violation of the requirements of this subtitle.

B.—D. (text unchanged)

### **13A.15.14 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] family child care registrations, such as registration denials, revocations, *and* suspensions, reductions in capacity, [or] limitations on the ages or numbers of children who may be admitted to a family child care home, *and the imposition of civil penalties for providing or advertising unregistered family child care services without a valid family child care certificate of registration.*

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)] (iii) A limitation on the ages or numbers of children who may be admitted to the family child care home[.]; *or*

(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 family child care certificate of registration.*

B. Non-emergency Action Hearing Requests.

(1) All non-emergency 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.15.15 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, §§5-550, 5-557.1 and 5-560;] *General Provisions Article, §4-333*; *Human Services Article, §1-202*; [State Government Article, §10-617; Article 88A, §6(b);] 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

# Subtitle 16 CHILD CARE CENTERS

## Notice of Proposed Action

[19-194-P]

The Maryland State Board of Education proposes to:

- (1) Amend Regulations **.01** and **.02** under **COMAR 13A.16.01 Scope and Definitions**;
- (2) Amend Regulations **.01—04** and **.06** under **COMAR 13A.16.02 License Application and Maintenance**;
- (3) Amend Regulations **.01—06** and adopt new Regulation **.09** under **COMAR 13A.16.03 Management and Administration**;
- (4) Amend Regulations **.05**, **.12**, and **.13** under **COMAR 13A.16.05 Physical Plant and Equipment**;
- (5) Amend Regulations **.03—06** and **.09—13** under **COMAR 13A.16.06 Staff Requirements**;
- (6) Amend Regulations **.02**, **.03**, and **.06** under **COMAR 13A.16.07 Child Protection**;
- (7) Amend Regulations **.01**, **.03**, and **.06** under **COMAR 13A.16.08 Child Supervision**;
- (8) Amend Regulation **.04** under **COMAR 13A.16.09 Program Requirements**;
- (9) Amend Regulations **.02** and **.05** under **COMAR 13A.16.10 Safety**;
- (10) Amend Regulations **.02—04** and **.06** under **COMAR 13A.16.11 Health**;
- (11) Amend Regulation **.01** under **COMAR 13A.16.12 Nutrition**;
- (12) Amend Regulation **.02** under **COMAR 13A.16.13 Centers for Children with Acute Illness**;
- (13) Amend Regulation **.01** under **COMAR 13A.16.14 Adolescent Centers**;
- (14) Amend Regulation **.03** under **COMAR 13A.16.15 Drop-In Centers**;
- (15) Amend Regulations **.02—04** under **COMAR 13A.16.16 Educational Programs in Nonpublic Nursery Schools**;
- (16) Amend Regulation **.01**, adopt new Regulation **.03**, recodify existing Regulation **.03** to be Regulation **.04**, and amend and recodify existing Regulations **.04—07** to be Regulations **.05—08** under **COMAR 13A.16.17 Inspections, Complaints, and Enforcement**;
- (17) Amend Regulations **.01—05** under **COMAR 13A.16.18 Administrative Hearings**; and
- (18) Amend Regulation **.03** and **.04** under **COMAR 13A.16.19 Public Access to Licensing Records**.

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

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

### Statement of Purpose

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

### Comparison to Federal Standards

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

### Estimate of Economic Impact

**I. Summary of Economic Impact.** The purpose of the proposed amendments is to implement the requirements of the Child Care and Development Block Grant Act, as amended (42 U.S.C. 9858 et seq.), along with Section 418 of the Social Security Act (42 U.S.C. 618). Consistent throughout all four subtitles of regulations, the proposed amendments include statutory requirements of the Child Care and Development Fund reauthorization, modifications to provide clarity and more consistency between all subtitles, and corrections to the previous publication. The State reimbursed the cost to child care providers for the cost of fingerprinting to meet the new requirement.

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

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	(E+)		Actual \$465,166
B. On other State agencies:	(R+)		Approximately \$5,004
C. On local governments:	NONE		
	Benefit (+)		
	Cost (-)		Magnitude
D. On regulated industries or trade groups:			
(1) Centers up-front cost of fingerprinting	(+)		Actual \$465,166

(2) Medical information	(+)	Approximately \$805,500
(3) Swimming pool security	(+)	Approximately \$450,000
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	NONE	

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

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

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

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

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

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

**Economic Impact on Small Businesses**

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

**Intended Beneficiaries**

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

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

**Intended Beneficiaries: Households**

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

**Intended Beneficiaries: Businesses**

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

Other Direct or Indirect Impacts: Adverse

Background clearances: Facilities who incurred the cost of fingerprinting (\$35—\$75 per person) and choose not to request reimbursement did not benefit from the alleviation of those costs by the State. Future fingerprinting costs will range from \$35—\$75 per person and will be completed every 5 years from the initial fingerprinting date.

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

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

#### Other Direct or Indirect Impacts: Positive

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

#### Long-Term Impacts

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

#### Estimates of Economic Impact

##### (1) Cost of providing goods and services:

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

##### (2) Effect on the workforce:

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

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

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

##### (4) Consumer choice:

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

#### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

#### **Opportunity for Public Comment**

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

#### **Open Meeting**

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

## **13A.16.01 Scope and Definitions**

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

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

### **.01 Scope.**

A. (text unchanged)

B. Exemptions. This subtitle does not apply to:

(1)—(2) (text unchanged)

(3) A youth camp, as defined by Health-General Article, [§14-401(j)] *§14-401(o)*, Annotated Code of Maryland;

(4)—(11) (text unchanged)

### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(3) (text unchanged)

(4) “Adolescent center” means a child care center that offers programs exclusively to children in middle school [and junior high school].

(5)—(10) (text unchanged)

(11) Assistant Child Care Teacher.

(a) (text unchanged)

(b) “Assistant child care teacher” includes a staff member known before [December 17, 2008] *July 1, 2008*, as an assistant group leader.

(12)—(15) (text unchanged)

(16) Child Care Teacher.

(a) (text unchanged)

(b) “Child care teacher” includes a staff member known before [December 17, 2007] *July 1, 2008*, as:

(i)—(ii) (text unchanged)

(17)—(24) (text unchanged)

(25) Employee.

(a) “Employee” means an individual:

(i) Who [for compensation] is employed by the center operator to work at or for the center; and

(ii) (text unchanged)

(b) (text unchanged)

(c) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, “employee” includes any individual who:

(i) [Is compensated by the operator to perform a service at the center] *Meets the definition of an employee as set forth in this subsection; and*

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

[(iii) *(ii)* Does not clearly meet, or is not excluded from, the definition of independent contractor set forth in [§B(29)] *§B(30)* of this regulation.

(26) “Family child care” means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old, in place of parental care for less than 24 hours a day, in a residence other than the child’s residence and for which the provider is paid, in accordance with [Family Law Article, §§5-550—5-557.1] *Education Article, §9.5-301(d)*, Annotated Code of Maryland.

(27)—(28) (text unchanged)

(29) “Identified as responsible for child abuse or neglect” means being determined by a local department of social services or other state agency to be responsible for indicated child abuse or neglect, or awaiting the local department’s appeal hearing after the determination.

(30)—(32) (text unchanged)

(33) “Injurious treatment” means:

(a) [Deliberate infliction in any manner of any type of physical pain] *Physical discipline*, including but not limited to spanking, hitting, shaking, or any other means of physical discipline, or enforcement of acts which result in physical pain;

(b) (text unchanged)

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, *threatening*, or ridiculing; and

(d) (text unchanged)

(34)—(42) (text unchanged)

(43) “Operated by a tax-exempt religious organization” means that the operator *is a church or bona fide house of worship or has submitted a copy of the determination letter from the Internal Revenue Service which recognizes the organization as [a bona fide church organization] exempt from taxation under the Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3).*

(44)—(60) (text unchanged)

## **13A.16.02 License Application and Maintenance**

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

**.01 License—General Requirements.**

A.—B. (text unchanged)

C. Approved Montessori School.

(1) (text unchanged)

(2) The following regulations under this subtitle do not apply to an approved Montessori school:

(a) COMAR [13A.16.02.03(4)] *13A.16.02.03C(4)* concerning an annual fire inspection, if the school has documentation verifying compliance with fire safety regulations applicable to a nonpublic nursery school pursuant to COMAR 13A.09.09.11A;

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

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

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

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

(f) (text unchanged)

D.—H. (text unchanged)

*I. The operator may not allow an employee, staff member, substitute, or volunteer to:*

*(1) Be assigned to a group of children or have access to a child in care until the individual has successfully passed the child abuse and neglect clearance and a federal or State criminal background check; or*

*(2) Be alone with a child or group of children until all checks have been successfully passed.*

**.02 Initial License.**

A. An individual or organization not currently licensed and wanting to operate a child care center shall:

(1)—(3) (text unchanged)

(4) Ensure that an application for a federal and Maryland State criminal background check is submitted for:

(a)—(b) (text unchanged)

(c) Each employee, including [paid] substitutes *and volunteers*; and

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

B. Before the proposed opening date, the applicant shall submit the following items to the office, if not submitted at the time the written application form was submitted:

(1) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:

(a) (text unchanged)

(b) Each employee, *including substitutes and volunteers*;

(c)—(e) (text unchanged)

(2)—(12) (text unchanged)

C. *Non-Maryland State Criminal Background Check. If an individual subject to the requirements of §A(4) of this regulation currently resides or has resided in a state other than Maryland within 5 years before the date of application for a child care center license, the individual shall:*

*(1) Apply for a state criminal background check to be performed by a duly authorized entity within that state; and*

*(2) Request the non-Maryland state entity performing the criminal background check to transmit the result of that background check directly to the Agency.*

**.03 Continuing License.**

A.—B. (text unchanged)

C. Maintaining a Continuing License.

(1) (text unchanged)

(2) By the end of each 12-month period after the date of issuance of a continuing license, the operator shall provide to the office documentation of compliance with applicable continued training requirements set forth at COMAR [13A.16.06] *13A.16.06.05—12.*

(3)—(4) (text unchanged)

**.04 Provisional and Conditional Status.**

A. (text unchanged)

B. Conditional Status.

(1)—(2) (text unchanged)

(3) Immediately upon receipt of the revised license, the operator shall:

(a) (text unchanged)

(b) Display the revised license as required by Regulation [.01D] *.01E* of this chapter.

(4)—(5) (text unchanged)

**.06 Denial of License.**

- A. An office may deny an application for an initial license or a continuing license if:
- (1) (text unchanged)
  - (2) An evaluation of the application form, *medical documents, or any documents required* by the office reveals that the applicant **[[, regardless of intent,]]** reported false information;
  - (3)—(7) (text unchanged)
- B.—C. (text unchanged)

### 13A.16.03 Management and Administration

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### .01 Multi-Site Centers.

A child care center may have more than one location and may be treated as one center for purposes of this [chapter] *subtitle* only if:

A.—B. (text unchanged)

#### .02 Admission to Care.

A.—D. (text unchanged)

E. If a child is younger than 6 years old at the time of admission, the operator may not allow the child to remain in care if the parent does not, **[[within 30 days after the child's admission]]** *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]].**

F. Temporary Admission to Care.

(1) (text unchanged)

(2) For a child to be temporarily admitted or retained in care, the parent shall present evidence of the child's appointment with a health care provider or local health department to:

(a) Receive a medical evaluation to include, if applicable, a lead screening *or test*;

(b)—(d) (text unchanged)

(3)—(4) (text unchanged)

#### .03 Program Records.

The operator shall:

A. (text unchanged)

B. Maintain:

(1)—(2) (text unchanged)

(3) Records of food actually served by the center for the most recent 4 weeks as required by COMAR [13A.16.12.01G]

13A.16.12.01E;

(4)—(5) (text unchanged)

C.—D. (text unchanged)

#### .04 Child Records.

A.—D. (text unchanged)

E. [If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law, unless the child is a school-age child who attends a school-age program located in the child's school.] *The operator shall maintain documentation that, as required by* **[[State or local law,]]** *COMAR 10.11.04, each child admitted to, or continuing in, care has received:*

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

(2) *A lead test when the child is 12 months old and again when the child is 24 months old, regardless of where the child resides, if the child was born on or after January 1, 2015.*

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening *or test* that are transferred directly from a registered family child care home, another licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.

G.—K. (text unchanged)

#### .05 Staff Records.

The operator shall:

A.—B. (text unchanged)

C. During an individual's employment at the center and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:

- (1) The individual's:
  - (a) Training, *including initial and yearly basic health and safety training*, if required under this [chapter] *subtitle*;
  - (b) Experience, if required under this [chapter] *subtitle*; and
  - (c) (text unchanged)
- (2)—(5) (text unchanged)
- D.—E. (text unchanged)

**.06 Notifications.**

The operator shall:

- A. Within 5 working days of its occurrence, provide written notification to the office about the:
  - (1) Addition of a new employee or staff member that includes:
    - (a) (text unchanged)
    - (b) Information about the individual's work assignment; [and]
    - (c) *Proof of compliance with the laws and regulations pertaining to criminal background checks; and*
    - [(c)] (d) (text unchanged)
  - (2) Ending of employment, for whatever reason, of an individual that includes the:
    - (a) (text unchanged)
    - (b) Date of the individual's last day of employment[.];
- B. Within 15 working days of adding the new employee or staff member, provide to the office[:]
  - [(1) If applicable,] documentation that the individual meets the requirements of this chapter for the assignment, unless documentation already is on file in the office; [and]
  - [(2) If the individual is paid by the center operator, proof of compliance with the laws and regulations pertaining to criminal background checks;]
- C.—D. (text unchanged)
- E. Immediately notify the office of:
  - (1) An employee or *individual living on the child care premises* who is under investigation for:
    - (a)—(b) (text unchanged)
  - (2) (text unchanged)
- F. Within 5 working days after there is a new [resident] *individual living on the child care premises* who is 18 years old or older:
  - (1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about [the resident] *an individual living on the child care premises*; and
  - (2) Direct the [resident] *individual living on the child care premises* to apply for a federal and State criminal background check *pursuant to COMAR 13A.16.02.02A(4) and C*; and
- G. (text unchanged)

**.09 Advertisement.**

- A. *An operator may not advertise child care services unless the center holds a current license issued by the office.*
- B. *An advertisement of the center shall:*
  - (1) *Specify that the center is licensed; and*
  - (2) *Include the license number issued to the center by the office.*

**13A.16.05 Physical Plant and Equipment**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland*  
Agency Note: *Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

**.05 Lead-Safe Environment.**

- A. (text unchanged)
- B. If the child care center is a residential rental property constructed before [1950] 1978, which is an affected property as defined by Environment Article, §6-801(b), Annotated Code of Maryland, the operator shall submit a copy of the current lead risk reduction or lead free certificate.
- C.—D. (text unchanged)

**.12 Outdoor Activity Area.**

- A.—E. (text unchanged)
- F. *Any pool on the premises of the facility shall be made inaccessible to children in care and have security features, including but not limited to a:*

- (1) Fence that surrounds the pool at least 4 feet in height;
- (2) Self-closing and self-latching mechanism on the gate, door, or access to the pool;
- (3) Lock that is operable and secured; and
- (4) Sensor or alarm in the pool and on the access door.

### **.13 Swimming Facilities.**

- A. (text unchanged)
- B. An above-ground swimming pool [may not be used for swimming activities.]:
  - (1) May not be used for swimming activities; and
  - (2) Shall be made inaccessible to children in care.
- C. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool.

## **13A.16.06 Staff Requirements**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] *Annotated Code of Maryland*  
 Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

### **.03 Suitability for Employment.**

- A. A child care center operator may not employ an individual who[, as reported on or after October 1, 2005,] has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:
  - (1)—(2) (text unchanged)
  - (3) A violent crime classified as a felony, *including physical assault or battery*;
  - (4)—(9) (text unchanged)
  - (10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; [or]
  - (11) Reckless endangerment[.]; *or*
  - (12) *The felony of:*
    - (a) *Murder*;
    - (b) *Spousal abuse*; *or*
    - (c) *Arson*.
- B. If[, as reported on or after October 1, 2005,] an individual has been identified as responsible for child abuse or neglect or received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime or offense that is not included in §A of this regulation, the office:
  - (1)—(2) (text unchanged)
- C.—F. (text unchanged)

### **.04 Staff Health.**

- A. Medical Evaluation.
  - (1) An operator shall obtain a medical evaluation[, including a tuberculosis screen, if indicated], *conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant*, on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the center, from each prospective:
    - (a)—(b) (text unchanged)
    - (2) *The medical evaluation shall be signed by the individual who conducted the evaluation **or his or her designee** and include verification that the staff member:*
      - (a) *Is free of communicable tuberculosis, if indicated; and*
      - (b) *Has the capability to perform the duties of the staff member's position.*
  - [(2)] (3) The medical evaluation may transfer directly from one center to another [when there has been no gap in employment longer than 3 months] *if the evaluation was completed within 24 months before the transfer.*
  - (4) *The medical evaluation shall be updated every 5 years, measured from the individual's previous medical evaluation date.*
- B. Exclusion from Work. Except with the approval of the office and the health officer, an operator may not permit an individual with a serious transmissible infection or communicable disease listed [on a chart supplied by the office] *in the Communicable Diseases Summary, as published by the Maryland Department of Health*, to work at [a] *the child care center* during the period of exclusion from child care recommended [on the chart for that infection or disease] *by the Summary.*

### **.05 Directors of All Child Care Centers—General Requirements.**

- A. (text unchanged)
- B. To qualify as a director of a center, an individual shall:
  - (1)—(2) (text unchanged)
  - (3) Have successfully completed:

(a)—(b) (text unchanged)

(c) [Effective January 1, 2016,] 3 clock hours of approved training in complying with the Americans with Disabilities Act;

(4) Have successfully completed 6 semester hours or 90 clock hours, or their equivalent, of approved preservice training, or hold the Child Development Associate National Credential that is issued by the Council for Professional Recognition; [and]

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

[(5)] (6) (text unchanged)

C. A director shall:

(1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of employment as a director, that consists of a:

(a) (text unchanged)

(b) Maximum of 6 clock hours of elective training; [and]

(2) Document completion of the continued training on the professional development plan[.]; *and*

(3) *Document that the health and safety training, as required by the office, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

#### **.06 Directors of Preschool Centers—Specific Requirements.**

A. In a preschool center with infants or toddlers in care, a director, in addition to meeting the requirements of §§B—[D] F of this regulation, as applicable, shall have:

(1) 3 semester hours of approved training, or the equivalent, related [exclusively] to the care of infants and toddlers; and

(2) [Effective January 1, 2016, approved] *Approved* training in supporting breastfeeding practices.

B.—F. (text unchanged)

#### **.09 Child Care Teachers in Preschool Centers.**

A. To qualify *or continue to qualify* as a child care teacher in a preschool center, an individual shall [be 19 years old or older, and meet one of the following criteria]:

[(1)] The individual holds or has successfully completed:

(a) A high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;

(b) 6 semester hours or 90 clock hours or their equivalent of approved pre-service training, or hold the Child Development Associate Credential issued by the Child Development Associate National Credentialing Program;

(c) 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit;

(d) Effective January 1, 2016, 3 clock hours of approved training in complying with the Americans with Disabilities Act; and

(e) At least one of the following:

(i) 1 year of experience working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting, or as a registered family child care provider caring for preschoolers; or

(ii) 1 year of college, or a combination of experience and college that together are equivalent to 1 year;

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

(3) The individual qualified before July 1, 2008, as a child care teacher in a preschool center and has been continuously employed since that time at the same or another preschool center; or

(4) The individual:

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

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

(1) *Be 19 years old or older;*

(2) *Have a high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;*

(3) *Have successfully completed 6 semester hours or 90 clock hours or their equivalent of approved preservice training, or hold the Child Development Associate Credential issued by the Child Development Associate National Credentialing Program;*

(4) *Have completed 3 clock hours of approved training in complying with the Americans with Disabilities Act;*

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

(6) *Have 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit; and*

(7) *Have at least:*

(a) *1 year of experience working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting, or as a registered family child care provider caring for preschoolers; or*

(b) *1 year of college, or a combination of experience and college that together are equivalent to 1 year and meet one of the criteria set forth at §A(6) of this regulation.*

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

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

(2) *Has been qualified before July 1, 2008, as a child care teacher in a preschool center and has been continuously employed since that time at the same or another preschool center;*

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

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

[B.] C. A child care teacher in a preschool center shall:

(1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of employment as a child care teacher, that consists of a:

(a) (text unchanged)

(b) Maximum of 6 clock hours of elective training; [and]

(2) Document completion of the continued training on the professional development plan[.]; *and*

(3) *Document that the health and safety training, as required by the office, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

[C.] D. A child care teacher wishing to supervise a group of infants or toddlers shall:

(1) Unless qualified by the office before July 1, 2008, to supervise a group of infants or toddlers:

(a) Meet the requirements of §A of this regulation and have completed 3 semester hours of approved training, or the equivalent, related [exclusively] to the care of infants and toddlers; or

(b) Meet the requirements of [§A(1)(a), (c), and (d)] §A(1), (2), and (4)—(7) of this regulation and have completed 6 semester hours of approved training, or the equivalent, related exclusively to the care of infants and toddlers; and

(2) [Effective January 1, 2016, have] *Have completed approved training in supporting breastfeeding practices.*

#### **.10 Child Care Teachers in School Age Centers.**

A. To qualify as a child care teacher in a school age center, an individual shall:

(1) (text unchanged)

(2) Hold a high school diploma or a certificate of high school equivalence or have successfully completed courses for credit from an accredited college or university; [and]

(3) *Have completed 3 clock hours of approved training in Americans with Disabilities Act compliance;*

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

[(3)] (5) Meet [the] one of the criteria set forth in §B of this regulation.

B. The individual shall meet one of the following:

(1) The individual has successfully completed:

(a) (text unchanged)

(b) 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit; *and*

[(c) Effective January 1, 2016, 3 clock hours of training in ADA compliance; and]

[(d)] (c) (text unchanged)

(2)—(4) (text unchanged)

C. A child care teacher in a school age center shall:

(1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of employment as a child care teacher, that consists of a:

(a) (text unchanged)

(b) Maximum of 6 clock hours of elective training; [and]

(2) Document completion of the continued training on the professional development plan[.]; *and*

(3) *Document that the health and safety training, as required by the office, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

#### **.11 Assistant Child Care Teacher.**

A. To qualify as an assistant child care teacher in a school age center, an individual shall:

(1)—(2) (text unchanged)

(3) Have completed 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or have completed at least one academic college course for credit; [and]

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

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

B. (text unchanged)

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

(1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 6 clock hours per full year of employment as an assistant child care teacher, that consists of a:

(a) (text unchanged)

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

(2) Document completion of the continued training on the professional development plan[.]; *and*

(3) *Document that the health and safety training, as required by the office, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

D.—E. (text unchanged)

**.12 Aides.**

A. An aide shall:

(1) (text unchanged)

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

and

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

B. An aide in a child care center shall:

[(3)] (1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 6 clock hours per full year of employment as a child care aide, that consists of a:

(a) (text unchanged)

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

[(4)] (2) Document completion of the continued training on the professional development plan[.]; and

(3) *Document that the health and safety training, as required by the office, is completed by each staff member by the end of each 12-month period, measured each calendar year.*

[B.] C. (text unchanged)

**.13 Substitutes.**

A.—E. (text unchanged)

[[F. Approval by Office.

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

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

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

## 13A.16.07 Child Protection

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—*

*9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland*

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

**.02 Abuse/Neglect Reporting.**

A. An operator, [or] employee, *substitute, or volunteer* who has reason to believe that a child has been:

(1)—(2) (text unchanged)

B.—C. (text unchanged)

D. An operator may not require an employee, *substitute, or volunteer* to report through the operator or director, rather than directly to the local department or a law enforcement agency, when the employee has reason to believe that a child has been abused or neglected.

**.03 Child Discipline.**

A. (text unchanged)

B. The operator, *employee, substitute, or volunteer* may not:

(1) (text unchanged)

(2) Punish a child for refusing to eat or drink; [or]

(3) Withhold food or beverages as punishment[.]; or

(4) *Spank, hit, shake, or use any other means of physical discipline.*

C. The operator shall:

(1)—(2) (text unchanged)

(3) Ensure that the child discipline policy is followed by each employee, *substitute, volunteer, and other individual* connected with the center.

**.06 Child Security.**

A.—B. (text unchanged)

C. Unless an employee or staff member has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child *and adult* abuse and neglect records, the individual may not be alone with an unrelated child in care.

D. An employee or staff member who has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child *and adult* abuse and neglect records shall:

(1)—(2) (text unchanged)

E. (text unchanged)

### 13A.16.08 Child Supervision

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### .01 Individualized Attention and Care.

An operator shall ensure that:

A. Each child receives:

(1) Attention to the child's individual needs, including but not limited to:

(a) Making reasonable accommodations for a child with [special needs in accordance with applicable federal and State laws] *a disability*; and

(b) Allowing an adult who provides specialized services to a child [with special needs access] *in care* to provide those services on the facility premises as specified in the child's individualized education plan, individualized family service plan, or written behavioral plan; and

(2) (text unchanged)

B.—E. (text unchanged)

#### .03 Group Size and Staffing.

A. Assignment of Staff. One or more child care teachers shall be assigned to each group of children as needed to meet the requirements for group size and staffing set forth at §§C—[G] *E* of this regulation.

B. (text unchanged)

C. Same-Age Groups. [In a group of children of the same age, the following staff/child ratio and maximum group size requirements apply:

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

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

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

(2) *In a group of children of the same age who are 2 years old or older, the following staff/child ratio and maximum group size requirements apply:*

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

D. (text unchanged)

E. Group Size and Staffing in Approved Educational Programs.

(1) (text unchanged)

(2) A nursery school may not exceed a staff/child ratio or group size requirement set forth at [§G(1)] §E(1) of this regulation, except that a Montessori school that has been approved by the Department may exceed a staff/child ratio or group size requirement by no more than 1/3.

(3) (text unchanged)

#### .06 Supervision During Transportation.

When child transportation is conducted to or from:

A. The center by the center operator, there shall be at least one adult, *who has successfully passed federal and State criminal background checks and a review of child and adult abuse and neglect records pursuant to COMAR 13A.16.07.06D*, other than the driver present in the vehicle if:

(1)—(2) (text unchanged)

B. (text unchanged)

### **13A.16.09 Program Requirements**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.04 Rest Furnishings.**

A.—F. (text unchanged)

G. *A child under 12 months who falls asleep in a furnishing other than a crib shall be moved immediately to an approved sleeping arrangement specified at §A of this regulation.*

### **13A.16.10 Safety**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.02 First Aid and CPR.**

A.—B. (text unchanged)

C. Whenever a child in care is being transported under center auspices to or from the center, there shall be at least one adult present in the vehicle who is currently certified in approved CPR and first aid. This requirement may be met by the driver of the vehicle *if the driver is an employee of the center.*

D.—E. (text unchanged)

#### **.05 Rest Time Safety.**

A. (text unchanged)

B. Unless the need for a positioning device is specified in writing by a child's physician, a restricting device of any type, *including swaddling*, may not be applied to a resting child.

### **13A.16.11 Health**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.02 Infectious and Communicable Diseases.**

A. (text unchanged)

B. Except in centers for children with acute illness, an operator may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that infection or disease as shown [on a chart provided by the office] *in the Communicable Disease Summary, as published by the Maryland Department of Health*, unless the health officer grants approval for the child to attend child care during that period.

#### **.03 Preventing Spread of Disease.**

A. (text unchanged)

B. Hands shall be washed according to the posted approved procedure by a center employee, *substitute*, volunteer, or child in care at least:

(1)—(3) (text unchanged)

C. (text unchanged)

#### **.04 Medication Administration and Storage.**

A.—E. (text unchanged)

F. [Effective July 1, 2011:] *Medication Administration Training*.

(1) (text unchanged)

(2) Medication may be administered to a child in care only by an employee who has completed approved medication administration training.

G.—H. (text unchanged)

#### **.06 Alcohol and Drugs.**

An operator may not allow the consumption of alcoholic beverages or use of illegal or nonprescribed controlled dangerous substances:

A. (text unchanged)

B. By an employee, a substitute, or a volunteer during an off-site program activity.

### **13A.16.12 Nutrition**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.01 Food Service.**

A. Food and Beverages.

(1) (text unchanged)

(2) For children in care, *unless provided by the child's parent*, the operator shall furnish:

(a)—(b) (text unchanged)

(3)—(6) (text unchanged)

B.—E. (text unchanged)

### **13A.16.13 Centers for Children with Acute Illness**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.02 Applicability of Subtitle.**

An applicant for a center offering care under this chapter shall meet the requirements of this subtitle with the exception of:

A.—D. (text unchanged)

E. COMAR [13A.16.10.01A(2)(c)] *13A.16.10.01A(3)(c)* concerning emergency evacuation and disaster drills for children; and

F. (text unchanged)

### **13A.16.14 Adolescent Centers**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.01 Requirements for Approval.**

An applicant for a center offering care to children attending a middle school [or a junior high school] shall:

A.—B. (text unchanged)

### **13A.16.15 Drop-In Centers**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland  
Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.03 Applicability of Subtitle.**

An applicant for a drop-in center license shall meet the requirements of this subtitle with the exception of:

A.—D. (text unchanged)

E. COMAR [13A.16.10.01A(2)(c)] *13A.16.10.01A(3)(c)* concerning emergency evacuation and disaster drills for children; and

F. (text unchanged)

### **13A.16.16 Educational Programs in Nonpublic Nursery Schools**

Authority: Education Article, [ §§2-206 and 2-303] §§9.5-401, 9.5-404—

9.5-411, and 9.5-413—9.5-418; [Family Law Article, §§5-570, 5-573, and 5-577;] *General Provisions Article, §4-333; Human Services Article, §1-202; Annotated Code of Maryland*

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)

#### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(16) (text unchanged)

(17) “Teacher” means an individual who:

(a) (text unchanged)

(b) Meets the requirements of Regulation [.06B] .06C of this chapter.

#### **.03 Approval to Operate an Educational Program — General Requirements.**

A. (text unchanged)

B. A bona fide church organization may be approved to operate an educational program without holding a child care center license or a letter of compliance *if child care is not a component of the program.*

C.—H. (text unchanged)

#### **.04 Approval to Operate an Educational Program — Specific Requirements.**

A.—D. (text unchanged)

E. An operator may not seek approval of a change in the terms of the approval under any one or combination of the following circumstances:

(1)—(2) (text unchanged)

(3) The office is implementing a sanction or an enforcement action against the child care center license, the letter of compliance, or other approval document, as applicable, pursuant to COMAR [13A.15] *13A.16, COMAR 13A.17, or COMAR [13A.16] 13A.18; or*

(4) (text unchanged)

F.—H. (text unchanged)

### **13A.16.17 Inspections, Complaints, and Enforcement**

Authority: Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—

9.5-418; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland*

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)

#### **.01 Complaints.**

[The office shall investigate both written and oral complaints that relate to a violation of a regulation, including anonymous complaints, and prepare a written report of the findings.]

*The office shall investigate:*

A. *Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and*

B. *Complaints of providing or advertising unlicensed child care.*

#### **.03 Warnings.**

*If an investigation of a complaint or an inspection of a child care center indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:*

A. *The violation found, citing the regulation;*

B. *The time period for correcting the violation; and*

C. *That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the license.*

#### **[.04].05 Suspension.**

A. (text unchanged)

B. The office shall notify the operator in writing of the license suspension by certified mail 20 calendar days in advance, and the notice shall specify:

(1)—(6) (text unchanged)

(7) That, if the suspension is upheld by the [Superintendent] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care until the office determines that the health, safety, or welfare of a child in the center no longer is threatened;

(8)—(9) (text unchanged)

C.—D. (text unchanged)

**[.05].06 Emergency Suspension.**

A. (text unchanged)

B. The office shall hand deliver written notice of the emergency suspension to the operator stating:

(1)—(2) (text unchanged)

(3) That the operator is entitled to a hearing before the [Superintendent] *Office of Administrative Hearings* within 7 calendar days of the operator's request for a hearing;

(4) That the [Superintendent] *Office of Administrative Hearings* shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;

(5)—(7) (text unchanged)

C. *If unable to hand deliver a written notice to the operator, the Office may send notice by regular and certified mail to the operator's address.*

[C.] D. (text unchanged)

**[.06].07 Revocation.**

A. The office may revoke a license if:

(1) (text unchanged)

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

(3) (text unchanged)

(4) The operator fails to comply with the:

(a) Prohibitions on the use of an individual as an employee, a substitute, or a volunteer as set forth in COMAR 13A.16.06.03A and B [and .15C], *COMAR 13A.16.06.13F, or COMAR 13A.16.06.15B*; or

(b) (text unchanged)

(5) (text unchanged)

(6) Violations required to be corrected during a period of suspension have not been corrected and the period has ended; [or]

(7) The license is a continuing license that was placed on conditional status, and the:

(a) (text unchanged)

(b) Operator has failed to meet the requirements for reinstatement of the continuing license[.]; or

(8) *Evaluation of information provided to, or acquired by, the office indicates that the operator is unable to provide for the welfare of children.*

B. If the office decides to revoke a license, the office shall notify the operator in writing 20 calendar days before the effective date of the revocation, stating:

(1)—(6) (text unchanged)

(7) That, if the revocation is upheld by the [Superintendent] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care; and

(8) (text unchanged)

C. (text unchanged)

**[.07].08 Penalties.**

A. (text unchanged)

B. Civil Penalty.

(1) A person who maintains and operates a child care center *or advertises child care services* without a license, or who violates any regulation in this subtitle, is subject to a civil penalty imposed in a civil action of not more than \$1,000 for each violation.

(2)—(3) (text unchanged)

C. *An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.*

D. Appeals.

(1) *An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.*

(2) *Appeals are conducted in accordance with the provisions of COMAR 13A.16.18.*

## **13A.16.18 Administrative Hearings**

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-573 and 5-580;] *General Provisions Article, §4-333*; *Human Services Article, §1-202*; [State Government Article, §10-204;] *Annotated Code of Maryland*  
Agency Note: *Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.)*; *Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)*; *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

**.01 Scope.**

A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact child care center licenses and letters of compliance. These actions include denials, suspensions, or revocations of licenses or letters of compliance, reductions in capacity [or], limitations on the ages or numbers of children who may be admitted to the child care center, *the imposition of civil penalties for providing or advertising unlicensed child care services without a valid child care license*, and employment exclusions pursuant to COMAR 13A.16.06.03A or B.

B. (text unchanged)

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(9) (text unchanged)

[(10)] “Letter of compliance” means a letter issued by the Department to a religious organization which meets the requirements of Family Law Article, §5-573, *Annotated Code of Maryland.*]

[(11)] (10)—[(16)] (15) (text unchanged)

**.03 Hearing Requests.**

A. A hearing shall be held when [an applicant, licensee, or holder of a letter of compliance requests a hearing to contest]:

(1) *An applicant or licensee requests a hearing to contest:*

[(1)] (a) The denial of an application for a license [or letter of compliance];

[(2)] (b) A revocation or suspension of a license [or letter of compliance]; or

[(3)] (c) Any other action that adversely impacts on the licensee [or holder of the letter of compliance], including, but not limited to:

[(a)] (i)—[(b)] (ii) (text unchanged)

[(c)] (iii) A limitation on the ages or numbers of children who may be admitted to the child care center[.];

(2) *An individual requests a hearing to contest the imposition of civil penalties for providing unlicensed child care or advertising child care services without a valid license; or*

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

B. Nonemergency Action Hearing Requests.

(1) All nonemergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the licensee or [holder of the letter of compliance] *the individual contesting the imposition of a civil penalty*, and the effective date and nature of the action appealed from.

(2)—(5) (text unchanged)

C. (text unchanged)

**.04 Preliminary Conference.**

A. [The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.] *A preliminary conference may be held before a hearing on an action if an appellant requests the conference.*

B.—D. (text unchanged)

**.05 Denial or Dismissal of a Hearing Request.**

A. The Office of Administrative Hearings may deny a request for a hearing if:

(1) The issue appealed is not one which adversely affects the licensee [or holder of the letter of compliance]; or

(2) (text unchanged)

B. (text unchanged)

## 13A.16.19 Public Access to Licensing Records

Authority: *Education Article, §§9.5-401, 9.5-404—9.5-411, and 9.5-413—9.5-418*; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; *Human Services Article, §1-202*; [State Government Article, §10-617;] *Annotated Code of Maryland*  
Agency Note: *Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.)*; *Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)*; *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

**.03 Request for Information from Licensing Records.**

A. (text unchanged)

B. The written request shall:

- (1) Contain the applicant's name, address, and telephone number; *and*
- [(2) Be signed by the applicant; and]
- [(3)] (2) (text unchanged)

[C. A request may be made in any form or format if it does not involve:

- (1) Physical inspection of licensing records; or
- (2) Preparation of a written or electronic:
  - (a) Copy of licensing records; or
  - (b) Report of information from licensing records.]

[D.] C. (text unchanged)

**.04 Compelling Public Purpose.**

A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under [State Government Article, §10-617(h)(2)] *General Provisions Article, §4-333(b)*, Annotated Code of Maryland.

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

# Subtitle 17 CHILD CARE—LETTERS OF COMPLIANCE

## Notice of Proposed Action

[19-191-P]

The Maryland State Board of Education proposes to:

- (1) Amend Regulation **.02** under **COMAR 13A.17.01 Scope and Definitions**;
- (2) Amend Regulations **.01**, **.02**, **.05**, and **.06** under **COMAR 13A.17.02 Letter of Compliance Application and Maintenance**;
- (3) Amend Regulations **.02—06** and adopt new Regulation **.09** under **COMAR 13A.17.03 Management and Administration**;
- (4) Amend Regulations **.05**, **.12**, and **.13** under **COMAR 13A.17.05 Physical Plant and Equipment**;
- (5) Amend Regulations **.02—05** under **COMAR 13A.17.06 Staff Requirements**;
- (6) Amend Regulations **.02**, **.03**, and **.06** under **COMAR 13A.17.07 Child Protection**;
- (7) Amend Regulation **.06** and adopt new Regulation **.08** under **COMAR 13A.17.08 Child Supervision**;
- (8) Amend Regulations **.01** and **.02** under **COMAR 13A.17.10 Safety**;
- (9) Amend Regulations **.02—04** and **.06** under **COMAR 13A.17.11 Health**;
- (10) Amend Regulation **.01** under **COMAR 13A.17.12 Nutrition**;
- (11) Amend Regulation **.01** under **COMAR 13A.17.13 Adolescent Facilities**;
- (12) Amend Regulations **.02** and **.03** under **COMAR 13A.17.14 Educational Programs in Nonpublic Nursery Schools**;
- (13) Amend Regulation **.01**, adopt new Regulation **.03**, recodify existing Regulation **.03** to be Regulation **.04**, and amend and recodify existing Regulations **.04—07** to be Regulations **.05—08** under **COMAR 13A.17.15 Inspections, Complaints, and Enforcement**;
- (14) Amend Regulations **.01—05** under **COMAR 13A.17.16 Administrative Hearings**; and
- (15) Amend Regulations **.03** and **.04** under **COMAR 13A.17.17 Public Access to Licensing Records**.

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

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

### Statement of Purpose

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

### Comparison to Federal Standards

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

### Estimate of Economic Impact

**I. Summary of Economic Impact.** The purpose of the proposed amendments is to implement the requirements of the Child Care and Development Block Grant Act, as amended (42 U.S.C. 9858 et seq.), along with Section 418 of the Social Security Act (42 U.S.C. 618). Consistent throughout all four subtitles of regulations, the proposed amendments include statutory requirements of the Child Care and Development Fund reauthorization, modifications to provide clarity and more consistency between all subtitles, and corrections to the previous publication. The State will reimburse the cost to child care providers for the cost of fingerprinting to meet the new requirement.

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

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(E+)	Actual \$46,516
B. On other State agencies:	(R+)	Approximately \$428
C. On local governments:	NONE	
	Benefit (+)	
	Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Letters of compliance (LOC) programs	(+)	Approximately \$46,516
(2) Medical information	(+)	Approximately \$80,550
(3) Swimming pool security	(+)	Approximately \$45,000

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 90 letters of compliance programs (3% of the 3,006 payment are child care programs with Letters of Compliance) for a total of \$46,516 in obligations. The count for reimbursement to LOC child care programs does not include all of the staff printed for each location—only the center itself. The cost to date for reimbursement of fingerprinting costs for FY 18 is \$15,507 and for FY 19 is \$31,010, for a cost to the State of \$46,516 over FY 18 and FY 19. The State provided a one-time reimbursement for fingerprinting costs to child care 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 214 providers going through the fingerprinting process. Therefore, revenue to the DPSCS is estimated to be \$428 annually.

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

D(2). Medical Information for LOC Programs and Staff: Medicals will be completed by LOC programs and associated staff every 5 years. The estimated cost of each medical is between \$75 and \$125, depending on health insurance, co-pays, etc. Using these estimates, approximately 1,611 people (3% of the 53,700 people are in child care with letter of compliance) will be spending \$100 for a medical every 5 years, which would be an approximate cost of \$80,550 every 5 years.

D(3). Swimming Pool Security: Maryland estimates that half of the pools already meet fencing requirements and would not incur additional costs. Each fence would cost an estimated \$3,000 to \$5,000 depending on the size of the pool and the outdoor space. Using these estimates, 11 pools owners (3% of the 375 are in child care with letter of compliance) would spend an average of \$4,000 per fence for a total of \$45,000 to bring all facilities into compliance. This is a one-time only cost. All new applicants would need to meet this requirement prior to becoming licensed.

**Economic Impact on Small Businesses**

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

**Intended Beneficiaries**

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

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

**Intended Beneficiaries: Households**

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

**Intended Beneficiaries: Businesses**

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

**Other Direct or Indirect Impacts: Adverse**

Background clearances: Facilities who incurred the cost of fingerprinting (\$35—\$75 per person) and choose not to request reimbursement will not benefit from the alleviation of those costs by the State. Future fingerprinting costs will range from \$35 to \$75 per person and will be completed every 5 years from the initial fingerprinting date.

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

Swimming Pool Security: An estimated 11 pool owners who are LOC programs would spend an average of \$4,000 per facility, as a one-time cost, to come into compliance with swimming pool security requirements. New applicants for LOC licensure 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 LOC programs who incur costs related to the amendments may charge higher fees to families for their services. Because child care fees are determined independently by each provider, the overall change, if any, in those expenses cannot be determined.

(2) Effect on the workforce:

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

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

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

(4) Consumer choice:

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

**Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

**Opportunity for Public Comment**

Comments may be sent to Tara Bartosz, Assistant to the Director, Office of Child Care, Division of Early Childhood, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-7806 (TTY 410-333-6442), or email to [earlychildhoodregs.msde@maryland.gov](mailto: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.17.01 Scope and Definitions**

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, §§5-502, 5-560, 5-564, and 5-570—5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland

Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

**.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "Adolescent facility" means a child care facility that offers programs exclusively to children in middle school [and junior high school].

(4)—(6) (text unchanged)

(7) “Capacity” means the total number of children, specified by the letter of compliance [of the facility], who may be in care at any one time.

(8)—(16) (text unchanged)

(17) Employee.

(a) “Employee” means an individual:

(i) Who [for compensation] is employed by the facility operator to work at or for the facility; and

(ii) (text unchanged)

(b) (text unchanged)

(c) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, “employee” includes any individual who:

(i) [Is compensated by the operator to perform a service at the facility;] *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)]

(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 indicated child abuse or neglect, or awaiting the local department’s appeal hearing after the determination.

(21) (text unchanged)

(22) “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)

(23)—(24) (text unchanged)

(25) “Letter of compliance” means a letter issued by the Department to a tax-exempt religious organization that meets the requirements under [Family Law Article, §5-574] *Education Article, §§9.5-401—9.5-420*, Annotated Code of Maryland.

(26)—(30) (text unchanged)

(31) “Operated by a tax-exempt religious organization” means that a letter holder *is a church or bona fide house of worship* or has submitted a copy of the determination letter from the Internal Revenue Service that recognizes the organization as [a bona fide church organization] exempt from taxation under the Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3).

(32)—(46) (text unchanged)

### **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*; [Family Law Article, §§5-560, 5-564, and 5-570—

5-585;] *General Provisions Article, §4-333*; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act, §418 (42 U.S.C. 618)*

#### **.01 Letter of Compliance — General Requirements.**

A.—B. (text unchanged)

C. *The operator may not allow an employee, staff member, substitute, or volunteer to:*

(1) *Be assigned to a group of children or have access to a child in care until the individual has successfully passed the child abuse and neglect clearance and a federal or State criminal background check; or*

(2) *Be alone with a child or group of children until all checks have been successfully passed.*

#### **.02 Initial Letter of Compliance.**

A. Application Requirements. An individual or organization that does not currently hold a letter of compliance and wishes to operate a nursery school or child care program under this subtitle shall:

(1)—(2) (text unchanged)

(3) Ensure that an application for a federal and State criminal background check is submitted for:

(a)—(b) (text unchanged)

(c) Each employee, including [paid] substitutes *and volunteers*; and

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

B. Before the proposed opening date, the applicant shall submit the following items to the office, if not submitted at the time the written application form was submitted:

(1) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:

(a) (text unchanged)

(b) Each employee, *including substitutes and volunteers*;

(c)—(e) (text unchanged)

(2)—(12) (text unchanged)

C. *Non-Maryland State Criminal Background Check.* If an individual subject to the requirements of §A(3) 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.

#### **.05 Response of the Office to Application.**

A. (text unchanged)

B. Except as specified at §C of this regulation, the office shall, within 30 days after completing the procedures in §A of this regulation, promptly:

(1) (text unchanged)

(2) For a continuing [license] *letter of compliance* application, issue or deny a continuing [license] *letter of compliance*.

C. (text unchanged)

#### **.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) (text unchanged)

(2) An evaluation of the application form, *medical documents, or any documents required* by the office reveals that the applicant[**[, regardless of intent,]**] reported false information;

(3)—(7) (text unchanged)

B.—C. (text unchanged)

### **13A.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; [Family Law Article, §§5-560, 5-564, and 5-570—*

*5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland*

*Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

#### **.02 Admission to Care.**

A.—C. (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) (text unchanged)

(2) For a child to be temporarily admitted or retained in care, the parent shall present evidence of the child's appointment with a health care provider or local health department to:

(a) Receive a medical evaluation to include, if applicable, a lead screening *or test*;

(b)—(d) (text unchanged)

(3)—(4) (text unchanged)

#### **.03 Program Records.**

The operator shall:

A. (text unchanged)

B. Maintain:

(1)—(2) (text unchanged)

(3) Records of food actually served by the facility for the most recent 4 weeks as required by COMAR [13A.17.12.01G]

13A.17.12.01E;

(4) (text unchanged)

(5) A current copy of [Family Law Article, §5-570] *Education Article, §§9.5-401—9.5-420 et seq., Annotated Code of Maryland, and this subtitle on the premises and make them available to parents upon request.*

#### **.04 Child Records.**

A.—D. (text unchanged)

E. [If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law.] *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) *An appropriate lead screening, if the child is younger than 6 years old and was born before January 1, 2015; or*
- (2) *A lead test when the child is 12 months old and again when the child is 24 months old, regardless of where the child resides, if the child was born on or after January 1, 2015.*

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening *or test* that are transferred directly, without a gap in time longer than 3 months, from a registered family day care home, a licensed child care center, another facility operating under a letter of compliance, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.

G.—H. (text unchanged)

I. The operator shall record or maintain on file:

- (1) (text unchanged)
- (2) Each injury or accident required by Regulation [.06B and C] *.06D and E* of this chapter to be reported;
- (3)—(6) (text unchanged)

J. (text unchanged)

#### **.05 Staff Records.**

The operator shall:

A. Maintain [for review] *and, upon request* by the office, *submit* a current and complete:

- (1)—(2) (text unchanged)

B. During an individual's employment at the facility and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:

- (1) *Training, including basic health and safety training and yearly updates, if required under this subtitle;*

[(1)] (2)—[(4)] (5) (text unchanged)

C. —D. (text unchanged)

#### **.06 Notifications.**

The operator shall:

A. Within 5 business days of its occurrence, provide written notification to the office about the:

- (1) Addition of a new employee or staff member that includes:
  - (a) (text unchanged)
  - (b) Information about the individual's work assignment; [and]
  - (c) *Proof of compliance with the laws and regulations pertaining to criminal background checks; and*[(c)] (d) (text unchanged)
- (2) (text unchanged)

B. *Within 15 working days of adding the new employee or staff member, provide to the office, if applicable, documentation that the individual meets the requirements of this chapter for the assignment, unless documentation already is on file in the office;*

[B.] C. Have on file in the nursery school or child care program the following information about each employee or staff member:

- (1)—(2) (text unchanged)
- (3) [If the individual is paid, proof] *Proof of compliance with laws and regulations pertaining to criminal background checks;*

[C.] D.—[D] E. (text unchanged)

[E.] F. Immediately notify the office of:

- (1) An employee *or an individual on the child care facility premises* who is under investigation for:
  - (a)—(b) (text unchanged)
- (2) (text unchanged)

[F.] G. Within 5 working days after there is a new [resident on the] *individual living on the child care facility premises* who is 18 years old or older:

(1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children and adults for information about the [resident] *individual living on the child care facility premises*; and

(2) Direct the [resident] *individual living on the child care facility premises* to apply for a federal and State criminal background check *pursuant to COMAR 13A.17.02.02A(3) and C*; and

[G.] H. (text unchanged)

#### **.09 Advertisement.**

A. *An operator may not advertise child care services unless the facility holds a current letter of compliance issued by the office.*

B. *An advertisement of the facility shall:*

- (1) *Specify that the facility holds a letter of compliance; and*
- (2) *Include the letter of compliance number issued to the facility by the office.*

## **13A.17.05 Physical Plant and Equipment**

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*

**.05 Lead-Safe Environment.**

A. (text unchanged)

B. If the child care facility is a [pre-1950] *pre-1978* residential rental property, which is an affected property as defined by the Environment Article, §6-801(b), Annotated Code of Maryland, the operator shall submit a copy of the current lead risk reduction or lead free certificate.

C.—D. (text unchanged)

**.12 Outdoor Activity Area.**

A.—E. (text unchanged)

F. Any pool on the premises of the facility shall be made inaccessible to children in care and have security features, including but not limited to a:

- (1) Fence that surrounds the pool at least 4 feet in height;
- (2) Self-closing and self-latching mechanism on the gate, door, or access to the pool;
- (3) Lock that is operable and secured; and
- (4) Sensor or alarm in the pool and on the access door.

**.13 Swimming Facilities.**

A. (text unchanged)

B. An above-ground swimming pool [may not be used for swimming activities.]:

- (1) May not be used for swimming activities; and
- (2) Shall be made inaccessible to children in care.

C. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool.

**13A.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; [Family Law Article, §§5-560, 5-564, and 5-570—*

*5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

**.02 Staff Orientation and Training.**

On or before assignment, an operator shall document that each employee and staff member has been informed in writing about all areas pertinent to the health and safety of the children, including:

A.—I. (text unchanged)

J. The content of the most current regulations in this subtitle; [and]

K. The community resources available to the family of a child who may have special needs[.];

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

M. *Basic health and safety is completed by each staff member by the end of each 12-month period, measured each calendar year.*

**.03 Suitability for Employment.**

A. A child care facility operator may not employ an individual who[, as reported on or after October 1, 2005,] has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

(1)—(2) (text unchanged)

(3) A violent crime classified as a felony, *including physical assault or battery;*

(4)—(9) (text unchanged)

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

(11) Reckless endangerment[.]; *or*

(12) *The felony of:*

*(a) Murder;*

*(b) Spousal abuse; or*

*(c) Arson.*

B. If[, as reported on or after October 1, 2005,] an individual has been identified as responsible for child abuse or neglect or received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime or offense that is not included in the list set forth at §A of this regulation, the office:

(1)—(2) (text unchanged)

C.—E. (text unchanged)

**.04 Staff Health.**

#### A. Medical Evaluation.

(1) An operator shall obtain a medical evaluation[, including a tuberculosis screen, if indicated], *conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant*, on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the center, from each prospective:

(a)—(b) (text unchanged)

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

(a) *Is free of communicable tuberculosis, if indicated; and*

(b) *Has the capability to perform the duties of the staff member's position.*

[(2)] (3) The medical evaluation may transfer directly from one nursery school or child care program to another when [there has been no gap in employment longer than 3 months] *the evaluation was completed within the previous 24 months of the transfer.*

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

B. Exclusion from Work. Except with the approval of the office and the health officer, an operator may not permit an individual with a serious transmissible infection or communicable disease listed [on a chart supplied by the office] *in the Communicable Diseases Summary, as published by the Maryland Department of Health*, to work at a nursery school or child care program during the period of exclusion from child care shown [on the chart for that infection or disease] *by the Summary.*

#### .05 Substitutes.

A.—B. (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.17.07 Child Protection

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)*

#### .02 Abuse/Neglect Reporting.

A. An operator [or], staff member, *employee, substitute, or volunteer* who has reason to believe that a child has been:

(1)—(2) (text unchanged)

B.—C. (text unchanged)

D. An operator may not require a staff member, *employee, substitute, or volunteer* to report through the operator or director, rather than directly to the local department or a law enforcement agency, when the staff member has reason to believe that a child has been abused or neglected.

#### .03 Child Discipline.

A. (text unchanged)

B. The operator, *staff member, employee, substitute, or volunteer* may not:

(1) (text unchanged)

(2) Punish a child for refusing to eat or drink; [or]

(3) Withhold food or beverages as punishment[.]; *or*

(4) *Spank, hit, shake, or use any other means of physical discipline.*

C. The operator shall:

(1)—(2) (text unchanged)

(3) Ensure that the child discipline policy is followed by each employee, *substitute, volunteer, and other individual* connected with the facility.

#### .06 Child Security.

A. (text unchanged)

B. Unless an employee or staff member has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child and adult abuse and neglect records, the individual may not be alone with an unrelated child in care.

C. A facility employee or staff member who has successfully passed federal and State criminal background checks and[, if hired on or after October 1, 2005,] a review of child and adult abuse and neglect records shall:

(1)—(2) (text unchanged)

## 13A.17.08 Child Supervision

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)*

### .06 Supervision During Transportation.

When child transportation is conducted to or from:

A. The child care facility by the facility operator, there shall be at least one adult, *who has successfully passed federal and State criminal background checks and a review of child and adult abuse and neglect records pursuant to COMAR 13A.17.07.06C*, other than the driver present in the vehicle if:

(1)—(2) (text unchanged)

B. (text unchanged)

### .08 Rest Time Supervision.

*During a rest period for a group of children:*

A. *The required staff/child ratio applicable to that group shall be maintained until all the children are resting quietly; and*

B. *Once all the children in the group are resting quietly:*

(1) *At least one staff member assigned to the group shall continue to remain in the room with the children; and*

(2) *Other staff members, if any, assigned to the group may leave the room but shall remain on the premises and within hearing range.*

## 13A.17.10 Safety

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)*

### .01 Emergency Safety Requirements.

A. (text unchanged)

B. If the child care facility is included within a comprehensive emergency and disaster plan, the facility operator shall ensure that:

(1) The comprehensive plan contents meet all emergency and disaster plan requirements set forth at [§A(2)(a)] §A(3)(a) and (b) of this regulation; and

(2) (text unchanged)

C. (text unchanged)

### .02 First Aid and CPR.

A.—B. (text unchanged)

C. Whenever a child in care is being transported under child care facility auspices to or from the facility, there shall be at least one adult present in the vehicle who is currently certified in approved CPR and first aid. This requirement may be met by the driver of the vehicle *if the driver is an employee of the center.*

D.—E. (text unchanged)

## 13A.17.11 Health

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)*

### .02 Infectious and Communicable Diseases.

A. (text unchanged)

B. Except in facilities for children with acute illness, an operator may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that infection or disease as shown [on a chart provided by the office] *in the Communicable Disease Summary, as published by the Maryland Department of Health*, unless the health officer grants approval for the child to attend child care during that period.

### **.03 Preventing Spread of Disease.**

- A. (text unchanged)
- B. Hands shall be washed according to the posted approved procedure by a facility employee, *substitute*, volunteer, or child in care at least:
  - (1)—(3) (text unchanged)
- C. (text unchanged)

### **.04 Medication Administration and Storage.**

- A.—E. (text unchanged)
- F. [Effective July 1, 2011:] *Medication Administration Training*.
  - (1) (text unchanged)
  - (2) Medication may be administered to a child in care only by an employee who has completed approved medication *administration* training.
- G.—H. (text unchanged)

### **.06 Alcohol and Drugs.**

- An operator may not allow the consumption of alcoholic beverages or use of illegal or nonprescribed controlled dangerous substances:
- A. (text unchanged)
  - B. By an employee, *a substitute*, or a volunteer during an off-site program activity.

## **13A.17.12 Nutrition**

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)

### **.01 Food Service.**

- A. Food and Beverages.
  - (1) (text unchanged)
  - (2) For children in care, *unless provided by the child's parent*, the operator shall furnish:
    - (a)—(b) (text unchanged)
    - (3)—(6) (text unchanged)
- B.—E. (text unchanged)

## **13A.17.13 Adolescent Facilities**

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)

### **.01 Requirements for Approval.**

- An applicant for a child care program offering care to children attending a middle school [or a junior high school] shall:
- A.—B. (text unchanged)

## **13A.17.14 Educational Programs in Nonpublic Nursery Schools**

Authority: Education Article, [§§2-206 and 2-303] §§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, §§5-570 and 5-573;] *General Provisions Article*, §4-333; *Human Services Article*, §1-202; Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); *Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*; *Social Security Act*, §418 (42 U.S.C. 618)

### **.02 Definitions.**

- A. (text unchanged)
- B. Terms Defined.
  - (1)—(7) (text unchanged)
  - (8) “Letter of compliance” means a document issued by the Department pursuant to [COMAR 13A.16] *this subtitle* that authorizes the recipient to operate a letter of compliance facility.

(9)—(14) (text unchanged)

**.03 Approval to Operate an Educational Program — General Requirements.**

- A. (text unchanged)
- B. A bona fide church organization may be approved to operate an educational program without holding a child care center license or a letter of compliance *if child care is not a component of the program.*
- C.—G. (text unchanged)

**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; [Family Law Article, §§5-560, 5-564, and 5-570—5-585;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act, §418 (42 U.S.C. 618)*

**.01 Complaints.**

[The office shall investigate both written and oral complaints that relate to a violation of a regulation, including anonymous complaints, and prepare a written report of the findings.]

*The office shall investigate:*

- A. *Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and*
- B. *Complaints of providing child care or advertising child care services without a valid letter of compliance.*

**.03 Warnings.**

*If an investigation of a complaint or an inspection of a facility indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:*

- A. *The violation found, citing the regulation;*
- B. *The time period for correcting the violation; and*
- C. *That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the letter of compliance.*

**[.04].05 Suspension.**

- A. (text unchanged)
- B. The office shall notify the operator in writing of the suspension by certified mail 20 calendar days in advance, and the notice shall specify:
  - (1)—(6) (text unchanged)
  - (7) That, if the suspension is upheld by the [Superintendent's designee] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care until the office determines that the health, safety, or welfare of a child in the facility no longer is threatened;
  - (8)—(9) (text unchanged)
- C.—D. (text unchanged)

**[.05].06 Emergency Suspension.**

- A. (text unchanged)
- B. The office shall hand deliver written notice of the emergency suspension to the operator stating:
  - (1)—(2) (text unchanged)
  - (3) That the operator is entitled to a hearing before the [Superintendent] *Office of Administrative Hearings* within 7 calendar days of the operator's request for a hearing;
  - (4) That the [Superintendent] *Office of Administrative Hearings* shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;
  - (5)—(7) (text unchanged)
- C. *If unable to hand deliver a written notice to the operator, the Office may send notice by regular and certified mail to the operator's address.*
- [C.] D. (text unchanged)

**[.06].07 Revocation.**

- A. The office may revoke a letter of compliance if:
  - (1) (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) (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 [and .07C], *COMAR 13A.17.06.05C*, and *COMAR 13A.17.06.07B*; or
  - (b) (text unchanged)
- (5) (text unchanged)
- (6) Violations required to be corrected during a period of suspension have not been corrected and the period has ended; [or]
- (7) The letter of compliance is a continuing letter of compliance that was replaced by a conditional letter of compliance, and the:
- (a) (text unchanged)
  - (b) Operator has failed to meet the requirements for reinstatement of the continuing letter of compliance[.]; or
  - (8) *The evaluation of information provided to or acquired by the office indicates that the operator is unable to care for the welfare of children.*
- B. If the office decides to revoke a letter of compliance, the office shall notify the operator in writing 20 calendar days before the effective date of the revocation, stating:
- (1)—(6) (text unchanged)
  - (7) That, if the revocation is upheld by the [Superintendent] *Office of Administrative Hearings* following the hearing, the operator shall cease providing child care; and
  - (8) (text unchanged)
- C. (text unchanged)

#### **[.07].08 Penalties.**

- A. (text unchanged)
- B. Civil Penalty.
  - (1) A person who maintains and operates a nursery school or child care program *or advertises a child care program* without a [license or] letter of compliance, or who violates any regulation in this subtitle, is subject to a civil penalty imposed in a civil action of not more than \$1,000 for each violation, and each day a violation occurs or the facility operates illegally is considered a separate violation.
  - (2) (text unchanged)
  - C. *An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.*
  - D. Appeals.
    - (1) *An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.*
    - (2) *Appeals are conducted in accordance with the provisions of COMAR 13A.17.16.*

### **13A.17.16 Administrative Hearings**

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, §§5-573 and 5-580; State Government Article, §10-204;] *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)*

#### **.01 Scope.**

- A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact [on] child care center licenses and letters of compliance. These actions include denials, suspensions, [or] *and* revocations of licenses or letters of compliance, as well as reductions in capacity [or], limitations on the ages or numbers of children who may be admitted to the child care center, *the imposition of civil penalties for providing or advertising child care services without a valid letter of compliance, and employment exclusions pursuant to COMAR 13A.17.06.03A or B.*
- B. (text unchanged)

#### **.02 Definitions.**

- A. (text unchanged)
- B. Terms Defined.
  - (1)—(6) (text unchanged)
  - (7) Emergency Action.
    - (a) (text unchanged)
    - (b) “Emergency action” may include an emergency suspension, an immediate reduction in capacity, an immediate limitation on the ages or numbers of children who may be admitted to care, and an [appeal filed by an individual] *employment exclusion* pursuant to COMAR [13A.16.06.03D or 13A.17.06.03D] *13A.17.06.03A or B.*
    - (8)—(9) (text unchanged)
    - (10) “Letter of compliance” means a letter issued by the Department to a religious organization which meets the requirements of [Family Law Article, §5-573] *Education Article, §9.5-404*, Annotated Code of Maryland.
    - (11)—(16) (text unchanged)

### **.03 Hearing Requests.**

A. A hearing shall be held when [an applicant, licensee, or holder of a letter of compliance requests a hearing to contest]:

(1) *An applicant or holder of a letter of compliance requests a hearing to contest:*

[(1)] (a) The denial of an application for a [license or] letter of compliance;

[(2)] (b) A revocation or suspension of a [license or] letter of compliance; or

[(3)] (c) Any other action that adversely impacts [on] the [licensee or] holder of the letter of compliance, including, but not limited to:

[(a)] (i)—[(b)] (ii) (text unchanged)

[(c)] (iii) A limitation on the ages or numbers of children who may be admitted to the child care center[.];

(2) *An individual requests a hearing to contest the imposition of civil penalties for providing child care or advertising child care services without a valid letter of compliance; or*

(3) *An individual requests a hearing to contest the prohibition of employment at a facility holding a letter of compliance.*

B. Non-emergency Action Hearing Requests.

(1) All non-emergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the [licensee or] holder of the letter of compliance *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)

### **.05 Denial or Dismissal of a Hearing Request.**

A. The Office of Administrative Hearings may deny a request for a hearing if:

(1) The issue appealed is not one which adversely affects the [licensee or] holder of the letter of compliance; or

(2) (text unchanged)

B. (text unchanged)

## **13A.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.

KAREN B. SALMON, Ph.D.  
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-)	
	Expenditure (E+/E-)	Magnitude
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](mailto: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 5-563;] *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) (ii) (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

**.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,]] in accordance with COMAR 10.11.04,** 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 COMAR 10.11.04, [[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

Comments regarding **COMAR 13A.15** Family Child Care and **COMAR 13A.18** Large Family Home  
Published in the Maryland Register October 11, 2019 through November 12, 2019

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response Rationale and Citations
<p>Maryland State Family Child Care Association (MSFCCA) *See Attachment B</p> <p>mdaeyc</p> <p>Kristina's Family Daycare</p> <p>St. Leonard Kids' Place</p> <p>Susan Hemp</p> <p>Karin Walsh</p> <p>Erin Moxley</p> <p>Bill DiGregory</p> <p>Christine Wagner</p> <p>Karen Walsh</p> <p>Jamie Walker</p> <p>Angie Covington</p> <p>Millie Arias</p>	<p>MSFCCA feels the best solution is for family child care providers to continue to follow all recommendations for safe sleep.</p> <ul style="list-style-type: none"> <li>Recommendations like sleeping children on a firm mattress on their back in a clutter free crib, in a smoke free environment, in addition to the 15-minute bed checks and video and audio monitor for sight and sound observations. We understand the concern for the sleeping safety of children under two; but feel the regulation <i>as it is already written</i> is the best language to address this issue in all family child care homes.</li> </ul>	<p><b>COMAR 13A.15.08.01.E(1)(a)</b> <b>(Family Child Care)</b></p> <p><b>Child Supervision</b> .01 General Supervision.</p> <p><i>E. Supervision of Resting Children.</i></p> <p>(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:</p> <p><i>(a) Remain on the same level as the child;</i></p>	<p><b>Response:</b></p> <p>MSDE agrees at this time.</p> <p>The proposed language in COMAR 13A.15.08.01 D, E, F, and G will be removed at this time, and the regulation will revert to the original text for COMAR 13A.15.08.01 D, E, and F.</p>

Comments regarding **COMAR 13A.15** Family Child Care and **COMAR 13A.18** Large Family Home  
Published in the Maryland Register October 11, 2019 through November 12, 2019

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response Rationale and Citations
<p>Maryland State Family Child Care Association (MSFCCA) *See Attachment B  Kristina's Family Daycare  St. Leonard Kids' Place  Maryland Family Network</p>	<p>The term “<b>regardless of intent</b>”, added to this regulation is very problematic. It implies there is <i>absolutely</i> no room for error on the part of a provider when submitting paperwork to MSDE.</p> <p>Regardless of a legitimate mistake being made when submitting forms to the Office of Child Care. After reviewing your response to comments from MSFCCA about the term “<b>regardless of intent</b>” used in <b>COMAR 13A.15.13</b>, we remain extremely concerned about the possible implications of making a mistake on the tremendous amount of required paperwork that providers submit.</p>	<p><b>COMAR13A.15.13.07 A(2)</b> <b>(Family Child Care)</b></p> <p><b>Inspection, Complaints and Enforcement</b> .07 Revocations.</p> <p>A. The office may revoke a registration if the</p> <p>(2) Provider, <i>regardless of intent</i>, misrepresented or offered false information on the application or on any form or report required by the office;</p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments and will remove the words “regardless of intent” and revert to original regulation language in COMAR 13A.15.13.07 A(2)</p> <p>(2) Provider <i>[,regardless of intent, ]</i> misrepresented or offered false information on the application or on any form or report required by the office;</p>

Comments regarding **COMAR 13A.15** Family Child Care and **COMAR 13A.18** Large Family Home  
 Published in the Maryland Register October 11, 2019 through November 12, 2019

		<p><b>COMAR 13A.15.02.07                  A(7)(c)                  (Family Child Care)</b></p> <p><b>Registration                  Application and                  Maintenance</b></p> <p>.07 Denial of a Registration                  Application.</p> <p>A. The office may deny                  a certificate of                  registration if:</p> <p>(7) An evaluation of the                  medical report or other                  information about the                  applicant, a coprovider,                  or a resident indicates                  that the:</p> <p><i>(c) Applicant, regardless                  of intent, submitted false                  or altered medical                  documentation for the                  applicant, resident,                  coprovider, or additional                  adult for consideration                  by the office</i></p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments                  and will remove the words                  “regardless of intent” and revert                  to original regulation language in                  COMAR 13A.1502.07 A(7)(c)</p> <p><i>(c) Applicant[, regardless of                  intent,] submitted false or altered                  medical documentation for the                  applicant, resident, coprovider,                  or                  additional adult for consideration                  by the office;</i></p>
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Comments regarding **COMAR 13A.15** Family Child Care and **COMAR 13A.18** Large Family Home  
 Published in the Maryland Register October 11, 2019 through November 12, 2019

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response Rationale and Citations
<p>Maryland State Family Child Care Association (MSFCCA)                      *See Attachment B</p>	<p>Volunteers who do not care for and supervise children or have unsupervised access to them are not mandated to report child abuse and neglect. The two additions of volunteers to this section should be deleted.</p> <p>After reviewing your response to our comments on the difficulty and possible results of <b>COMAR 13A.18.07.02 Child Protection 0.02 Abuse/Neglect Reporting</b> we are still very concerned that this change could be the end of volunteering in our family child care homes. Volunteers are most often the parents of the children in care in a family child care and are not used in place of a provider, they are generally support positions, reading to children, cutting craft supplies, chaperoning field trips, etc.</p> <p>The term “<b>require</b>” should not be used when referring to volunteers. They do not earn a salary and are <b>not mandated</b> reporters of abuse/neglect, although we do agree everyone should report what they see. We feel leaving the language as before but adding a sentence that states</p> <p><b>“It is our recommendation that a <i>volunteer</i> report directly to the local department or a law enforcement agency, when the <i>volunteer</i> has reason to believe that a child has been abused or neglected, rather than report through the provider.”</b></p> <p>This is a much less restrictive way to get volunteers to understand their obligation to report without requiring it.</p>	<p><b>COMAR 13A.18.07.02 A (Large Family Child Care Homes) Child Protection .02 Abuse/Neglect Reporting.</b></p> <p>A. A provider, employee [or], substitute, <i>or volunteer</i> who has reason to believe that a child has been:</p>	<p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p><b>Rationale/Citation:</b></p> <p>Compliance with Child Abuse Reporting Requirements. CCDBG, Section 658E(c)(2)(L): “The provision (reporting child abuse and neglect) is intended for the Lead Agency to ensure that caregivers, teachers, and directors follow all relevant child abuse and neglect reporting procedures and laws, regardless of whether a child care caregiver or provider is considered a mandatory reporter under existing child abuse and neglect laws.</p> <p>Volunteers are providing care to children when they are in the classroom.</p>

Comments regarding **COMAR 13A.15** Family Child Care and **COMAR 13A.18** Large Family Home  
 Published in the Maryland Register October 11, 2019 through November 12, 2019

		<p><b>COMAR 13A.18.07.02                  D                  (Large Family Child Care                  Homes)</b></p> <p><b>Child Protection</b></p> <p>.02 Abuse/Neglect Reporting.</p> <p>D. A provider may not require an employee, [or] substitute, <i>or volunteer</i> to report through the provider, rather than directly to the local department or a law enforcement agency, when the employee [or], substitute, <i>or volunteer</i></p>	<p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p>
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Comments regarding **COMAR 13A.15** Family Child Care and **COMAR 13A.18** Large Family Home  
Published in the Maryland Register October 11, 2019 through November 12, 2019

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response Rationale and Citations
<p>Kristina's Family Daycare St. Leonard Kids' Place</p> <p>Pool &amp; Hot Tub Alliance</p>	<p>Most of the current providers have had their pool (above and in-ground) for numerous years without any safety issues from their inspections. Asking a provider to spend \$3000-\$5000 to add a fence around an above ground pool that already has a 4-foot fencing around the top of the structure is not acceptable. Most above ground (and in-ground) pools already meet the safety requirements set forth by the Health Department and we feel as no added expense should be incurred. Your proposed regulation does not distinguish between above and in ground pools, current licensed providers or new registrants, nor is it detailed enough on what is expected of the family provider. I hope that you take the financial responsibility along with the already safety factors that our providers must endure. When decisions affect a provider's ability to continue in business, it is imperative that a dialog take place. Family child care is unique in that it gives children a quality learning environment in a nurturing home, and many children thrive in these small group settings.</p> <p>It is our position, and recommendation, that the best and safest fencing requirements are compliant with section 305 of the ISPSC, "Barrier Requirements," of the ISPSC. This section provides options for barrier and fencing requirements. Barriers on or around pools and spas significantly restrict unauthorized access to pools and spas.</p> <p>The perimeter barrier design requirements in section 305 are especially focused on preventing children from having access to an area where the potential for drowning or near drowning is very high. Section 305 includes minimum standards for barrier height and clearances, chain link and conventional fencing, poolside barrier</p>	<p><b>COMAR 13A. 15.08.05 C(1)</b> <b>(Family Child Care)</b></p> <p><b>Child Supervision</b> .05 Outdoor Activity Areas.</p> <p><i>C. 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 having a:</i></p> <p><i>(1) fence that surrounds the pool at least 4 feet in height;</i></p>	<p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p>According to the Center for Disease, Control and Prevention, drowning is a leading cause of death for children ages 1-5 in the United States.</p> <p>Drowning is the Second leading cause of unintentional injury-related death ages 1-14. Last year 2018 alone there was 2,077 drownings and <b>336 of them were children under 5.</b></p> <p>For every child who dies from drowning, another five receive emergency department care for nonfatal submersion injuries.</p>

Comments regarding **COMAR 13A.15** Family Child Care and **COMAR 13A.18** Large Family Home  
Published in the Maryland Register October 11, 2019 through November 12, 2019

	<p>setbacks, gates, latches and others. Section 305 also contains a variety of options for barrier requirements such as automatic pool covers and mesh fences:</p> <p><a href="https://codes.iccsafe.org/content/ISPSC2018P2/chapter-3-general-compliance#ISPSC2018P2_Ch03_Sec305">https://codes.iccsafe.org/content/ISPSC2018P2/chapter-3-general-compliance#ISPSC2018P2_Ch03_Sec305</a></p> <p>On behalf of PHTA and the ICC, we respectfully request that you consider the provisions outlined in the 2018 International Swimming Pool and Spa Code providing options for swimming pool fencing requirements.</p>		<p><b><u>MARYLAND STATISTICS</u></b></p> <p>Drowning was the 2nd leading cause of death for children aged 0-4 in 2015.</p> <p>A total of 139 people were treated in emergency departments in 2015.</p> <p>Thirty percent (40) of them were children age 4 and under, and 22% (30) were between 5-14 of age.</p> <p>CDC Injury Prevention and Control: <a href="https://www.cdc.gov/injury/wisqars/LeadingCauses.html">https://www.cdc.gov/injury/wisqars/LeadingCauses.html</a></p> <p>Maryland Department of Health (2015). 2015 Statistics on Injury Related, Emergency Department Visits, Hospitalizations, and Death compiled by the Center for Injury and Sexual Assault Prevention.</p>
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			<p>U.S. Coast Guard: <a href="http://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2016.pdf">http://www.uscgboating.org/library/accident-statistics/Recreational-Boating-Statistics-2016.pdf</a></p> <p>MSDE has strengthened this regulation so that these deaths and emergency department visits do not happen young children in Maryland.</p> <p>MSDE is being proactive in looking at prevention rather than reactive after a death of a child.</p>
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Comments regarding COMAR 13A.16 Child Care Center and COMAR 13A.17 Letters of Compliance (LOC)  
Published in the Maryland Register October 11, 2019 through November 12, 2019

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response Rationale and Citations
<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A *See Attachment A</p> <p>The Commission on Child Care</p> <p>Clara Barton Center for Children</p> <p>MDAEYC</p>	<p><b>Pre-Service Trainings Need to be Reduced.</b></p> <p>Permitting training within the first six months of employment is a far more reasonable approach to ensuring a qualified and stable workforce. In addition to consistency for the timing of all training requirements, all three of these trainings have much more meaning for new hires after they have experience with the children in the program setting and are not necessary for a new hire on their first day of employment. Moreover, these trainings are not always available on demand and giving time to complete these trainings after hire allows the trainings to be worked into a convenient time during the new employee’s work day, thus reducing the costs to providers. Indeed, requiring pre-service training is such a financial commitment for child care providers that they may be less likely to fire someone who they have just paid to train, even if the new hire does not seem to be a good fit with young children. This is not in the best interest of children, families, and building quality programs.</p> <p><i>We thus respectfully request that you revise the proposed regulations to allow Health and Safety training, the ADA, and the breastfeeding training to be completed “within 180 days of employment” or at a minimum revise the ADA and the breastfeeding training to be “within 90 days of employment” and that all pre-service training requirements be deleted.</i></p>	<p><b>COMAR 13A.16.06.05 B 3(c)(5)</b> <b>(Child Care Centers)</b></p> <p>(also COMAR 13A.16.06.09 A(5), COMAR 13A.16.06.10 A(4), COMAR 13A.16.06.11 A(4), and COMAR 13A.16.06.12 A(3))</p> <p><b>Staff Requirements:</b> .05 Directors of All Child Care Centers General Requirements.</p> <p>B. To qualify as a director of a center, an individual shall:</p> <p>(3) Have successfully completed:</p> <p>(c) [Effective January 1, 2016,] 3 clock hours of approved training in complying with the Americans with Disabilities Act;</p> <p>(5) Effective January 1, 2020, have completed approved basic health and</p>	<p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p>Since these requirements are already in regulation and there is no proposed new language, MSDE has agreed that we will look at this for future regulation changes.</p> <p>Directors and teachers will still have the 2 preservice requirements of ADA training and Breastfeeding for infant/toddler teachers only.</p> <p><b>Rationale/Citation:</b></p> <p>Pre-service requirements are discussed in the CCDBG (5.2.3 b), Caring for Our Children (CFOC) 4<sup>th</sup> staff edition (1.3.2.1, 1.3.2.2, 1.3.2.3, 1.3.2.4) and as best practices in child care licensing with the National Association for the Education of Young Children (NAEYC), Academy of Early</p>

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		<p><i>safety training within 90 days of employment; and</i></p>	<p>Childhood Programs. According to NAEYC, “early childhood professional knowledge must be required whether programs are in private centers, public schools, or other settings. NAEYC’s Academy of Early Childhood Programs recommends multi-level training programs that address pre-employment educational requirements for entry level personnel.”</p> <p>The CCDBG uses the words “pre-service and orientation requirements” in discussing training required where the trainings must occur within 90 days of employment or pre-service.</p> <p>Maryland has determined the ADA and Breastfeeding training to be vital for providers to have prior to employment. These are the only 2 pre-service requirements for Maryland.</p> <p>The ADA pre-service training requirement trains the provider/staff on what the law states is required for reasonable</p>
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			<p>accommodations and what is discrimination against a family, child and staff member with a disability. In addition, the breast-feeding training, which is only required of infant/toddler provider/staff, is a necessity for supporting families and their children under the age of two as soon as they enter an infant or toddler room.</p> <p>The pre-service training requirement ensures that on day one of employment, staff has the requisite knowledge base to adequately care for all children. Because this is critical, family child care providers and child care facility staff are required to take the breast-feeding (infant/toddler providers ONLY) and ADA trainings as a pre-service requirement.</p> <p>Although these 2 trainings are currently pre-service, MSDE has agreed to review these requirements during the next iteration of proposed changes to regulation.</p>
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<p>Shulman, Rogers, Gandal, Porody &amp; Ecker P.A                      *See Attachment A</p> <p>The Commission on Child Care</p> <p>Clara Barton Center for Children</p>	<p><b>Child Care Providers Making Medical Determinations</b></p> <p>The proposed regulation would require a child care provider to have documentation that a child born after 2015 wasn't just screened, but received an actual blood test for lead at 12 and 24 months, no matter where they reside, and to exclude children from child care if they do not have evidence of such a test. This puts the child care provider in the position of having to review and overrule the judgment of the medical professional or else be cited for noncompliance. Additionally, if a 13 month-old or 25 month-old moves from out of state, and there was no such test required at the age of 12 months or 24 months, the parent would not be able to comply and the child would have to be excluded from care. Based on experience with a recent appeal for a violation of this provision, licensing specialists are quite strict about giving citations on this and OCC leadership was insistent that such a child should be excluded from care. However, pediatricians are not going to test a child if they did not live here, or if there is a medical reason not to do so.</p> <p><b>These proposed changes relating to lead testing should be rejected in full.</b></p> <ul style="list-style-type: none"> <li>The current regulation requires children to have a completed health form to be admitted and retained in care. Specifics about when lead tests are required should be addressed with the pediatricians and medical professionals required to perform them.</li> <li>If a lead test is going to be something that child care providers are going to be required to oversee, the</li> </ul>	<p><b>COMAR 13A.16.03.02 E (Child Care Centers)</b></p> <p><b>Management and Administration</b>                      .02 Admission to Care.</p> <p>E. If a child is younger than 6 years old at the time of admission, the operator may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the operator on a form supplied or approved by the Office that the child has received an appropriate lead screening <i>or test</i> in accordance with applicable State or local requirements.</p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments and will make the following changes to <b>COMAR 13A.16.03.02 E</b></p> <p>E. If a child is younger than 6 years old at the time of admission, the operator may not allow the child to remain in care if the parent does not, <b>[within 30 days after the child's admission] in accordance with COMAR 10.11.04,</b> submit evidence to the operator on a form supplied or approved by the Office that the child has received an appropriate lead screening <i>or test</i>. <b>[in accordance with applicable State or local requirements.]</b></p>

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	<p>requirements should be revised to require proof of such testing only for children younger than six who resided in Maryland and, if entering the program after the ages of 12 months and 24 months, actually had the testing done at those ages.</p> <ul style="list-style-type: none"><li>• Furthermore, the regulation should make clear that providers do not have to override or question the judgment of the pediatrician or medical professional.</li></ul>		<p><b>Rationale/Citation:</b></p> <p>The rationale is to ensure children are properly screened and/or tested for lead exposure. It is not the Agencies intent to put the responsibility of the actual testing on the provider. The requirement is a safeguard to ensure that all state required health mandates are met. If done properly, it is done in conjunction with enrollment requirements as part of the health inventory for children prior to admission to care.</p>
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		<p><b>COMAR 13A.16.03.04 E                  (Child Care Centers)</b></p> <p><b>Management and Administration</b>                  .04 Child Records.</p> <p>E. [If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law, unless the child is a school-age child who attends a school-age program located in the child’s school.] <i>The operator shall maintain documentation that, as required by State or local law, each child admitted to, or continuing in, care has received:</i></p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments and will make the following changes to the language to reflect:</p> <p>[If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law, unless the child is a school-age child who attends a school-age program located in the child’s school.] <i>The operator shall maintain documentation that, as required [by State or local law,] by COMAR 10.11.04, each child admitted to, or continuing in, care has received:</i></p>
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			<p><b>Rationale/Citation:</b></p> <p>The rationale is to ensure children are properly screened and/or tested for lead exposure. It is not the Agencies intent to put the responsibility of the actual testing on the provider. The requirement is a safeguard to ensure that all state required health mandates are met. If done properly, it is done in conjunction with enrollment requirements as part of the health inventory for children prior to admission to care.</p>
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<p>Shulman, Rogers, Gandal, Porody &amp; Ecker P.A *See Attachment A</p> <p>The Commission on Child Care</p> <p>Clara Barton Center for Children</p>	<p><b>Using the “Unlicensed Child Care Bill” Against Licensed Providers</b></p> <p>There is no definition of what constitutes an “advertisement.” There have been inconsistent explanations as to what would qualify from MSDE personnel. For example, there needs to be explicit guidance as to whether “advertisement” simply refers to mailings, flyers, and other methods of soliciting customers, which is what it should be.</p> <p>A sign on a provider’s building, uniforms worn by staff at the program, and spirit wear should not constitute advertisements. <b>Further clarification as to what constitutes an advertisement must be included.</b></p> <p>The requirements to list both the license and the license number are redundant. MSDE has indicated that including the license number would be sufficient. Because including the license number necessarily implies that the provider is licensed, the regulation should reflect this clarity and simply require the license number on any (defined) advertisements.</p>	<p><b>COMAR 13A.16.03.09 A</b> (Child Care Centers)</p> <p><b>Management and Administration</b> .09 Advertisement.</p> <p><i>A. An operator may not advertise child care services unless the center holds a current license issued by the office.</i></p>	<p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p><b>Rationale/Citation:</b></p> <p>In cooperation, the OCC and state associations worked together to ensure that families and provider/staff were protected against illegal child care by putting in the regulation that an advertisement for child care must include the license number on that advertisement. This requirement provides an objective way for consumers to verify that a child care program is indeed a regulated program. Advertisement is defined in statute, specifically Maryland Annotated Code, Education Article, § 9.5-</p>

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		<p><b>COMAR 13A.16.03.09 B (1)(2)</b>  <b>(Child Care Centers)</b></p> <p><b>Management and Administration</b>          .09 Advertisement.</p> <p><i>B. An advertisement of the center shall:</i></p> <p><i>(1) Specify that the center is licensed; and</i></p> <p><i>(2) Include the license number issued to the center by the office.</i></p>	<p>101(b) as “Advertisement” means a communication that is intended to influence a person to enter into an obligation or sign a contract for services.</p> <p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p><b>Rationale/Citation:</b></p> <p>In cooperation, the OCC and state associations worked together to ensure that families and provider/staff were protected against illegal child care by putting in the regulation that an advertisement for child care must include the license number on that advertisement. This requirement provides an objective way for consumers to verify that a child care program is indeed a</p>
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			<p>regulated program. Advertisement is defined in statute, specifically Maryland Annotated Code, Education Article, § 9.5-101(b) as “Advertisement” means a communication that is intended to influence a person to enter into an obligation or sign a contract for services.</p>
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<p>Shulman, Rogers, Gandal, Poridy &amp; Ecker P.A *See Attachment A</p> <p>The Commission on Child Care</p> <p>Clara Barton Center for Children</p>	<p><b>Stripping Providers of Due Process</b></p> <p>This proposal amends COMAR to give MSDE the ability to deny an initial or continuing license, or revoke a license, if the provider gives false information on any required forms “regardless of intent.” This amendment will give MSDE the power to revoke a license for even an innocent typo or inadvertent mistake. For example, if a provider submits a form in January 2019 and accidentally dates it January 2018 (instead of 2019), this date is technically “false information” and the license could be revoked for a simple typo. Given the number of forms providers are required to submit, this change would grant MSDE the power to revoke almost any provider’s license any time it wished. The regulation as currently written already allows MSDE to deny or revoke a license if a provider submits fraudulent information. MSDE should analyze how many other licensing statutes or regulations permit denial or revocation of a license for an unintentional oversight. It is highly unlikely that the legislature or Courts will permit MSDE to have such sweeping and broad power.</p> <p><b>This provision should only apply to intentional misrepresentations or material omissions, which is the current language in the regulation. No revision is necessary and this section should be deleted.</b></p>	<p><b>COMAR 13A.16.02.06 A (2)</b> (Child Care Centers)</p> <p><b>License Application and Maintenance</b> .06 Denial of License.</p> <p>A. An office may deny an application for an initial license or a continuing license if:</p> <p>(2) An evaluation of the application form, <i>medical documents, or any documents required</i> by the office reveals that the applicant, <i>regardless of intent</i>, reported false information;</p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments and will remove the words “regardless of intent” and revert to original regulation language in COMAR 13A.16.02.A (2)</p> <p>(2) An evaluation of the application form, <i>medical documents, or any documents required</i> by the office reveals that the applicant, <i>[regardless of intent,]</i> reported false information;</p>

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		<p><b>COMAR 13A.16.17.07 A (2)</b>  <b>(Letter of Compliance)</b></p> <p><b>Inspections, Complaints,                  and                  Enforcement</b>                  .07 Revocation.</p> <p><b>A. The office may revoke a                  license if:</b></p> <p>(2) An operator, <i>regardless of                  intent</i>, misrepresented or                  offered false information on                  the application or on any form                  or report required                  by the office;</p>	<p><b>Response:</b></p> <p>MSDE agrees with the                  comments and will                  remove the words                  “regardless of intent” and                  revert to original                  regulation language in                  COMAR 13A.17.02.A (2)</p> <p>(2) An operator,  <i>[regardless of intent]</i>,                  misrepresented or offered                  false information on the                  application or on any form                  or report required                  by the office;</p>
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<p>Association of Independent Schools of Greater Washington (AISGW)</p> <p>Association of Independent Maryland and DC Schools (AIMS)</p>	<p>We request that accredited independent schools should be exempt from the staff and director requirements set forth in Section 13A.16.06 of the COMAR regulations. This request, if granted, would essentially mirror the exemption that is available for Public Schools in the state of Maryland. Alternatively, the COMAR regulations should be modified to allow for built-in flexibility for accredited independent schools in the areas of director and teacher certifications; student-teacher ratios; and paperwork compliance. These changes would properly recognize the unique status of accredited independent schools among other child care facilities that are subject to Child Care COMAR regulations.</p> <p>Specific COMAR changes we propose, in addition to the changes set forth in the Maryland Register, are as follows:</p> <p><b>13A.16.01.02 Definitions</b></p> <p>“Accredited Independent Nursery School” means an education program in a nonpublic nursery school that has been validated by a state-recognized validating organization as meeting, at a minimum, acceptable standards regarding teacher qualifications, written curriculum, instructional methods, and materials and equipment.</p>	<p><b>13A.16.01.02 (9) (Child Care Center)</b></p> <p>.02 Definitions</p> <p>(9) “Approved Montessori school” means an educational program in a nonpublic nursery school that has been validated by a Montessori validating organization as meeting, at a minimum, Montessori school standards regarding teacher qualifications, written curriculum, instructional methods, and materials and equipment.</p>	<p><b>Response:</b></p> <p>MSDE will meet with the stakeholders and get feedback to include these items in future iterations of the regulations. The Association of Independent Maryland Schools (AIMS) is requesting substantive changes that will affect the program in regards to ratios of teachers to children, qualifications for directors and staff and what is considered to be a “validating organization” in the State of Maryland. This requires extensive research and was not a change/addition in the proposed regulations either time it was posted on the Maryland Register.</p>

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	<p><b>13A.16.02.01 License – General Requirements</b></p> <p>C. Approved Montessori School and Accredited Independent Nursery School.</p> <p>(1) Except as set forth in Section C(2) of this regulation, an approved Montessori school and Accredited Independent Nursery School shall meet all applicable requirements of this subtitle regarding: (remaining text unchanged)</p> <p>(2) The following regulations of this subtitle do not apply to an approved Montessori school and an Accredited Independent Nursery School: (remaining text unchanged)</p>	<p><b>13A.16.02.01 C(1)(2) (Child Care Center)</b></p> <p><b>License Application and Maintenance</b> .01 License</p> <p>C. Approved Montessori School.</p> <p>(1) Except as set forth at §C(2) of this regulation, an approved Montessori school shall meet all applicable requirements of this subtitle regarding:</p> <p>(2) The following regulations under this subtitle do not apply to an approved Montessori school:</p>	<p><b>Response:</b></p> <p>MSDE will meet with the stakeholders and get feedback to include these items in future iterations of the regulations. The Association of Independent Maryland Schools (AIMS) is requesting substantive changes that will affect the program in regards to ratios of teachers to children, qualifications for directors and staff and what is considered to be a “validating organization” in the State of Maryland. This requires extensive research and was not a change/addition in the proposed regulations either time it was posted on the Maryland Register.</p>
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	<p><b>13A.16.08.03E(2) Group Size and Staffing</b></p> <p>A nursery school may not exceed a staff/child ratio or group size requirement set forth at Section E(1) of this regulation, except that a Montessori school that has been approved by the Department and an Accredited Independent Nursery School may exceed a staff/child ratio or group size requirement by no more than 1/3.</p>	<p><b>13A.16.08.03 E(2) (Child Care Center)</b></p> <p><b>Child Supervision</b>                  .03 Group Size and Staffing.</p> <p>E. Group Size and Staffing in Approved Educational Programs.</p> <p>(2) A nursery school may not exceed a staff/child ratio or group size requirement set forth at §G(1) of this regulation, except that a Montessori school that has been approved by the Department may exceed a staff/child ratio or group size requirement by no more than 1/3.</p>	<p><b>Response:</b></p> <p>MSDE will meet with the stakeholders and get feedback to include these items in future iterations of the regulations. The Association of Independent Maryland Schools (AIMS) is requesting substantive changes that will affect the program in regards to ratios of teachers to children, qualifications for directors and staff and what is considered to be a “validating organization” in the State of Maryland. This requires extensive research and was not a change/addition in the proposed regulations either time it was posted on the Maryland Register.</p> <p><b>Rationale/Citation:</b></p> <p>The Association of Independent Maryland Schools (AIMS) is requesting substantive changes that will affect the program in regards to ratios of teachers to</p>
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			<p>children, qualifications for directors and staff and what is considered to be a “validating organization” in the State of Maryland. This requires extensive research and was not a change/addition in the proposed regulations either time it was posted on the Maryland Register.</p>
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<p>Shulman, Rogers, Gandal, Porody &amp; Ecker P.A                      *See Attachment A</p> <p>The Commission on Child Care</p>	<p><b>Unfunded Mandate</b></p> <p>Section A.2 of this proposal requires that “[t]he medical evaluation shall be signed by the individual who conducted the evaluation...” However, consistent with common practice in the medical industry, medical evaluation forms are not always signed by the person who performed the evaluation, but may instead be signed by the medical provider’s authorized agent. For example, employees may be able to have the form completed without a new physical if one was completed recently, and sometimes, administrative staff complete the form based on doctors/nurse practitioner’s notes. Often forms are returned from doctors’ offices filled out by administrative staff and “stamped” with the medical facility’s name and address rather than an actual signature from the doctor.</p> <p><b>We suggest deleting this language requiring a signature from the person providing the exam. The form supplied by OCC can have a space for a signature, but the medical facility can sign it consistent with its procedures for completing paperwork.</b></p>	<p><b>COMAR 13A.16.06.04 (1)(2)                      (Child Care Centers)</b></p> <p><b>Staff Requirements</b></p> <p>.04 Staff Health.</p> <p>A. Medical Evaluation.</p> <p>(1) An operator shall obtain a medical evaluation[, including a tuberculosis screen, if indicated], conducted by a practicing physician, certified nurse practitioner, or registered physician’s assistant, on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the center, from each prospective:</p> <p>(2) <i>The medical evaluation shall be signed by the individual who conducted the evaluation and include</i></p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments and will change the language to state:</p> <p><i>(2) The medical evaluation shall be signed by the individual who conducted the evaluation or his or her designee and include verification that the staff member:</i></p>

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		<i>verification that the staff member:</i>	
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<p>Maryland State Family Child Care Association (MSFCCA)</p> <p>*See Attachment B</p>	<p>MSFCCA supports the comments by other stakeholders and suggests that the language in this regulation is not consistent with actual common practice in the medical industry.</p> <p>Medicals are completed in a provider’s life for various reasons, though they may not always be child care related.</p> <p>Due to difficulty with scheduling daytime doctor office visits, the practice of using a recent physical to renew a child care registration is common. When the required paperwork is faxed or dropped off at a physician’s office, to be completed, it will likely be by an authorized agent of the facility, not the performing physician, and stamped with the office name and address in lieu of the actual signature of the physician who performed the physical. MSFCCA suggests removing the language requiring an actual signature <b>“by the individual who conducted the evaluation”</b> and adding an additional space for the medical office to use their standard signature protocol when applicable.</p>	<p><b>COMAR 13A.17.06.04 A(4) (Letters of Compliance)</b></p> <p><b>Staff Requirements</b></p> <p>.04 Staff Health.</p> <p>A. Medical Evaluation.</p> <p><i>(4) The medical evaluation shall be updated every 5 years, measured from the individual’s date of hire.</i></p>	<p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p><b>Rationale/Citation:</b></p> <p>The OCC has taken the recommendation from CFOC which states in Standard 1.7.0.1: Pre-employment and Ongoing Adult Health Appraisals, including Immunizations, “All paid and volunteer staff members should have a health appraisal before their first involvement in child care work.</p> <p>The purpose of the examination is for pre-employment or annual re-examination”. The Child Care Health Assessment specifically calls for the physician to indicate the purpose of the examination.</p>

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			The purpose of changing this regulation to require child care center staff to have a re-examination every five years is to ensure the staff is physically and mentally capable to continue caring care for young children. .
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<p>Association of Independent Schools of Greater Washington (AISGW)</p> <p>Association of Independent Maryland and DC Schools (AIMS)</p>	<p>New statutory requirements were implemented requiring all schools within the state to institute a multi-layered background check for all applicants of school positions, including substitute teachers.</p> <p>This law applies to all AISGW and AIMS schools. The proposed COMAR regulation, 13.A17.06.05(C), requires that any substitute teacher also be approved by the Office of Childcare in addition to this background check. Our schools will be in full compliance with the new background check law and need not gain additional, and potentially time-consuming, approval from the Office of Childcare in order to protect the health, safety and welfare of our students.</p>	<p style="text-align: center;"><b>COMAR 13.A17.06.05 C (1)(2)(3) (Letters of Compliance)</b></p> <p style="text-align: center;"><b>Staff Requirements</b> .05 Substitutes</p> <p><i>C. Approval by Office.</i></p> <p><i>(1) An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.</i></p> <p><i>(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.</i></p> <p><i>(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.</i></p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments and will delete the proposed language and the regulations will revert to the original text in COMAR 13A.17.05.</p> <p>Substitutes will be treated the same as other staff, which require certain clearances to be obtained prior to working.</p> <p><i>[C. Approval by Office.</i></p> <p><i>(1) An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.</i></p> <p><i>(2) If information received by the office indicates that an individual designated as a</i></p>

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			<p><i>substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.</i></p> <p><i>(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.]</i></p>
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A *See Attachment A</p> <p>The Commission on Child Care</p> <p>Clara Barton Center for Children</p>	<p><b>Unworkable Process</b></p> <p>Providers are not required to get “pre-approval” for permanent staff before using them, and the requirement should be no different for substitutes.</p> <p>Substitutes are often needed on short notice and it is not feasible for programs that rarely use substitutes to maintain an active list of approved substitutes.</p> <p>For larger programs with multiple sites, it would also mean that multiple MSDE licensing specialists would need to approve the same substitute as many programs have different specialists who oversee them, but use the same substitutes. 4. Providers often have to wait months to get responses from MSDE’s licensing specialists for personnel qualifications on new hires. With the new requirement for substitutes, it could further lengthen response times which are already unacceptable. It recently took 49 business days to conduct a single evaluation of a background check and child protective services clearance on one employee who had already been cleared to work for eight months in Region 5. It is unrealistic to imagine that licensing specialists have the capacity to take on a new substitute approval process.</p> <p><b>Substitutes should be treated the same as new hires in that providers should have five (5) days from the date of “hire” or the date the substitute is used to send paperwork in to Licensing to demonstrate the substitute is qualified. There</b></p>	<p><b>COMAR 13A.16.06.13 F (1)(2)(3) (Child Care Centers)</b></p> <p><b>Staff Requirements;</b> .13 Substitutes.</p> <p><i>F. Approval by Office.</i></p> <p><i>(1) An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.</i></p> <p><i>(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.</i></p> <p><i>(3) The office shall notify the operator of its decision to approve or disapprove a substitute within 30 days of the request being submitted.</i></p>	<p><b>Response:</b></p> <p>MSDE agrees with the comments and will delete the proposed language and the regulations will revert to the original text in COMAR 13A.16.06.13.</p> <p>Substitutes will be treated the same as other staff, which require certain clearances to be obtained prior to working.</p> <p><i>[F. Approval by Office.</i></p> <p><i>(1) An individual designated as a substitute may not be used in that capacity unless the office has approved the individual.</i></p> <p><i>(2) If information received by the office indicates that an individual designated as a</i></p>

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	<p><b>should be no requirement for reporting to MSDE when a substitute is used.</b></p>		<p><i>substitute may present a risk to the health, safety, or welfare of children in care, the office may disapprove the use of that substitute.</i></p> <p><i>(3) The office shall notify the operator of its decision to approve or disapprove a substitute within 30 days of the request being submitted.]</i></p>
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<p>Shulman, Rogers, Gandal, Porfy &amp; Ecker P.A                      *See Attachment A                       The Commission on Child Care</p>	<p><b>Vague and Confusing New Requirement</b></p> <p>The proposed changes to section 13A.16.03.06.E(1) and the existing language of 13A.16.02.02 include the phrase “individuals living on the child care premises” to those who are required to have background checks and to the requirement that MSDE be notified immediately if an employee “or individual living on the child care premises” comes under investigation. However, this phrasing is too vague. We understand that some child care facilities are considered “centers” despite that they are operated out of a residence, and these regulations should apply to such centers. However, because there is no definition of “child care premises,” it is unclear how this regulation would apply to centers that operate in a church building where individuals may also reside on the same campus or when there is a center operating on the retail level of an apartment or other residential building. Clearly a center operator cannot control individuals who may live in the same building if the operator does not own or control the residential portions of the building.</p> <p><b>As such, the regulation should be amended to reflect that these provisions only apply to centers operated within private residences owned by the operator.</b></p>	<p><b>COMAR 13A.16.03.06. E(1)                      (Child Care Centers)</b></p> <p><b>Management and Administration</b>                      06. Notifications.</p> <p>E. Immediately notify the office of:</p> <p>(1) An employee <i>or individual living on the child care premises</i> who is under investigation for:</p>	<p><b>Response:</b></p> <p>MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p><b>Rationale/Citation:</b></p> <p>This sets out the requirement that an individual living on the child care premises is to undergo a criminal background check and Child Protective Services clearance. This requirement ensures that any individual who might have contact with child care children are also subjected to the Criminal Background Check requirement detailed in the CCDBG law. The OCC would not limit this requirement to child care facilities in private residences because there are instances where individuals have used child care facilities as dwellings—these individuals should also be included in the</p>

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			<p>background check requirement as outlined in the CCDBG. CCDBG § 98.43 Criminal Background Checks: The reauthorization added Section 658H on requirements for comprehensive criminal background checks, which are a basic safeguard essential to protect the safety of children in child care and reduce children’s risk of harm. Parents have the right to be confident that their children’s caregivers, and others who come into contact with their children, do not have a record of violent offenses, sex offenses, child abuse or neglect, or other behaviors that would disqualify them from caring for children.</p>
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Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response Rationale and Citations
MDAEYC	<p>MDAEYC requests that the criminal background check and child abuse and neglect clearances required for child care center program employees, staff, and substitutes not be required for volunteers. The costs associated with criminal background checks are likely to discourage volunteers from being involved in child care programs, which would be a loss of the enrichment volunteers can provide. When a parent or grandparent comes into the classroom to interact with children, sharing a story or a cooking project, there are benefits for children and families, including greater engagement with the program, and the potential for sharing of diverse cultural perspectives. We recommend as an alternative that there be a supervision requirement for a staff member to always be present when a volunteer is with children in care.</p>	<p><b>COMAR 13A.16.02.01 I(1)(2) (Child Care Centers)</b></p> <p><b>License Application and Maintenance</b>                  .01 License General Requirements.</p> <p><i>I. The operator may not allow an employee, staff member, substitute, or volunteer to:</i></p> <p><i>(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</i></p> <p><i>(2) Be alone with a child or group of children until all checks have been successfully passed.</i></p>	<p><b>Response:</b> MSDE respectfully disagrees and will make no changes to the proposed regulation.</p> <p><b>Rationale/Citation:</b> In the 2018 Office of Legislative Audits (OLA) findings, the Division of Early Childhood (DEC) was noted as not “adequately supervising volunteers.” In response to this audit, DEC has agreed that ensuring the adequate supervision of volunteers will be strengthened by having volunteers and substitutes complete comprehensive criminal background checks and entering them into CCATS. By doing this and reviewing sign in and sign out procedures at each program, the OLA is in agreement that proper controls have been put in place to ensure volunteers are being adequately supervised. In addition, the CCDBG § 98.43 Criminal Background Checks: The</p>

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			reauthorization added Section 658H on requirements for comprehensive criminal background checks, which are a basic safeguard essential to protect the safety of children in child care and reduce children's risk of harm. Parents have the right to be confident that their children's caregivers, and others who come into contact with their children, do not have a record of violent offenses, sex offenses, child abuse or neglect, or other behaviors that would disqualify them from caring for children.
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<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response Rationale and Citations</b>
<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A *See Attachment A</p> <p>The Commission on Child Care</p>	<p>As a preliminary matter, the fiscal note in the preamble does not recognize the significant cost to providers as a result of the wages and other costs any providers must pay for the new mandatory training. If providers are required to pay for an average of three (3) hours of new training at the average wage of \$15/hour for each of the estimated 43,000 child care workers cited in the preamble to the February 15, 2019 version of the proposed regulations, child care providers will incur more than \$2,000,000 in wage related expenses.</p> <p>Similarly, if those 43,000 child care workers must get medical exams at an average cost of \$100 each, that is another \$4,300,000. Because medical exams are required based on employee hire anniversary dates, a portion of this expense will become an annual expense for providers and/or child care workers.</p> <p>Similarly, the costs to process fingerprints were reimbursed on a one-time basis in FY18 and FY19 by OCC; however, incremental fingerprinting costs will also become an on-going annual expense if a periodic renewal process is implemented. There are also additional administrative costs to tracking the additional requirements, and providers are required to pay their employees for completing the proposed new training. These new burdens on providers and child care workers are significant and require MSDE to take them into consideration, especially in connection with other unfunded mandates. Please advise our clients if MSDE has performed an economic analysis that reflects the additional burdens or whether the Office of Child</p>	<p><b>Fiscal Note Omits Full Costs to Providers</b></p>	<p><b>Response:</b> The fiscal impact statements for training took into consideration that those wishing to enter the child care field have 2 pre-service requirements (Basic Health &amp; Safety has been changed to within 90 days of employment), the ADA and Breastfeeding (breastfeeding training is only required of providers working in an infant/toddler room). These 2 trainings should not be a burden to the child care program as these are pre-service, which means a person wishing to enter the field of child care should already have these 2 trainings prior to starting. In addition, the Basic Health &amp; Safety training is a free, online training for all providers. There is no fiscal impact to child care programs.</p> <p>The fiscal impact statements for medical exams states that</p>

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	<p>Care has calculated this amount differently. In the past, MSDE has often taken the position the child care programs do not need to pay hourly and overtime wages for staff to take required trainings. This is inconsistent with legal advice that providers have been given on the applicable labor laws</p> <p><b>We request that the fiscal impact of this proposal be revised to include this analysis, and that the regulations should not be placed into effect until the true “fiscal impact” is explained.</b></p>		<p>“the estimated cost of each medical is between \$75-\$125 depending on health insurance, copays, etc. Using this estimate, approximately 16,110 people will be spending \$100 for a medical every 5 years, which would be an approximate cost of 805,500 every 5 years.” Careful consideration was given to the fiscal impact statements by MSDE.</p> <p>The fiscal impact statements for criminal background checks (CBC) is not an annual cost. This cost is also based on a 5-year cycle. Providers will need to have all clearances and CBC’s completed on this 5-year cycle. Maryland is part of the RAP Back program which allows any alerts on anyone fingerprinted or cleared by MSDE, to be sent to MSDE immediately so that person can be evaluated for suitability for employment.</p>
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October 15, 2019

**VIA EMAIL AND FEDEX**[earlychildhoodregs.msde@maryland.gov](mailto:earlychildhoodregs.msde@maryland.gov)

Tara Bartosz  
Assistant to the Director, Office of Child Care  
Division of Early Childhood Education  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201



Re: **2<sup>nd</sup> Version of the Proposed Revisions to Child Care Regulations –  
Comments and Suggested Changes to the COMAR Revisions**

Dear Ms. Bartosz:

This Firm represents Rock Spring Children's Center ("Rock Spring"), The Goddard School of King Farm, The Goddard School of Bethesda, The Goddard School of Clarksburg, The Goddard School of Ellicott City (the "Named Goddard Schools"), Georgetown Hill Early School ("GHES") Gaithersburg, GHES Potomac, GHES Clarksburg, GHES Darnestown, GHES North Potomac, GHES Riverdale, GHES North Bethesda, and GHES Rockville (collectively "Georgetown Hill"), Montgomery County Childcare Association ("MCCA") Arcola, MCCA Ashburton/Wyngate, MCCA Bel Pre, MCCA Beverly Farms, MCCA Beverly Farms Ivymount, MCCA Brooke Grove, MCCA Garrett Park, MCCA Georgian Forest, MCCA Greenwood, MCCA Jones Lane, MCCA Kensington/Forest Glen, MCCA Park Street, MCCA River Road, MCCA Weller Road (collectively also "MCCA") in connection with the Maryland State Department of Education's ("MSDE") proposed child care licensing regulations which were approved for publication on April 23, 2019 and published for public comment on October 11, 2019 ("the Proposed Regulations"). Thank you for the opportunity to submit comments regarding MSDE's proposal. Rock Spring, the Named Goddard Schools, Georgetown Hill and MCCA support MSDE's efforts to increase quality, affordable and safe child care throughout the State, and believe that these regulations can enhance this goal.

As you are aware, my clients expressed concerns about the last version of Proposed Regulations that were published on February 15, 2019. When MSDE failed to indicate an intent to make modifications that would address our concerns during the comment period, we believed it necessary to ask the State Legislature's Joint Committee on Administrative, Executive, and Legislative Review ("AELR") to intervene. On April 1, 2019, AELR issued a letter requesting a hold on the Proposed Regulations and encouraged MSDE "to work together with the stakeholders to resolve the issues raised by stakeholders concerning these regulations." Unfortunately, no such collaboration occurred.



MSDE prepared a summary for MSDE's Board of Education meeting on April 23, 2019 and indicated where it proposed to make changes to the proposed regulations based on public comment. Unfortunately, MSDE only fully addressed one of the nine areas of concern that we raised. As such, we are again submitting changes that should be made to the proposed regulations and requesting that a full explanation be provided by MSDE as to its justification for failing to modify the regulations as outlined in this correspondence.

MSDE has claimed on several occasions that these proposed regulations are mandated by new federal requirements. However, the Proposed Regulations are not limited to changes required for federal compliance and contain changes that have nothing to do with federal requirements ("the Additional Proposed Changes"). Most of the concerns we are raising concern the Additional Proposed Changes. The modifications suggested below will: (i) decrease the potential costs for providers as contrasted with the proposed regulations as written; (ii) clarify language so that both providers and licensing specialists can better understand the new requirements; (iii) maintain the due process rights of providers; and (iv) will not affect MSDE's compliance goal with new federal requirements. Our proposed modifications are also in line with MSDE's goal for more widespread, affordable early child care:

#### 1. Fiscal Note Omits Full Costs to Providers

As a preliminary matter, the fiscal note in the preamble does not recognize the significant cost to providers as a result of the wages and other costs any providers must pay for the new mandatory training. If providers are required to pay for an average of three (3) hours of new training at the average wage of \$15/hour for each of the estimated 43,000 child care workers cited in the preamble to the February 15, 2019 version of the proposed regulations, child care providers will incur more than \$2,000,000 in wage related expenses. Similarly, if those 43,000 child care workers must get medical exams at an average cost of \$100 each, that is another \$4,300,000. Because medical exams are required based on employee hire anniversary dates, a portion of this expense will become an annual expense for providers and/or child care workers. Similarly, the costs to process fingerprints were reimbursed on a one-time basis in FY18 and FY19 by OCC; however, incremental fingerprinting costs will also become an on-going annual expense if a periodic renewal process is implemented. There are also additional administrative costs to tracking the additional requirements, and providers are required to pay their employees for completing the proposed new training.<sup>1</sup> These new burdens on providers and child care workers are significant and require MSDE to take them into consideration, especially in connection with other unfunded mandates. Please advise our clients if MSDE has performed an economic analysis that reflects the additional burdens or whether the Office of Child Care has calculated this amount differently. We

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<sup>1</sup> In the past, MSDE has often taken the position the child care programs do not need to pay hourly and overtime wages for staff to take required trainings. This is inconsistent with legal advice that providers have been given on the applicable labor laws.



**request that the fiscal impact of this proposal be revised to include this analysis, and that the regulations should not be placed into effect until the true “fiscal impact” is explained.**

**2. More Unfunded Mandates - COMAR 13A.16.06.05 Staff Requirements (also 13A.16.06, .09, .10, .11 and .12) - Pre-Service Trainings Need to be Reduced**

Providers have been raising cost and feasibility concerns about the additional training requirements that have been added over the past several years. While we appreciate that the latest revision of the Proposed Regulations gives newly hired staff 90 days to register for and complete the Health and Safety training, the ADA and breastfeeding training that were added as pre-service requirements in 2016 were not similarly adjusted. These added trainings are all unfunded mandates that increase costs for providers; costs that are ultimately passed through to parents who pay for child care. Employers must pay workers to take mandatory trainings based on wage and hour laws which results in additional salary costs and potentially overtime. Training as a pre-service requirement creates a significant barrier in the hiring process for child care providers.

In addition, it sometimes takes months for OCC to process new hire paperwork and complete background checks. This means that providers must pay for training not knowing whether the child care worker will ultimately be approved to work in the child care program. This is a waste of precious resources.

Permitting training within the first six months of employment is a far more reasonable approach to ensuring a qualified and stable workforce. In addition to consistency for the timing of all training requirements, all three of these trainings have much more meaning for new hires after they have experience with the children in the program setting and are not necessary for a new hire on their first day of employment. Moreover, these trainings are not always available on demand and giving time to complete these trainings after hire allows the trainings to be worked into a convenient time during the new employee’s work day, thus reducing the costs to providers. Indeed, requiring pre-service training is such a financial commitment for child care providers that they may be less likely to fire someone who they have just paid to train, even if the new hire does not seem to be a good fit with young children. This is not in the best interest of children, families, and building quality programs. **We thus respectfully request that you revise the proposed regulations to allow Health and Safety training, the ADA, and the breastfeeding training to be completed “within 180 days of employment” or at a minimum revise the ADA and the breastfeeding training to be “within 90 days of employment” and that all pre-service training requirements be deleted.**



3. **Child Care Providers Making Medical Determinations - COMAR 13A.16.03.02 and .04 Child Records/Lead Testing**

Under the current regulations, to admit and retain a child in care, a child care provider is required to have a completed health form that provides evidence of a medical evaluation, immunizations and a “lead screening” which is a simple review by a pediatrician or other medical professional that is marked on the health form. The lead screening may or may not lead to a lead test, but that is an issue between the pediatrician and the parent.

The proposed regulation would require a child care provider to have documentation that a child born after 2015 wasn’t just screened, but received an actual blood test for lead at 12 and 24 months, no matter where they reside, **and to exclude children from child care if they do not have evidence of such a test.** This puts the child care provider in the position of having to review and overrule the judgment of the medical professional or else be cited for noncompliance. Additionally, if a 13 month-old or 25 month-old moves from out of state, and there was no such test required at the age of 12 months or 24 months, the parent would not be able to comply and the child would have to be excluded from care. Based on experience with a recent appeal for a violation of this provision, licensing specialists are quite strict about giving citations on this and OCC leadership was insistent that such a child should be excluded from care. However, pediatricians are not going to test a child if they did not live here, or if there is a medical reason not to do so.

If the State wants to require lead testing at certain intervals for certain children, it should be doing so through the pediatricians and medical professions, not through a back-door regulation imposed on child care providers. A child should not be excluded from care for the lack of a lead test as it poses no risk to other children and has no relation to whether a child can safely be in child care.

Another issue is that the current regulation only requires the lead screening for children younger than 6 and there is a carve out for school-age children. The proposed regulation contains no such limitation. As of 2020 and thereafter, children who were born in 2015 will be 5 years old and in school age programs. It does not make sense for school age programs to have to exclude children from care if parents do not have documentation of these tests that would have had to take place years prior when the children were infants and toddlers and when they may not have even lived in Maryland at the time. Thus, the current carve out for school-age children must be maintained.



*These proposed changes relating to lead testing should be rejected in full.*

- *The current regulation requires children to have a completed health form to be admitted and retained in care. Specifics about when lead tests are required should be addressed with the pediatricians and medical professionals required to perform them.*
- *If a lead test is going to be something that child care providers are going to be required to oversee, the requirements should be revised to require proof of such testing only for children younger than six who resided in Maryland and, if entering the program after the ages of 12 months and 24 months, actually had the testing done at those ages.*
- *Furthermore, the regulation should make clear that providers do not have to override or question the judgment of the pediatrician or medical professional.*

**4. Using the “Unlicensed Child Care Bill” Against Licensed Providers - COMAR 13A.16.03.09 – Advertisement**

This proposed revision takes the Maryland law that was passed to deter unlicensed and unsafe child care and puts it into regulations that will be used to cite licensed providers. This is unnecessary and not consistent with the intent of the law. Therefore, the requirement should be removed from the regulations.

If it remains, the proposed regulation raises two concerns.

First, there is no definition of what constitutes an “advertisement.” There have been inconsistent explanations as to what would qualify from MSDE personnel. For example, there needs to be explicit guidance as to whether “advertisement” simply refers to mailings, flyers, and other methods of soliciting customers, which is what it should be. A sign on a provider’s building, uniforms worn by staff at the program, and spirit wear should not constitute advertisements. *Further clarification as to what constitutes an advertisement must be included.*

Second, the requirements to list both the license and the license number are redundant. MSDE has indicated that including the license number would be sufficient. *Because including the license number necessarily implies that the provider is licensed, the regulation should reflect this clarity and simply require the license number on any (defined) advertisements.*

**5. Stripping Providers of Due Process -- COMAR 13A.16.02.06 & 16.17.07**

**This is a disturbing change that strips a significant due process right from child care providers.** This proposal amends COMAR to give MSDE the ability to deny an initial or continuing license, or revoke a license, if the provider gives false information on any required forms “regardless of intent.” This amendment will give MSDE the power to revoke a license for



even an innocent typo or inadvertent mistake. For example, if a provider submits a form in January 2019 and accidentally dates it January 2018 (instead of 2019), this date is technically “false information” and the license could be revoked for a simple typo. **Given the number of forms providers are required to submit, this change would grant MSDE the power to revoke almost any provider’s license any time it wished.** The regulation as currently written already allows MSDE to deny or revoke a license if a provider submits fraudulent information. MSDE should analyze how many other licensing statutes or regulations permit denial or revocation of a license for an unintentional oversight. It is highly unlikely that the legislature or Courts will permit MSDE to have such sweeping and broad power. *This provision should only apply to intentional misrepresentations or material omissions, which is the current language in the regulation. No revision is necessary and this section should be deleted.*

**6. Another Unfunded Mandate - COMAR 13A.16.06.04 Staff Health - Medical Evaluations must be signed by the practitioner**

Section A.2 of this proposal requires that “[t]he medical evaluation shall be signed by the individual who conducted the evaluation...” However, consistent with common practice in the medical industry, medical evaluation forms are not always signed by the person who performed the evaluation, but may instead be signed by the medical provider’s authorized agent. For example, employees may be able to have the form completed without a new physical if one was completed recently, and sometimes, the physician’s administrative staff complete the form based on doctors/nurse practitioner’s notes. Indeed, frequently forms are returned from doctors’ offices completed by administrative staff and “stamped” with the medical facility’s name and address rather than an actual signature from the doctor. *We thus request deleting the proposed language requiring a signature from the person providing the exam. The form supplied by MSDE can have a space for a signature, but the medical facility should be permitted to sign it consistent with its procedures for completing paperwork.*

**7. An Unworkable Process -- COMAR 13A.16.06.13 – Substitutes**

This proposal includes a new section F, which will require providers to apply to MSDE for approval of a substitute. This is not workable for a number of reasons:

1. Providers are not required to get “pre-approval” for permanent staff before using them, and the requirement should be no different for substitutes.
2. Substitutes are often needed on short notice and it is not feasible for programs that rarely use substitutes to maintain an active list of approved substitutes.



3. For larger programs with multiple sites, it would also mean that multiple MSDE licensing specialists would need to approve the same substitute as many programs have different specialists who oversee them, but use the same substitutes.
4. **Providers often have to wait months to get responses from MSDE’s licensing specialists for personnel qualifications on new hires.** With the new requirement for substitutes, it could further lengthen response times which are already unacceptable. It recently took 49 business days to conduct a single evaluation of a background check and child protective services clearance on one employee who had already been cleared to work for eight months in Region 5. It is unrealistic to imagine that licensing specialists have the capacity to take on a new substitute approval process.

**Substitutes should be treated the same as new hires in that providers should have five (5) days from the date of “hire” or the date the substitute is used to send paperwork in to Licensing to demonstrate the substitute is qualified. There should be no requirement for reporting to MSDE when a substitute is used.**

**8. A Vague and Confusing New Requirement - COMAR 13A.16.02.02 and 13A.16.03.06.E(1) – “individuals living on the child care premises”**

The proposed changes to section 13A.16.03.06.E(1) and the existing language of 13A.16.02.02 include the phrase “individuals living on the child care premises” to those who are required to have background checks and to the requirement that MSDE be notified immediately if an employee “or individual living on the child care premises” comes under investigation. However, this phrasing is too vague. We understand that some child care facilities are considered “centers” despite that they are operated out of a residence, and these regulations should apply to such centers. However, because there is no definition of “child care premises,” it is unclear how this regulation would apply to centers that operate in a church building where individuals may also reside on the same campus or when there is a center operating on the retail level of an apartment or other residential building. Clearly a center operator cannot control individuals who may live in the same building if the operator does not own or control the residential portions of the building. **As such, the regulation should be amended to reflect that these provisions only apply to centers operated within private residences owned by the operator.**

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As set forth more fully above, we believe that these modest revisions to the proposed regulations will enhance MSDE's efforts to expand the reach of affordable child care throughout the State and also maintain MSDE's federal compliance goals. If these important changes are not made and the regulations go into effect without revisions, licensed care will be significantly more expensive, which will definitively have a negative effect on providers' ability to stay in business.

Our clients would be more than willing to meet with you and your staff to discuss the foregoing concerns in more detail and to further collaborate on the important topic of early child care regulation in Maryland. Please communicate with me if you would like to set up a meeting, or if you would otherwise like additional information about the foregoing.

Sincerely,

**SHULMAN, ROGERS, GANDAL,  
PORDY & ECKER, P.A.**

By: 

Kristin Draper

Copy: Dr. Karen B. Salmon, Office of the State Superintendent  
Dr. Carol A. Williamson, Office of the Deputy for Teaching and Learning  
Steven Hicks, Assistant State Superintendent  
Jennifer Nizer, Director, Office of Childcare  
Shaun M. Rose, President, Rock Spring Children's Center  
Michelle M. Green, Executive Director, Montgomery Child Care Association  
Mr. Ross Flax, President, Goddard School of Clarksburg, Goddard School of Bethesda,  
Goddard School of King Farm and Goddard School of Ellicott City  
Peter Cromwell, President, Georgetown Hill Early School  
Lawrence A. Shulman, Esquire





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Comments on the Proposed Changes to the Licensing Regulations

1 message

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**Teri Bickel** <TBickel@frederick.edu>

Mon, Oct 28, 2019 at 1:38 PM

To: "earlychildhoodregs.msde@maryland.gov" &lt;earlychildhoodregs.msde@maryland.gov&gt;

Cc: "Cheryl.Kagan@senate.state.md.us" &lt;Cheryl.Kagan@senate.state.md.us&gt;

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

Teri Bickel, M.S. ECE

Director, Carl and Norma Miller Children's Center

At Frederick Community College

(301) 846-2612

[tbickel@frederick.edu](mailto:tbickel@frederick.edu)





Earlychildhoodregs MSDE -MSDE- <earlychildhoodregs.msde@maryland.gov>

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## Comments on the Proposed Child Care Licensing Regulations

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**Glenbrook Treasurer** <glenbrooktreasurer@gmail.com>

Tue, Oct 22, 2019 at 4:36 PM

To: earlychildhoodregs.msde@maryland.gov

Cc: samuel.rosenberg@house.state.md.us, cheryl.kagan@senate.state.md.us, jeff.waldstreicher@senate.state.md.us

Dear Ms. Bartosz,

I am writing as Treasurer of the Glenbrook Cooperative Nursery School to express my concern with the proposed changes to the child care regulations in COMAR 13A.16.

Specifically, I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to our program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take away our license for incorrect information, even an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

I am also concerned about the requirements for the Basic Health and Safety Training. We have a cooperative parent volunteer turnover of approximately 15 parents every year and this will be an undue burden to us and many other cooperative schools, as well as the OCC, in terms of training, recertification and paperwork. Asking for everyone to have this is too much, and would regularly be more staff certified than is required for First Aid and CPR in many programs.

Sincerely,

Rebecca Gaudiosi (Rockville, MD)

Treasurer, Glenbrook Nursery School

[Quoted text hidden]





Earlychildhoodregs MSDE -MSDE- <earlychildhoodregs.msde@maryland.gov>

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## Comments on the Proposed Child Care Licensing Regulations

1 message

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**Eileen Moore** <eileen@firstbaptistrockville.org>

Thu, Oct 17, 2019 at 1:37 PM

To: earlychildhoodregs.msde@maryland.gov

Cc: Cheryl.Kagan@senate.state.md.us, samuel.rosenberg@house.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

Eileen Moore

Administrative Assistant Director

The WEE Center

301-762-4245

[Theweecenter.org](http://Theweecenter.org)





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Comments on the Proposed Child Care Licensing Regulations

1 message

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**Meredith Savage-Myers** <meredithsmyers@gmail.com>

Thu, Oct 17, 2019 at 9:50 AM

To: earlychildhoodregs.msde@maryland.gov

Cc: Cheryl.Kagan@senate.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,  
Meredith Savage-Myers  
Ashton Christian Preschool  
17314 New Hampshire Ave  
Ashton, MD 20832  
301-774-7113





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Comments on the Proposed Child Care Licensing Regulations

1 message

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**Donetta Thomas** <ccidirector@yahoo.com>

Wed, Oct 16, 2019 at 4:45 PM

Reply-To: Donetta Thomas &lt;ccidirector@yahoo.com&gt;

To: "earlychildhoodregs.msde@maryland.gov" &lt;earlychildhoodregs.msde@maryland.gov&gt;

Cc: "Cheryl.Kagan@senate.state.md.us" &lt;Cheryl.Kagan@senate.state.md.us&gt;

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

*Donetta Thomas*  
*Creative Corner Director*  
*8706 Commerce Drive Unit 8*  
*Easton, MD 21601*  
*410-822-2123*  
*1-925-480-5836 (FAX)*





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Comments on the Proposed Child Care Licensing Regulations

1 message

academychild &lt;academychild@gmail.com&gt;

Wed, Oct 16, 2019 at 4:25 PM

To: earlychildhoodregs.msde@maryland.gov

October 16, 2019

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,  
*Lesley Everhart*  
Chief Executive Director

Academy Child Development Center  
10109 Darnestown Road  
Rockville, MD 20850  
(301) 424-6282

**Confidentiality Notice:** This message contains information that may be confidential and/or privileged. If you are not the intended recipient, you should not use, copy, disclose, distribute or take any action based on this message. If you have received this message in error, please advise the sender immediately by reply email and delete this message. Although Academy Child Development Center, Inc. does scan e-mails and attachments for viruses, ACDC, Inc. does not guarantee that either are virus free and accepts no liability for any damage sustained as a result of viruses. Thank you.





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

## Comments on the Proposed Child Care Licensing Regulations

1 message

**Susan Anderson** <susan@glenbrookschoo.org>

Mon, Oct 21, 2019 at 7:22 PM

To: earlychildhoodregs.msde@maryland.gov

Cc: samuel.rosenberg@house.state.md.us, cheryl.kagan@senate.state.md.us, jeff.waldstreicher@senate.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Being a Director at a Cooperative Nursery School, I am very concerned about the requirements for the Basic Health and Safety Training. We have a cooperative parent volunteer turnover of approximately 15 parents every year. This will be an undue burden to the many cooperative schools as well as the OCC in terms of training, recertification and paperwork. I have taken the class and understand asking for lead teachers and lead teacher substitutes to all have this. That would be potentially more staff certified than is required for First Aid and CPR in many programs.

Sincerely,  
Susan Anderson  
9815 Parkwood Drive  
Bethesda, MD 20814

Director  
Glenbrook Nursery School  
10010 Fernwood Road  
Bethesda, MD 20817





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

## Comments on the Proposed Child Care Licensing Regulations

1 message

**Rooms, Jennifer (NIH/OD/ORS) [T]** <jennifer.rooms@nih.gov>

Mon, Oct 21, 2019 at 10:49 AM

To: "earlychildhoodregs.msde@maryland.gov" &lt;earlychildhoodregs.msde@maryland.gov&gt;

Cc: "Cheryl.Kagan@senate.state.md.us" &lt;Cheryl.Kagan@senate.state.md.us&gt;, "samuel.rosenberg@house.state.md.us" &lt;samuel.rosenberg@house.state.md.us&gt;

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final. Thank you.

*The information herein is For Official Use Only (FOUO) which must be protected under the Privacy Act of 1974, as amended. Unauthorized disclosure or misuse of this PERSONAL INFORMATION may result in criminal and/or civil penalties.*

*Jen Rooms*

Assistant Director

Parents of Preschoolers, Inc.

9000 Rockville Pike, Bldg. #64

Bethesda, MD 20892

301-451-5935

Jennifer.rooms@nih.gov





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Comments on the Proposed Child Care Licensing Regulations

1 message

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**Terry Delasanta** <terry@tpcdc.org>

Thu, Oct 17, 2019 at 3:10 PM

To: earlychildhoodregs.msde@maryland.gov

Cc: Cheryl.Kagan@senate.state.md.us, Sandy Rosenberg &lt;samuel.rosenberg@house.state.md.us&gt;, will.smith@senate.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

Terry Delasanta, Director

Takoma Park Child Development Center

310 Tulip Ave., Takoma Park, Md. 20912

[terry@tpcdc.org](mailto:terry@tpcdc.org) [www.tpcdc.org](http://www.tpcdc.org)





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Comments on the Proposed Child Care Licensing Regulations

1 message

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**Melissa Linsky** <mlinsky@growingwithgrace.org>

Tue, Oct 22, 2019 at 10:10 AM

To: earlychildhoodregs.msde@maryland.gov

Cc: Cheryl.Kagan@senate.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

Melissa Linsky  
Director, Child Development  
Grace Lutheran School  
La Plata, MD





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Comments on the Proposed Child Care Licensing Regulations

1 message

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**newbeginningsclc** <newbeginningsclc@verizon.net>

Tue, Oct 22, 2019 at 10:54 AM

To: earlychildhoodregs.msde@maryland.gov

Cc: Cheryl.Kagan@senate.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

Lisa Patterson  
New Beginnings Christian Learning Center

Sent from my Verizon, Samsung Galaxy smartphone





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

## Comments on the Proposed Child Care Licensing Regulations

1 message

**Deborah Duffy** <deborah.duffy@clarabartoncenter.org>

Wed, Oct 30, 2019 at 11:43 AM

To: earlychildhoodregs.msde@maryland.gov

Cc: cheryl.kagan@senate.state.md.us, samuel.rosenberg@house.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers, as well as the 10/29/19 letter sent from Paula Curran representing Clara Barton Center for Children. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake.

Child care is rapidly heading toward a crisis in Maryland and nation-wide. It is already difficult to hire and retain qualified child care professionals, due to the low wages and demands associated with the profession. These proposed regulations will make it even more difficult to hire and retain qualified staff, which will adversely impact our shared goal of providing affordable and quality childcare to Maryland families.

Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

Deborah Duffy,

Assistant Director

Clara Barton Center for Children

--

Deborah P. Duffy

Clara Barton Center for Children

7425 MacArthur Boulevard

Cabin John, MD 20818

301.320.4565

<http://www.clarabartoncenter.org>[deborah.duffy@clarabartoncenter.org](mailto:deborah.duffy@clarabartoncenter.org)*Accredited by the Maryland State Department of Education*

Maryland EXCELS – Check Level 5 program



Comments on the Proposed Child Care Licensing Regulations



Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

## Comments on the Proposed Child Care Licensing Regulations

1 message

Michelle Winter &lt;mmwinter5@msn.com&gt;

Wed, Oct 23, 2019 at 10:35 PM

To: "earlychildhoodregs.msde@maryland.gov" &lt;earlychildhoodregs.msde@maryland.gov&gt;

Cc: "samuel.rosenberg@house.state.md.us" &lt;samuel.rosenberg@house.state.md.us&gt;

&lt;samuel.rosenberg@house.state.md.us&gt;, "Cheryl.Kagan@senate.state.md.us" &lt;Cheryl.Kagan@senate.state.md.us&gt;

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Being a teacher at a Cooperative Nursery School, I am very concerned about the proposed requirements for the Basic Health and Safety Training. We have a cooperative parent volunteer turnover of approximately 15 parents every year. This will be an undue burden to the many cooperative schools as well as the OCC in terms of training, recertification and paperwork. I have taken the class and understand asking lead teachers and lead teacher substitutes to have this. That would be potentially more staff certified than is required for First Aid and CPR in many programs. The amount of paperwork required for our cooperative preschool is immense.

Research supports having parents involved in the early education experiences of their children. I am concerned that these additional requirements are going to make it hard for cooperative preschools to continue to exist. Please do what is right for the children.

Sincerely,

Michelle Winter

6801 Renita Lane

Bethesda Md 20817

Glenbrook Nursery School

10010 Fernwood Rd.

Bethesda, MD 20817

Sent from Mail for Windows 10

November 12, 2019

VIA ELECTRONIC DELIVERY

Ms. 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  
[earlychildhoodregs.msde@maryland.gov](mailto:earlychildhoodregs.msde@maryland.gov)

Re: Comments on proposed Changes to Code of Maryland Regulations  
Title 13A. State Board of Education  
Subtitles 16 Child Care Centers and 17 Child Care Letters of Compliance

Dear Ms. Nizer:

We are writing on behalf of the Association of Independent Schools of Greater Washington ("AISGW") and the Association of Independent Maryland and DC Schools ("AIMS") to provide comments regarding proposed changes, listed in the October 11, 2019 Maryland Register, to Title 13A, subtitles 16 and 17 of the Code of Maryland Regulations ("COMAR") concerning Child Care Centers and Child Care Letters of Compliance. We commend the State Board of Education for its willingness to review its child care regulations in an effort to improve child safety and programming, as well as respond to changing child care conditions within the state.

Our comments are primarily focused on the application of current COMAR regulations to accredited independent nursery schools and how the state oversight is essentially duplicative of established controls that are already in place. As such, AISGW and AIMS request that the COMAR regulations be changed to exempt accredited independent nursery schools from the Child Care Center compliance requirements. We also object to the proposed change requiring substitute teachers to be approved by the Office of Childcare because this presents an unnecessary regulatory hurdle that has already been addressed by House Bill 486 (Child Sexual Abuse and Sexual Misconduct Prevention) that went into effect on July 1, 2019.

I. AISGW and AIMS: Background, Presence in Maryland, and Early Childhood Programs

AISGW was founded in 1951 and is an organization of non-profit, independent non-public schools in the greater Washington, D.C. area. AISGW currently has 75 member schools. AIMS was founded in 1967 and serves 120 non-profit, independent non-public schools in Maryland and D.C. AISGW and AIMS have 43 overlapping member schools; 23 of these are in Montgomery County. As a condition of membership, all of these schools must be accredited or in the process of seeking accreditation.



The AISGW and AIMS schools in Montgomery County combined educate over 13,000 students and employ over 3200 faculty and staff. Our schools are diverse; students of color represent over a third of our independent school population in the County, and almost 27 percent of students receive need-based financial aid. AISGW and AIMS Montgomery County schools are mission-based, rigorously accredited, and are primarily funded through tuition revenue. They offer a wide range of approaches to teaching and learning, child development, and school culture that complement the County's public school system and have served the County and its citizens well for many decades.

Of the AISGW and AIMS schools in Montgomery County, 22 offer early childhood programs. These programs serve as few as 20 students and as many as 100 students. A handful follow a Montessori approach and others have a religious affiliation. *Without exception, every early childhood program in an AISGW or AIMS Montgomery County school is part of a larger, accredited educational institution that extends beyond the pre-school years, some serving students through third grade, some through eighth grade, and others all the way to twelfth grade.* Each of these schools is operating as a non-public school approved by the Maryland State Board of Education.

II. Through Well-Established Accreditation Processes, Early Childhood Programs in AISGW and AIMS Schools Are Subject to Rigorous Oversight and Quality Control

Importantly, each AISGW and AIMS independent school in Montgomery County is accredited by, and accountable to, an official accrediting body. The primary accrediting bodies for these schools are AIMS, the Middle States Association, and Montessori organizations such as the Association Montessori Internationale and the American Montessori Society. Notably, a handful of AISGW and AIMS schools have more than one accreditation.

Accreditation through any of these organizations is rigorous and comprehensive. AIMS explains its accreditation process as follows:

*Because the quality of a child's education is at stake, there are no shortcuts to gaining accreditation . . . the AIMS accreditation process is both intensive and thorough [and] includes three broad phases: a written self-study by the school, which must be comprehensive and widely inclusive of the various school constituencies; a three-day exhaustive visit by a team of outside peer educators that results in a written report to the school; and an Action Plan that responds to recommendations made by the visiting team.*

The scope of accreditation evaluation includes facility health and safety, teacher and director certifications, age-appropriate curricula, and acceptable student teacher ratios consistent with a proper learning environment. Regarding teacher certifications, AISGW and AIMS school teachers are required to have 120 semester hours from an Institute of Higher Education. In addition, our member schools typically require their early childhood program teachers to have a master's degree or certification in early childhood education, along with 3-5 years of early childhood lead teacher experience. Directors of independent schools early learning programs are seasoned administrators who possess a balance of both formal and experiential training. They are highly educated with a variety of degrees and are selected for the value they add to the early childhood center they oversee. This flexible approach enriches the school and creates an environment that is highly academic, on one hand, and socially and emotionally supported, on the other.



Importantly, data show, and accredited schools agree, that the process of accreditation fosters and facilitates school improvement. Moreover, because accreditation is a continuous, multi-year process, the evaluation of school programs, personnel, and facilities is ongoing for any school that is undergoing accreditation. Stated otherwise, by virtue of the accreditation requirement, AISGW and AIMS schools are constantly in the process of evaluating and improving the quality of their program so that they can be accountable to their community.

### III. Application of COMAR Regulations to AISGW and AIMS Nursery Schools and Requested Exemption

As shown above, because of their educational focus, our nursery schools are already licensed by the state as MSDE-approved education programs and are required to address the facility, child safety, programming and teacher certification concerns of the Child Care COMAR regulations through the state approval process AND through independent accreditation. Accordingly, there is no need to subject accredited independent nursery schools to duplicative state oversight. Thus, we request that accredited independent schools should be exempt from the staff and director requirements set forth in Section 13A.16.06 of the COMAR regulations. This request, if granted, would essentially mirror the exemption that is available for Public Schools in the state of Maryland.

Alternatively, the COMAR regulations should be modified to allow for built-in flexibility for accredited independent schools in the areas of director and teacher certifications; student-teacher ratios; and paperwork compliance. These changes would properly recognize the unique status of accredited independent schools among other child care facilities that are subject to Child Care COMAR regulations. The changes would also relieve overburdened Office of Childcare inspectors from their current inspection protocols related to accredited independent nursery schools. Specific COMAR changes we propose, in addition to the changes set forth in the Maryland Register, are as follows:

#### **13A.16.01.02 Definitions**

“Accredited Independent Nursery School” means an education program in a nonpublic nursery school that has been validated by a state-recognized validating organization as meeting, at a minimum, acceptable standards regarding teacher qualifications, written curriculum, instructional methods, and materials and equipment.

#### **13A.16.02.01 License – General Requirements**

##### **C. Approved Montessori School and Accredited Independent Nursery School.**

- (1) Except as set forth in Section C(2) of this regulation, an approved Montessori school and Accredited Independent Nursery School shall meet all applicable requirements of this subtitle regarding: (remaining text unchanged)
- (2) The following regulations of this subtitle do not apply to an approved Montessori school and an Accredited Independent Nursery School: (remaining text unchanged)



**13A.16.08.03E(2) Group Size and Staffing**

A nursery school may not exceed a staff/child ratio or group size requirement set forth at Section E(1) of this regulation, except that a Montessori school that has been approved by the Department and an Accredited Independent Nursery School may exceed a staff/child ratio or group size requirement by no more than 1/3.

IV. Elimination of Proposed COMAR Regulation Requiring Substitute Teachers to be Approved by the Office of Child Care

On July 1, 2019, new statutory requirements were implemented requiring all schools within the state to institute a multi-layered background check for all applicants of school positions, including substitute teachers. This law applies to all AISGW and AIMS schools. The proposed COMAR regulation, 13.A17.06.05(C), requires that any substitute teacher also be approved by the Office of Childcare in addition to this background check. Our schools will be in full compliance with the new background check law and need not gain additional, and potentially time-consuming, approval from the Office of Childcare in order to protect the health, safety and welfare of our students.

We welcome the opportunity to engage any person or committee within the State Department of Education to discuss why it is appropriate to exclude our accredited independent nursery schools from certain Child Care COMAR regulations and eliminate the proposed substitute teacher COMAR regulation. We also welcome the chance to discuss more generally the value our schools add to the Maryland education landscape. We otherwise appreciate the opportunity to comment on the pending COMAR changes on behalf of our member schools.

Sincerely,



Amy M. McNamer



Peter Baily

cc: Steven R. Hicks, Assistant State Superintendent  
Association Montessori Internationale  
American Montessori Society





Maryland Association for the Education of Young Children

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**MDAEYC's DRAFT Comments on Proposed Child Care Regulations - October 31, 2019**  
**Subject to revision before submission to the Office of Child Care**

Jennifer Nizer  
Director  
Office of Child Care, Division of Early Childhood  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

**RE: Proposed Revisions to Child Care Regulations**

Dear Ms. Nizer:

Thank you for the opportunity to submit comments on MSDE's proposed changes to the child care regulations in COMAR 13A.15 - 13A.18, as issued in the October 11, 2019 *Maryland Register*. The Maryland Association for the Education of Young Children (MDAEYC) appreciates the efforts of the Office of Child Care to fully implement new Federal Child Care and Development Fund requirements to improve child care health and safety.

MDAEYC supports the broad intent and goal of the proposed regulations to set higher standards for health and safety in child care settings. As a membership organization dedicated to high-quality early learning for all children birth to age 8, we support high standards for health and safety as a necessary component of program quality.

Below are several key elements of the proposed regulations for which MDAEYC offers comments:



1. **COMAR 13A.16.06 Staff Requirements**

**Support proposed regulation**

We are pleased that the October 2019 proposed regulations now provide newly hired staff 90 days to complete the Basic Health and Safety Training. Center directors report that finding suitable prospective employees who already have completed the training is challenging. This change will enable programs to hire staff who have not already completed this training, broadening the pool of prospective staff.

2. **COMAR 13A.16.06 Staff Requirements**

**Request for additional change to regulation: ADA and Breastfeeding Training**

The same challenges that early childhood programs face in finding and hiring already-trained staff for the Basic Health and Safety Training also apply to the Americans with Disabilities Act (ADA) Training and the Breastfeeding Training. Permitting these trainings to be completed within 90 days of employment would help programs in finding suitable prospective staff who then can complete these two key trainings in the first 90 days.

3. **COMAR 13A.15.08 (Family Child Care) Child Supervision**

**Request for additional change to regulation: Supervision of Resting Children Under 2 Years Old**

Requiring a family child care provider to consistently remain on the same level as sleeping children under age two is not a workable solution for safer sleep when providers with a multi-level home are caring for multiple children of mixed ages. Using a video and audio monitor to see and hear the napping child under age two; as well as following the required visual checks every 15 minutes provides for child sleep safety, in a manner comparable to that used by many families in their own homes.

4. **COMAR 13A.16.02.01 I(1)(2) (Child Care Center) License Application and Maintenance**

**Request for additional change to regulation: Criminal Background Check and Child Abuse and Neglect Clearance for Volunteers**

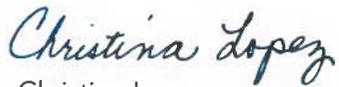
MDAEYC requests that the criminal background check and child abuse and neglect clearances required for child care center program employees, staff, and substitutes not be required for volunteers. The costs associated with criminal background checks are likely to discourage volunteers from being involved in child care programs, which would be a loss of the enrichment volunteers can provide. When a parent or grandparent comes into the classroom to interact with children, sharing a story or a cooking project, there are benefits for children and families, including greater engagement with the program, and the potential for sharing of



diverse cultural perspectives. We recommend as an alternative that there be a supervision requirement for a staff member to always be present when a volunteer is with children in care.

Thank you for the opportunity to comment on these proposed regulations. We look forward to our continued partnership to support all young children, families, and early childhood educators.

Sincerely,



Christina Lopez

President

[christina.lopez@mdaeyc.org](mailto:christina.lopez@mdaeyc.org)



Stephanie Schaefer

Program Coordinator

[stephanie.schaefer@mdaeyc.org](mailto:stephanie.schaefer@mdaeyc.org)





Tara Bartosz -MSDE- &lt;tara.bartosz@maryland.gov&gt;

**Comments on proposed regulations, Maryland Register, Issue Date October 11 2019, Volume 46, Issue 21**

1 message

**Steve Rohde** <srohde@marylandfamilynetwork.org>  
To: Tara Bartosz -MSDE- <tara.bartosz@maryland.gov>

Tue, Nov 12, 2019 at 5:02 PM

Tara

Per the instructions on page 901 of the Maryland Register, Issue Date October 11 2019, Volume 46, Issue 21, below and attached are our comments and resource materials on the regulations that MSDE is proposing for child care.

Recognizing that many of these proposed requirements are as a result of the CCDBG/CCDF requirements, including for funding, we are in favor of the proposed regulations that extend the standards for the safety and health of children, including but not limited to:

- background checks;
- more reasonable time frames for certain trainings;
- providing and/or advertising of child care that is not currently licensed/registered;
  - the imposition of civil penalties for such illegal operations;
- criteria for background checks for volunteers.

Regarding comments on the specific changes/text, below are our comments:

Are there any other alternatives for those with pools, such as: draining the pool/hot tub/etc., or having an approved cover to prevent access? Though the number of providers affected is relatively small, this is a very big expense and, if possible, several safe alternatives should be offered.

Page 901, right column, Estimates of Economic Impact, (2) effect on the workplace, should also include that some programs, particularly family child care, may choose to close rather than comply with the regulations and expenses.

Page 902, right column, .02, B, (8), I may have missed this but have the definition of "volunteer" been included in these regulations?

Page 903, left column, .07, A, (7), (c), it is our understanding that MSDE will be removing the term "regardless of intent", from this and all other sections in these proposed regulations.

Page 905, left column, is the term "crib" defined in the current or proposed regulations?

Page 904, left column, .03, G. Given the testimony to AELR, should the use of "health and safety training" be modified for this particular interpretation, or a different term used? It is our understanding from that testimony that a signed affidavit may be used to determine compliance with the annual requirement for this training. This would also be true throughout the document, including page 913, right column, .05, C, (1), (a).

Page 906, left column, .05 Volunteers. Per comment above, is this defined in the regulations? Also, from my reading of the existing and proposed regulations there is not a stipulation that the volunteer may not be left alone with children until such time as all relevant and required background checks are completed.

Page 916, left column, .03 Group Size and Staffing. To the casual reader or those new to the field, there may not be the understanding that the ratios and group size maximums are only relevant when a room meets the square foot requirements, as well as equipment, materials, and sanitation criteria as well.

Finally, a comment on some of the comments that have come in regarding a separate but related issue: there are still too few supports for child care, family child care and center, to cover the true cost of care and as such meeting requirements and meeting quality criteria that are so important for children and families. We applaud MSDE's efforts with differentiated rates for different levels of quality, and reinstatement of additional incentives for programs. Additional attention should be given to additional resources would allow family child care and center based programs more options for changes to rooms/homes/child care spaces.

Attached you will find:

- my testimony of October 24, 2019;
- Child Care Aware of America's (CCAoA) statement on the false assumptions that come with lesser regulation of child care; and,
- CCAoA's paper on The Price of Child Care.

Let me know if you have questions or need assistance.

Thank you for this opportunity.

Steve

**Steve Rohde**

Deputy Director, Resource & Referral Services  
Maryland Family Network

1001 Eastern Avenue, 2nd Floor

Baltimore, Maryland 21202-4325

direct 443.873.5804 tel 410.659.7701 x240

fax 443.873.5805

[srohde@marylandfamilynetwork.org](mailto:srohde@marylandfamilynetwork.org)

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**3 attachments**

 **CCAoA.Deregulation.OnePager.Updated10-18.pdf**  
804K

 **Steve Rohde MFN Statement to AELR October 24 2019 Image\_00001.pdf**  
2254K

 **PriceofCare-AnExaminationofaBrokenSystem-EMBARGO-min.pdf**  
17410K





October 22, 2019

Ms. Tara Bartosz  
Assistant to the Director  
Office of Child Care, Division of Early Childhood  
Maryland State Department of Education  
200 W Baltimore Street  
Baltimore, Maryland 21201



Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the October 15, 2019 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, and unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake.

Please honor the request made by the State's Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Regards,

A handwritten signature in black ink that reads "Susie Ostermeyer". The signature is written in a cursive style with a long, sweeping underline.

Susie Ostermeyer  
Director

Cc: Senator Cheryl Kagan  
Delegate Sandy Rosenberg





## COMMISSION ON CHILD CARE

October 22, 2019

Ms. Tara Bartosz  
Assistant to the Director  
Office of Child Care  
Division of Early Childhood  
Maryland State Department of Education  
200 West Baltimore, Maryland 21201

Dear Ms. Bartosz:

The Commission on Child Care (CCC) thanks you for the opportunity to provide comments on the proposed action of regulations contained in Title 13A State Board of Education.

### **COMAR 13A.16.02 License Application and Maintenance: Specifically Denial of License (.06)**

#### ***Issue: Child Care Provider denied due process regardless of intent***

This is a disturbing change that strips a significant due process right from child care providers. This proposal amends COMAR to give MSDE the ability to deny an initial or continuing license, or revoke a license, if the provider gives false information on any required forms "regardless of intent." This amendment will give MSDE the power to revoke a license for even an innocent typo or inadvertent mistake. For example, if a provider submits a form in January 2019 and accidentally dates it January 2018 (instead of 2019), this date is technically "false information" and the license could be revoked for a simple typo. Given the number of forms providers are required to submit, this change would grant MSDE the power to revoke almost any provider's license any time it wished. The regulation as currently written already allows MSDE to deny or revoke a license if a provider submits fraudulent information. MSDE should analyze how many other licensing statutes or regulations permit denial or revocation of a license for an unintentional oversight. It is highly unlikely that the legislature or Courts will permit MSDE to have such sweeping and broad power. This provision should only apply to intentional misrepresentations or material omissions, which is the current language in the regulation.

***Recommendation: No revision is necessary and this section should be deleted.***

**Department of Health and Human Services**

1401 Rockville Pike, Suite 200, Rockville, Maryland 20852 240-777-1716, 240-773-1190 FAX

montgomerycountymd.gov/311



240-773-3556 TTY

**COMAR 13A.16.03 Management and Administration: Specifically Admission to Care (.02) and Child Records (.04)**

***Issue: Child Care Providers Making Medical Determinations and Child Records/Lead Testing***

Under the current regulations, to admit and retain a child in care, a child care provider is required to have a completed health form that provides evidence of a medical evaluation, immunizations and a “lead screening” which is a simple review by a pediatrician or other medical professional that is marked on the health form. The lead screening may or may not lead to a lead test, but that is an issue between the pediatrician and the parent.

The proposed regulation would require a child care provider to have documentation that a child born after 2015 wasn't just screened, but received an actual blood test for lead at 12 and 24 months, no matter where they reside, and to exclude children from child care if they do not have evidence of such a test. This puts the child care provider in the position of having to review and overrule the judgment of the medical professional or else be cited for noncompliance. Additionally, if a 13 month-old or 25 month old moves from out of state, and there was no such test required at the age of 12 months or 24 months, the parent would not be able to comply and the child would have to be excluded from care.

If the State wants to require lead testing at certain intervals for certain children, it should be doing so through the pediatricians and medical professions, not through a back-door regulation imposed on child care providers. A child should not be excluded from care for the lack of a lead test as it poses no risk to other children and has no relation to whether a child can safely be in child care.

Another issue is that the current regulation only requires the lead screening for children younger than 6 and there is a carve out for school-age children. The proposed regulation contains no such limitation. As of 2020 and thereafter, children who were born in 2015 will be 5 years old and in school age programs. It does not make sense for school age programs to have to exclude children from care if parents do not have documentation of these tests that would have had to take place years prior when the children were infants and toddlers and when they may not have even lived in Maryland at the time. Thus, the current carve out for school-age children must be maintained.

***Recommendation: These proposed changes relating to lead testing should be rejected in full.***

- ***The current regulation requires children to have a completed health form to be admitted and retained in care. Specifics about when lead tests are required should be addressed with the pediatricians and medical professionals required to perform them.***
- ***If a lead test is going to be something that child care providers are going to be required to oversee, the requirements should be revised to require proof of such testing only for children younger than six who resided in Maryland and, if entering the program after the ages of 12 months and 24 months, actually had the testing done at those ages.***
- ***Furthermore, the regulation should make clear that providers do not have to override or question the judgment of the pediatrician or medical professional.***

Tara Bartosz, Assistant to the Director  
October 22, 2019  
Page 3

**COMAR 13A.16.06 Staff Requirements: Specifically Staff Health (.04)**

***Issue: Medical evaluations must be signed by a practitioner***

Section A.2 of this proposal requires that "[t]he medical evaluation shall be signed by the individual who conducted the evaluation..." However, consistent with common practice in the medical industry, medical evaluation forms are not always signed by the person who performed the evaluation, but may instead be signed by the medical provider's authorized agent. For example, employees may be able to have the form completed without a new physical if one was completed recently, and sometimes, the physician's administrative staff complete the form based on doctors/nurse practitioner's notes. Indeed, frequently forms are returned from doctors' offices completed by administrative staff and "stamped" with the medical facility's name and address rather than an actual signature from the doctor.

***Recommendation: Delete the proposed language requiring a signature from the person providing the exam. The form supplied by MSDE can have a space for a signature, but the medical facility should be permitted to sign it consistent with its procedures for completing paperwork.***

**COMAR 13A.16.06 Staff Requirements: Specifically Directors of All Child Care Centers-General Requirements (.05), Child Care Teachers in Preschool Centers (.09), Child Care Teachers in School Age Centers (.10), Assistant Child Care Teachers (.11) and Aides (.12)**

***Issue: Additional Unfunded Mandate and the number of pre-service training requirements needs to be reduced***

Providers have been raising cost and feasibility concerns about the additional training requirements that have been added over the past several years. While we appreciate that the latest revision of the Proposed Regulations gives newly hired staff 90 days to register for and complete the Health and Safety training, the ADA and breastfeeding training that were added as pre-service requirements in 2016 were not similarly adjusted. These added trainings are all unfunded mandates that increase costs for providers; costs that are ultimately passed through to parents who pay for child care. Employers must pay workers to take mandatory trainings based on wage and hour laws which results in additional salary costs and potentially overtime. Training as a preservice requirement creates a significant barrier in the hiring process for child care providers. In addition, it sometimes takes months for OCC to process new hire paperwork and complete background checks. This means that providers must pay for training not knowing whether the child care worker will ultimately be approved to work in the child care program. This is a waste of precious resources. Permitting training within the first six months of employment is a far more reasonable approach to ensuring a qualified and stable workforce. In addition to consistency for the timing of all training requirements, all three of these trainings have much more meaning for new hires after they have experience with the children in the program setting and are not necessary for a new hire on their first day of employment.

Tara Bartosz, Assistant to the Director  
October 22, 2019  
Page 4

Moreover, these trainings are not always available on demand and giving time to complete these trainings after hire allows the trainings to be worked into a convenient time during the new employee's work day, thus reducing the costs to providers. Indeed, requiring pre-service training is such a financial commitment for child care providers that they may be less likely to fire someone who they have just paid to train, even if the new hire does not seem to be a good fit with young children. This is not in the best interest of children, families, and building quality programs.

***Recommendation: Revise the proposed regulations to allow Health and Safety training, the ADA, and the breastfeeding training to be completed "within 180 days of employment" or at a minimum revise the ADA and the breastfeeding training to be "within 90 days of employment" and that all pre-service training requirements be deleted.***

#### **COMAR 13A.16.06 Staff Requirements: Specifically Substitutes (.13)**

##### ***Issue: An unworkable process***

This proposal includes a new section F, which will require providers to apply to MSDE for approval of a substitute. This is not workable for a number of reasons:

1. Providers are not required to get "pre-approval" for permanent staff before using them, and the requirement should be no different for substitutes.
2. Substitutes are often needed on short notice and it is not feasible for programs that rarely use substitutes to maintain an active list of approved substitutes.

For larger programs with multiple sites, it would also mean that multiple MSDE licensing specialists would need to approve the same substitute as many programs have different specialists who oversee them, but use the same substitutes. For smaller programs, including Family Child care, this regulation could result in providers having to temporarily close their program; leaving parents without child care and unable to work.

4. Providers often have to wait months to get responses from MSDE's licensing specialists for personnel qualifications on new hires. With the new requirement for substitutes, it could further lengthen response times which are already unacceptable. It recently took 49 business days to conduct a single evaluation of a background check and child protective services clearance on one employee who had already been cleared to work for eight months in Region 5. It is unrealistic to imagine that licensing specialists have the capacity to take on a new substitute approval process.

***Recommendation: Substitutes should be treated the same as new hires in that providers should have five (5) days from the date of "hire" or the date the substitute is used to send paperwork in to Licensing to demonstrate the substitute is qualified. There should be no requirement for reporting to MSDE when a substitute is used.***

Tara Bartosz, Assistant to the Director  
October 22, 2019  
Page 5

**COMAR 13A.16.17 Inspections, Complaints and Enforcement: Specifically Revocation (.07)  
Concern: Stripping Providers of Due Process**

This is a disturbing change that strips a significant due process right from child care providers. This proposal amends COMAR to give MSDE the ability to deny an initial or continuing license, or revoke a license, if the provider gives false information on any required forms "regardless of intent." This amendment will give MSDE the power to revoke a license for even an innocent typo or inadvertent mistake. For example, if a provider submits a form in January 2019 and accidentally dates it January 2018 (instead of 2019), this date is technically "false information" and the license could be revoked for a simple typo. Given the number of forms providers are required to submit, this change would grant MSDE the power to revoke almost any provider's license any time it wished. The regulation as currently written already allows MSDE to deny or revoke a license if a provider submits fraudulent information. MSDE should analyze how many other licensing statutes or regulations permit denial or revocation of a license for an unintentional oversight. It is highly unlikely that the legislature or Courts will permit MSDE to have such sweeping and broad power. This provision should only apply to intentional misrepresentations or material omissions, which is the current language in the regulation.

***Recommendation: No revision is necessary and this section should be deleted.***

As set forth more fully above, we believe that these modest revisions to the proposed regulations will enhance MSDE's efforts to expand the reach of affordable child care throughout the State and also maintain MSDE's federal compliance goals. If these important changes are not made and the regulations go into effect without revisions, licensed care will be significantly more expensive, which will definitively have a negative effect on providers' ability to stay in business.

Sincerely,



Michelle Belski  
Chair





MSFCCA.org

Maryland State Family Child Care Association, Inc.  
c/o Ruby Daniels, President  
10612 Harpoon Hill  
Columbia, Maryland 21044

October 23, 2019

Tara Bartosz  
Assistant to the Director, Office of Child Care  
Division of Early Childhood Education  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

**Re: Proposed Revisions to 2<sup>nd</sup> Version of Proposed Family Child Care Regulations**

Dear Ms. Bartosz:

The Maryland State Family Child Care Association (MSFCCA) represents the interests of the approximately 4600 registered family child care providers in Maryland. MSFCCA has attempted on numerous occasions to speak with MSDE about the proposed regulations that were published in the Maryland Register on February 15, 2019, and submitted our official comments. Unfortunately, the MSDE response to our comments/concerns dated March 29, 2019, as well as the recent short conversation at our annual conference, did not adequately address the many concerns of our members. We have valued our partnership with MSDE throughout the years, and felt as though our input was valued on issues relating to family child care. Sadly, it now feels as though the needs of the providers who care for Maryland's children are no longer considered important in policies that concern their business. Our desire to work with MSDE to keep children safe, as well as help providers stay in business has never wavered, unfortunately these proposed regulations being approved without consistent input is not acceptable. Our sincere hope is that MSDE will open dialog with us immediately so that together we can help providers offer the safest programs for our children and still remain financially solvent.

Outlined below are specific concerns from our members on the proposed regulations that we feel need to be addressed. Since the proposed regulations have now been published for the second time, we feel a sense of urgency in our response to try and help MSDE understand how important it is that we discuss the impact of these changes. One of which could have a sweeping negative impact on providers and more importantly, thousands of families using family child care. While we recognize MSDE's authority to implement regulatory change, it is necessary for those that are most affected by these changes to be part of the conversation throughout the process and before final action takes place.

We need the opportunity to work with you on this matter and are available anytime for discussion. Please contact the MSFCCA Vice President of Public Policy, Rebecca Hancock at 301-934-1795 or Ruby Daniels, the MSFCCA President at 410-531-5159 to set up a meeting.

- **COMAR 13A.15.08.01E(1)(a) Supervision of Resting Children. (Family Child Care) Child Supervision**

**01. General Supervision**

If a resting or napping child is younger than 2 years old, the provider or substitute shall:

(a) Remain on the same level as the child;

[E.] F. The provider may use a video and sound monitoring system to meet the sound and sight requirement in [§D(1)(a)] §E(1)(b) of this regulation.

[D.] E. Supervision of Resting Children.

(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:

(a) Remain on the same level as the child;

**MSFCCA Position:**

Family child care is very unique in that many providers live in *multi-level homes* that are approved for child care, but **do not have multiple rooms on each level of the home**. Due to the nature of mixed-age groups in family child care, it often-times requires a provider to use more than one of those levels, especially during rest periods. Most infants require a quiet place to rest and, in many cases, more than one rest period per day. The average infant, especially under four months requires 16 to 18 hours of sleep per day, and a large portion of that time is in a child care setting. The Standard 3.1.4:5 from the Caring for our Children: National Health and Safeties Performance Standards Publication reads: “All children should have access to rest or nap areas whenever the child desires to rest. These rest or nap areas should be set up to reduce distraction or disturbance from other activities. All facilities should provide rest areas for children, including children who become ill, at least until the child leaves the facility for care elsewhere. Children **need to be within sight and hearing of caregivers/teachers** when resting. RATIONALE: Any child, especially children who are ill, may need more opportunity for rest or quiet activities. Type of facility: Center; Large Family Child Care Homes; Small Family Child Care Home.

This regulation change will create a large challenge for the provider living in specific home types, and cares for a small group of toddlers, preschoolers and/or school-age children, in addition to those infants. Requiring the provider to **consistently remain on the same level as sleeping children under two**, is not realistic for the many providers whose homes do not have multiple rooms on each level and have older children that need consistent supervision as well. A workable and best solution for safe sleep is the ability of the provider to place an infant in another approved room to sleep, regardless of whether it is on the same level of the home, if the provider is following the guidelines for **SIGHT** and **SOUND** monitoring with required visual checks. This is the **best possible solution in this unique environment** to guarantee safety and safe sleep for **all children**.

MSFCCA fails to see where requiring providers to follow this proposed regulation would significantly improve the safety of sleeping infants, but it would almost certainly hinder many providers in **specific home environments** to continue to care for those infants in a mixed-age group. Children over the age of two require supervision when playing and sleeping due to their ability to move freely at will, so a provider would almost always have to be in the room with older children, **this makes it necessary with this proposed change for all children to sleep and play in the same room at all times**.

After reviewing your response to our previous comments on the difficulties with and possible results of the proposed changes to **COMAR 13A.15.08.01E(1)(a) Child Supervision**, MSFCCA remains very concerned about the implications of this regulation change. This proposal was presented in past years and a compromise of using a sight & sound monitor with required visual checks was reached with MSDE.

MSFCCA believes you are not taking seriously the effects of this regulation on the many providers whose homes limit their ability to comply. It is vital that MSDE understand the resulting consequences of this regulation change. It will force family child care providers to reexamine their program options, and many *will fail to take* children under the age of two, or feel compelled to *only take children under two*, both of these decisions will severely limit the providers income and their ability to remain in business.

MSFCCA feels the best solution is for family child care providers to continue to follow all recommendations for safe sleep. Recommendations like sleeping children on a firm mattress on their back in a clutter free crib, in a smoke free environment, in addition to the 15-minute bed checks and video and audio monitor for sight and sound observations. We understand the concern for the sleeping safety of children under two; but feel the regulation *as it is already written* is the best language to address this issue in all family child care homes.

- **COMAR 13A.15.13 Inspections, Complaints, and Enforcement**

**.07 Revocation.**

A. The office may revoke a certificate of registration if the:

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

**MSFCCA Position:**

The term “**regardless of intent**”, added to this regulation is very problematic. It implies there is *absolutely* no room for error on the part of a provider when submitting paperwork to MSDE. Regardless of a legitimate mistake being made when submitting forms to the Office of Child Care. After reviewing your response to comments from MSFCCA about the term “**regardless of intent**” used in **COMAR 13A.15.13**, we remain extremely concerned about the possible implications of making a mistake on the tremendous amount of required paperwork that providers submit.

There are multiple reasons a mistake could be made, but unfortunately, according to this proposal the result could be the loss of a registration, an inability to get a registration or a long investigation/process to defend a mistake. The following are just a few incidences where a mistake could be made on paperwork that could result in license refusal or a lengthy unwarranted investigation into a provider’s renewal process: applicant illiteracy, language barriers, comprehension, illegible writing, transposing numbers, etc. We sincerely hope you will consider carefully this change in terminology and stay with the original language which specifically addresses the **overall intent** in this regulation: “**misrepresented or offered false information on the application or on any form.**”

- **COMAR 13A.17.06.04 A (4) (Letters of Compliance) Staff Requirements .04 Staff Health.**

B. Medical Evaluation.

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

(a) *Is free of communicable tuberculosis, if indicated; and*

(b) *Has the capability to perform the duties of the staff member’s position.*

**MSFCCA Position:**

MSFCCA supports the comments by other stakeholders and suggests that the language in this regulation is not consistent with actual common practice in the medical industry. Medicals are completed in a provider’s life for various reasons, though they may not always be child care related. Due to difficulty with scheduling daytime doctor office visits, the practice of using a recent physical to renew a child care registration is common. When the required paperwork is faxed or dropped off at a physician’s office, to

be completed, it will likely be by an authorized agent of the facility, not the performing physician, and stamped with the office name and address in lieu of the actual signature of the physician who performed the physical. MSFCCA suggests removing the language requiring an actual signature “**by the individual who conducted the evaluation**” and adding an additional space for the medical office to use their standard signature protocol when applicable.

In addition, MSFCCA feels the requirement of a tuberculosis screening every two years; which is the time allotted between renewals for family child care is *excessive*. TB screenings require not one, but two visits to the doctor for each screening, one for the shot, one to view the findings. In addition, when you work in a profession that requires you to close for your appointments, it can be difficult to close twice in a short period for doctor visits. It should also be noted that family child care providers under this proposed regulation will have to get screenings more frequently than providers in other forms of child care, as we are required to get physicals every two years and providers in other forms of care are only required to get physicals every 5 years. It is ironic as well that the providers in other forms of child care would likely be exposed to TB at a much higher rate due to the sheer amount of people that they are exposed to daily. Please reconsider or adjust this proposed regulation to consider these comments.

- **COMAR 13A.18.07.02 A (Large Family Child Care Homes) Child Protection .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.

**MSFCCA Position:**

Volunteers who do not care for and supervise children or have unsupervised access to them are not mandated to report child abuse and neglect. The two additions of volunteers to this section should be deleted. After reviewing your response to our comments on the difficulty and possible results of **COMAR 13A.18.07.02 Child Protection 0.02 Abuse/Neglect Reporting** we are still very concerned that this change could be the end of volunteering in our family child care homes. Volunteers are most often the parents of the children in care in a family child care and are not used in place of a provider, they are generally support positions, reading to children, cutting craft supplies, chaperoning field trips, etc. The term “**require**” should not be used when referring to volunteers. They do not earn a salary and are **not mandated** reporters of abuse/neglect, although we do agree everyone should report what they see. We feel leaving the language as before but adding a sentence that states “**It is our recommendation that a volunteer report directly to the local department or a law enforcement agency, when the volunteer has reason to believe that a child has been abused or neglected, rather than report through the provider.**” This is a much less restrictive way to get volunteers to understand their obligation to report without requiring it.

These comments are respectfully submitted by the Maryland State Family Child Care Association on behalf of our membership in the associations listed below:

Allegany County Family Childcare Professionals Association  
Anne Arundel County Family Child Care Association  
Baltimore County Family Child Care Association  
Cecil County Childcare Association  
Charles County Family Day Care Association, Inc.  
Family Child Care Association of Frederick County  
Family Child Care Association of Montgomery County, Inc.  
Family Child Care Providers Association Incorporated of Baltimore City  
Family Daycare Association of Harford County  
Howard County Family Child Care Association  
Latino Child Care Association of Maryland (LCAM)  
Prince George's County Family Child Care Association, Inc.  
Professional Association Child Care Providers. Inc.  
Professional Child Care Association of Washington County  
Professional Child Care Providers Network of Prince George's County  
Professional Family Provider Association of Lower Shore  
St. Mary's County Family Day Care Association  
Talbot County Childcare Association  
Washington County Child Care Provider's Association

Copy: Hon. Hon. Cheryl C. Kagan  
Hon. Hon. Samuel I Rosenberg  
Hon. Arianna B. Kelly





Earlychildhoodregs MSDE -MSDE- <earlychildhoodregs.msde@maryland.gov>

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## New proposed regulations

1 message

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**Jaimie Walker** <jaimie@healthystartchildcare.com>

Wed, Oct 23, 2019 at 1:56 PM

To: earlychildhoodregs.msde@maryland.gov

Hello,

I'm a licensed family child care provider in Carroll County. I'm writing to you in opposition of the newly proposed regulations regarding multi-level homes. As a family child care provider of multi-aged children, it just isn't feasible for young infants to get sufficient naptimes with toddlers and preschoolers playing in the next room. Once the infants are down to one nap per day, it becomes more manageable as the older kids can have quiet time then. Toddlers and preschoolers cannot be expected to spend as many hours sitting and doing quiet things as young infants should spend napping. I continue to support the use of video monitors and vital checks to ensure infants are safe while getting the rest their bodies so strongly require for well being, and while also providing the slightly older kids the freedom to move and play that they so strongly require for well being.

Thank you for your time,

Jaimie Walker





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

**Fwd: Proposed Sleeping Regulation**

1 message

Tara Bartosz -MSDE- &lt;tara.bartosz@maryland.gov&gt;

Wed, Oct 23, 2019 at 1:20 PM

To: Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

----- Forwarded message -----

From: Erin Moxley &lt;mox.erin@gmail.com&gt;

Date: Wed, Oct 23, 2019 at 10:15 AM

Subject: Proposed Sleeping Regulation

To: Jennifer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

Please pass this email to the person it pertains to if I have sent it to the wrong person.

To whom it may concern,

Good Morning,

I am a licensed provider in Baltimore County. I currently live in a town home and have my children aged 12 months - 5 years old sleep in the basement of my home. Children under 12 months sleep in the dining room so I can supervise them while they are sleeping more closely. I check on the children downstairs every 15 minutes as required.

I use the time while the children are sleeping to work on paperwork, meal prep for the following day, and prepare the next day's activity from the curriculum.

**Sleep** plays a vital role in good **health** and well-being in the growth of children.

If this new proposed regulation: **COMAR 13A.15.08.01 [D] E**

is passed as it is currently written, I will have to have all children sleep in the basement and I will have to stay down there the entire time. This will make it impossible for me to meal prep and much harder to plan activities and work on paperwork.

What if I have an infant who isn't on the same sleep schedule as my older children? How am I supposed to engage them with tummy time, singing songs, playing hand games, etc. without waking my older children who will be sleeping less than 2 feet away?

How will parents be able to pick up during nap time? Will I have to wake all the children up to walk them upstairs so I can answer the front door? Am I allowed to say no pick-ups or drop-off during nap time?

What about unannounced inspections from MSDE and the fire marshal? Do I just ignore the door or am I required to answer it?

If I am unable to have my older children rest due to a baby being awake, I will no longer accept infants into my program. This will put a huge strain on parents if other providers follow suit.

Will parents be able to opt out of this regulation? If the provider has a signed statement saying they want their children sleeping somewhere else to improve their quality of sleep will that be acceptable?

This proposed regulation will make the quality of sleep for all the children in my program suffer.

I think this regulation could be improved by:

12 or 24 months and younger must sleep on the same level as the provider. You can use a site and sound monitor (pointed at the children 12 months and younger) to supervise the infant while you are doing your checks on the children sleeping elsewhere.

It only takes me 2-3 minutes tops to walk down the steps, step over the gate and make sure everyone is sleeping and are okay. Then I return upstairs with my younger children.

Please take everything above into consideration before approving this regulation.

Thank you for your time,  
Erin Moxley

Sent from my iPhone

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***Tara M. Bartosz***

Assistant to the Director of the Office of Child  
Care

Division of Early Childhood

Maryland State Department of Education

200 West Baltimore St.

Baltimore, MD 21201

Office: 410-767-7823

[tara.bartosz@maryland.gov](mailto:tara.bartosz@maryland.gov)



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11K



Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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**New sleep reg.**

1 message

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**Bill DiGregory** <wdigregory@verizon.net>  
To: earlychildhoodregs.msde@maryland.gov  
Cc: "DiGregory, Wanda" <foueverhap@verizon.net>

Wed, Oct 23, 2019 at 12:48 PM

New Proposed reg Family Childcare regarding all children two and under be on same floor for sleep. I disagree with this. As a family provider for over 30 years it makes it difficult to get babies to sleep being where the noise is. We have abided by getting the sight and sound camera's and checking on them on top of having the camera system. Keeping babies happy and safe is our number one job. You are making it difficult to have happy babies when they can not get good sleep. Please vote no for this new regulation. Our jobs are difficult enough and having angry unhappy babies is not something any of us want.

Bill DiGregory

Owner

North Patuxent Services, LLC

MHIC #104863

487 N Patuxent Rd

Odenton, MD 21113

410-674-7846

[www.northpatuxentservices.com](http://www.northpatuxentservices.com)

"May Your Wish be Granite"





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Proposed Regulation

1 message

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**CristineJosh Wagner** <cristinejosh2015@gmail.com>

Wed, Oct 23, 2019 at 1:33 PM

To: earlychildhoodregs.msde@maryland.gov

Tara Bartosz,

Hello, I am a licensed provider, certified teacher, and mother. I'm concerned about the outcome of the proposed regulation that will require providers to be on the same floor as all sleeping children. I have a three story house that has an infant sleeping room on a different level than my activity/toddler sleeping room. To require a provider to be on the same level as all children at all times greatly affects the quality of care given. In my situation it would mean that I could not provide a peaceful space to help my infants sleep train and rest since they would have to be placed in my living room or play area to remain on the same level as my toddlers. It would also mean that nobody could use the bathroom since all three of my bathrooms are on different levels. Furthermore, it would mean that I could not utilize a place to prepare my lessons and make freshly cooked meals for my children in care since I do this during nap and it would make too much noise or be a distraction to them. This would mean that my work day would now require me to work 13 hours straight rather than 11 hours per day. This would affect my ability to be a mother to my young children and for that I refuse to work at a job that takes me away from providing them quality care and attention. Please understand that I love what I do. My families value my home, setup, determination to provide an adequate safe place, and they cherish my ability to make their child at home. ALL of my parents have greatly valued my willingness and ability to sleep train their infants since it allows them to get quality time and rest that they need to enjoy their role as parents AND be able to rest so that they can go to their jobs. My parents to the kids in my care are nurses, teachers, engineers, postal workers, and they work hard to make this state a great place. Please do not pass a regulation that reduces the ability for providers like me to provide these parents a place their child can be at home in and receive quality education and care.

Thank you for your time,  
Cristine Wagner

Sent from my iPhone





Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

**COMAR 13A.15.08.01 [D] E. Supervision of Resting Children**

2 messages

**Millie's Child Care** <millieschildcare@gmail.com>  
To: jennifer.nizer@maryland.gov

Fri, Nov 1, 2019 at 10:23 AM

Good Morning,

I am emailing because the below regulation will affect me and the families in my care. I use 2 levels and have a camera. To no disrupt the sleep of infants we place them on a different level for morning nap while the others play and they usually wake up sooner during pm nap and this way they do not disrupt the nap of the preschoolers. Checking on them every 15 min and the use of our camera has worked very well.

I am committed to following all regulations; however this change to keep all children under 2 on the same level with me will cause logistical and rest issues for the children in my care.

I respectfully request the below regulation is not enacted upon:

***COMAR 13A.15.08.01 [D] E. Supervision of Resting Children.***

*(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall:*

*(a) Remain on the same level as the child;*

Kind Regards,

Millie Arias (Spencer), BA  
Owner/Operator - Millie's Family Child Care  
C:240-715-8181 F: 410-834-5449  
License # 253505  
Millersville, MD 21108  
Maryland EXCELS Level 3  
Child Care Credential Level 6  
[www.millieschildcare.com](http://www.millieschildcare.com) [[millieschildcare.com](http://millieschildcare.com)]  
<https://www.facebook.com/millieschildcare/> [[facebook.com](https://www.facebook.com/millieschildcare/)]

**Jennifer Nizer -MSDE-** <jennifer.nizer@maryland.gov>  
To: EarlyChildhood MSDE -MSDE- <earlychildhood.msde@maryland.gov>

Fri, Nov 1, 2019 at 10:29 AM

**Jennifer A. Nizer, M.Ed.**  
**Director, Office of Child Care**  
Division of Early Childhood  
Maryland State Department of Education  
200 West Baltimore St.  
Baltimore, MD 21201  
Office: 410-767-7806  
[jennifer.nizer@maryland.gov](mailto:jennifer.nizer@maryland.gov)

If you need to speak with someone immediately, please contact Tara Bartosz at 410-767-7823 or [tara.bartosz@maryland.gov](mailto:tara.bartosz@maryland.gov). You will receive a reply within 24 hours.

[Click here](#) to complete a three question customer experience survey.



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changingMD.png  
11K

Karin L. Walsh  
8425 Blue Stone Court  
Columbia, MD 21046  
(410) 381-1875 • [karintalks@verizon.net](mailto:karintalks@verizon.net)



October 14, 2019

Tara Bartosz, Assistant Director  
Division of Early Childhood, Office of Child Care  
Maryland State Board of Education  
200 West Baltimore Street  
Baltimore, MD 21201

RE: Proposed Changes to the Regulations Governing Family Child Care Homes

Dear Ms. Bartosz:

My name is Karin Walsh and I have provided licensed child care in my home since 1990. The purpose of this letter is to communicate my opposition to you about a proposed amendment to the regulations governing child care in family homes as published in the 10/11/2019 issue of the *Maryland Register*.

The language in **COMAR 13A.15.08.01.D(1)(a) "Supervision of Resting Children"**, proposes to add the following clause, indicated in bold italics: "(1) If a resting or napping child is younger than 2 years old, the provider or substitute shall ***“(a) remain on the same level as the child”***. This means that for those of us who provide childcare in our homes, we cannot use the upstairs bedrooms for napping. We must all remain on the same level, both napping children and playing children who do not nap. I believe this will create an extreme hardship and undue burden on providers and is not in the best interests of the children in their care.

Even *without* the proposed amendment, current rigorous regulations require providers to:

1. Remain no more than one (1) level away from a napping child,
2. Physically observe the napping child at least every 15 minutes, and
3. Use a video and sound monitoring system for each napping child.

These existing requirements provide for the safety and well-being of napping children, without the necessity of the provider remaining on the same level of the home.

For childcare providers who live in townhomes or homes with upstairs bedrooms, the proposed regulation effectively eliminates the use of those spaces. It also means that children who need naps in order to be well-rested and healthy, must nap alongside playing children. Moreover, it

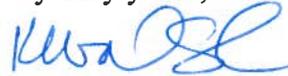
means that older children who do not nap, must remain relatively quiet and not be a distraction to the napping children. This is not in the best interest of *either* child.

Napping children need a quiet, dimly-lit space to gain adequate rest. Children who do not nap need space to play and be noisy and exuberant. These scenarios produce well-developed, healthy and happy children.

I believe the current regulations, as enumerated above, should remain in place without the proposed change to require providers to remain on the same level of the home as napping children.

I have discussed opposition of this regulation change with the Howard County Family Child Care Association, of which I am a member. This matter will be on our agenda at our next meeting in November.

Very truly yours,



Karin L. Walsh

Childcare Registration No. 25130

cc: Delegate Shane E. Pendergrass  
Maryland House of Delegates

Delegate Jennifer R. Terrasa  
Maryland House of Delegates

Delegate Vanessa E. Atterbeary  
Maryland House of Delegates

Senator Cheryl C. Kagan  
Maryland General Assembly  
Joint Committee on Administrative, Executive & Legislative Review

Delegate Samuel I. Rosenberg  
Maryland General Assembly  
Joint Committee on Administrative, Executive & Legislative Review

Rebecca Hancock, Vice-President - Public Policy  
Maryland State Family Child Care Association

Jody Lamberti and Ruby Daniels  
Howard County Family Child Care Association



Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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**change in regulations for infant sleeping supervision**

1 message

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**Susan Hemp** <hempds@gmail.com>  
To: earlychildhoodregs.msde@maryland.gov

Fri, Oct 11, 2019 at 8:30 PM

My name is Susan Hemp and I have been doing childcare for twenty-six years. I live in a multilevel home. All of my daycare children sleep in the upper level since that is where the bedrooms with the smoke detectors are located. If the regulations are changed to requiring me to be on the same level as children under the age of two when they are sleeping I will not be able to have any child I care for sleep in the morning. If I have to remain on the same level as the sleeping infant I cannot allow the other children in my care to have the space they need to play and learn since this area is located on the first floor of my home. I am continuously checking on any infant that is sleeping as our regulations currently stipulate. By changing the regulations you are limiting the activity level of the other children in care while an infant is sleeping. I feel this change is unfair to the other children in care and will force providers who live on a multilevel home to go out of business.

Susan Hemp





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

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## Regulation changes

1 message

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**Angie Covington** <darrenc727@aol.com>  
To: earlychildhoodregs.msde@maryland.gov

Wed, Oct 23, 2019 at 9:39 PM

I am a Washington County provider very concerned about the changes possibly being made for under 2 nap time requirements. I will have to stop taking children under 2 if this passes. I live in a 1935 cape cod and my entire main floor is daycare space with no quiet space for babies to nap peacefully. I have tried it just to see if it would function and there is no way I can keep the older children quiet long enough for a baby to get proper rest. My quiet space for under 2 is on my second floor with monitors and every 15 minutes physically checking. I have spoke to my parents about this possible change and they themselves do not even follow this practice. They sleep their baby in a quiet room with monitor just as we do except they are not checking on them ever 15 minutes. If this passes there will be a shortage of providers able to take infants under 2 and that would add to the already large shortage of infant care available. I feel the current regulations are safe and exactly what is being provided at their own homes by their own parents.

Thank you for your time.

Angela Covington  
Hagerstown MD

Sent from my iPhone



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Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

## Regulation Changes

1 message

Susie Dembrow <slkp@comcast.net>  
To: earlychildhoodregs.msde@maryland.gov

Tue, Oct 29, 2019 at 3:12 PM

10/29/2019

To Whom It May Concern:

I am a member of the Calvert County Family Daycare Association (CCFDCA) which is a non-profit association that advocates on behalf of approximately 100 registered family child care providers and is an important part of the child care delivery system in Maryland. As a workforce, registered family child care providers care for approximately 44% of infants in Maryland and will likely continue to care for a substantial portion of infants and toddlers in the future. We see the struggles of our members to make ends meet as small businesses dealing with fluctuations in enrollment and income, as well as the ever evolving regulatory and policy changes that affect their bottom line. Many of the providers are one income or lower-income households and when incomes drop, or burdensome regulation suffocates them, difficult decisions must be made.

The vast decline in family child care providers over the last few years is concerning and has caused major problems for families. Many of us, members, say that the decline is from increasing regulations that create tedious time-consuming tasks and a substantial amount of paperwork that is duplicated across various programs which is a large factor for leaving the profession. In addition, the low wages earned by providers who on any given day lose a portion of their income when a family's circumstances change and leave their program. The financial uncertainty of family child care is real and very difficult for many to sustain.

Registered family child care providers typically work alone in their home in a small diverse delivery form of child care with mixed-ages. Most family child care providers use a large portion of their home in order to meet the needs of the various ages and developmental levels of the children in care. Providers have made many accommodations to ensure the safety and well being of the children they care for. One issue we are having is with the proposed regulation change (**COMAR 13A.15.05**) Outdoor Activity Area and (**D2**) Swimming Pool Security. We understand the proposed regulation change, but this brings forth a lot of financial burden onto providers with existing pools and safety barriers. Most of the current providers have had their pool (above and in-ground) for numerous years without any safety issues from their inspections. Asking a provider to spend \$3000-\$5000 to add a fence around an above ground pool that already has a 4-foot fencing around the top of the structure is not acceptable. Most above ground (and in-ground) pools already meet the safety requirements set forth by the Health Department and we feel as no added expense should be incurred. Your proposed regulation does not distinguish between above and in ground pools, current licensed providers or new registrants, nor is it detailed enough on what is expected of the family provider. I hope that you take the financial responsibility along with the already safety factors that our providers must endure. When decisions affect a provider's ability to continue in business, it is imperative that a dialog take place. Family child care is unique in that it gives children a quality learning environment in a nurturing home, and many children thrive in these small group settings.

As a member of CCFDCA, I am one providers that will be affected by this regulation. My home has a pool with approved fencing around the water/deck area, a gate/ladder with a pad lock, and no access to the pool decking or water by any means. If this regulation goes into effect, not only would myself, but other providers have to make that difficult choice in closing our business due to financially unable to correct the proposed regulation. The financial burden will be devastating either way for providers and will lead to a greater crisis in child care for families

In addition to the Outdoor Activity Area change, there are other proposed changes that are troublesome to our members as well, including one that gives MSDE the authority to close down a program for a *mistake* on paperwork (**COMAR 13A.15.13.07**). When there is no purposeful intent of misleading MSDE on paperwork, it should not be assumed there was and require an investigation. In addition to family providers who own a multi-level home with few rooms on each floor (**COMAR 13A.15.08.01**) which will mandate that infants remain on the same floor as the provider while sleeping.

I am diligent in my efforts to advocate for the best interest of children as well as family child care providers and would be happy to answer any questions you may have and look forward to your response. I respectfully ask that these concerns be given time and consideration before any proposed regulatory changes take effect.

Respectfully,

Susan M Dembrow

St. Leonard Kids' Place

5545 St. Leonard Road

St. Leonard, MD 20685

License #162641

In addition to the Outdoor Activity Area change, there are other proposed changes that are troublesome to our members as well, including one that gives MSDE the authority to close down a program for a *mistake* on paperwork (**COMAR 13A.15.13.07**). When there is no purposeful intent of misleading MSDE on paperwork, it should not be assumed there was and require an investigation. In addition to family providers who own a multi-level home with few rooms on each floor (**COMAR 13A.15.08.01**) which will mandate that infants remain on the same floor as the provider while sleeping.

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Respectfully,

Susan M Dembrow

St. Leonard Kids' Place

5545 St. Leonard Road

St. Leonard, MD 20685

License #162641





Earlychildhoodregs MSDE -MSDE- &lt;earlychildhoodregs.msde@maryland.gov&gt;

## Comments on the Proposed Child Care Licensing Regulations

1 message

**Deborah Duffy** <deborah.duffy@clarabartoncenter.org>

Wed, Oct 30, 2019 at 11:43 AM

To: earlychildhoodregs.msde@maryland.gov

Cc: cheryl.kagan@senate.state.md.us, samuel.rosenberg@house.state.md.us

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers, as well as the 10/29/19 letter sent from Paula Curran representing Clara Barton Center for Children. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake.

Child care is rapidly heading toward a crisis in Maryland and nation-wide. It is already difficult to hire and retain qualified child care professionals, due to the low wages and demands associated with the profession. These proposed regulations will make it even more difficult to hire and retain qualified staff, which will adversely impact our shared goal of providing affordable and quality childcare to Maryland families.

Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

Sincerely,

Deborah Duffy,

Assistant Director

Clara Barton Center for Children

--

Deborah P. Duffy

Clara Barton Center for Children

7425 MacArthur Boulevard

Cabin John, MD 20818

301.320.4565

<http://www.clarabartoncenter.org>[deborah.duffy@clarabartoncenter.org](mailto:deborah.duffy@clarabartoncenter.org)*Accredited by the Maryland State Department of Education*

Maryland EXCELS – Check Level 5 program

Comments on the Proposed Child Care Licensing Regulations

10/30/2019 10:40 AM

Dear Mr. [Name],

Thank you for your comment.

The Department of General Services (DGS) is reviewing your comment regarding the proposed regulations for the Maryland EXCELS – Check Level 5 program. We appreciate your input and will take it into consideration as we continue to refine the regulations. Your comment is being shared with the relevant stakeholders for their review.

If you have any further questions or comments, please contact the Department of General Services at [Phone Number] or [Email Address]. We will be in touch with you again once a final decision has been reached.

Sincerely,  
[Name]  
[Title]

10/29/2019

To Whom It May Concern:

I am a member of the Calvert County Family Daycare Association (CCFDCA) which is a non-profit association that advocates on behalf of approximately 100 registered family child care providers and is an important part of the child care delivery system in Maryland. As a workforce, registered family child care providers care for approximately 44% of infants in Maryland and will likely continue to care for a substantial portion of infants and toddlers in the future. We see the struggles of our members to make ends meet as small businesses dealing with fluctuations in enrollment and income, as well as the ever evolving regulatory and policy changes that affect their bottom line. Many of the providers are one income or lower-income households and when incomes drop, or burdensome regulation suffocates them, difficult decisions must be made.

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I am diligent in my efforts to advocate for the best interest of children as well as family child care providers and would be happy to answer any questions you may have and look forward to your response. I respectfully ask that these concerns be given time and consideration before any proposed regulatory changes take effect.



November 12, 2019

Ms. Tara Bartosz  
Office of Child Care, Division of Early Childhood  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201-2595

Dear Ms. Bartosz,

I am writing on behalf of the Pool and Hot Tub Alliance (PHTA) and the International Code Council (ICC), in regard to childcare facility requirements for swimming pool fencing, Title 13A: D (2).

PHTA, formerly the Association of Pool and Spa Professionals (APSP) and the National Swimming Pool Foundation (NSPF), facilitates the expansion of swimming, water safety, and related research and outreach activities aimed at introducing more people, to swimming, making swimming environments safer and keeping pools open to serve communities. PHTA is the world's oldest and largest association representing over 3,100 member companies including swimming pool, hot tub, and spa manufacturers, distributors, designers, builders, installers, suppliers, retailers, and service professionals. Over 70 pool and spa companies serving the state of Maryland are members of PHTA, with many more based in the D.C./NOVA area also doing business in Maryland.

The ICC is a member-focused not-for-profit association dedicated to helping the building community and the construction industry provide safe, resilient, and sustainable construction through the development and use of model codes (I-Codes) and standards used in the design, construction, and compliance processes. Most U.S. states and communities, federal agencies, and many global markets choose the I-Codes to set the standards for regulating construction, plumbing and sanitation, fire prevention, and energy conservation in the built environment. Maryland and its jurisdictions adopt and use twelve I-Codes, including the International Building Code, International Residential Code, and the International Plumbing Code, as the foundation for their construction standards. Maryland is home to two ICC chapters; the Maryland Building Officials Association and the Maryland Plumbing and Mechanical Inspectors Association is well represented in ICC's code development process.

PHTA is the only American National Standards Institute (ANSI) recognized association to develop and promote national standards for pools, hot tubs, and spas. PHTA has developed 16 ANSI certified standards and is also the co-developer, along with ICC, of the International Swimming Pool and Spa Code (ISPSC). The ISPSC has been adopted internationally and in over 300 local jurisdictions within the United States, including 13 mandatory state adoptions, and 19 states with optional local adoptions. Localities which have adopted the ISPSC in Maryland include Anne Arundel County, Cecil, Annapolis, Gaithersburg, and Montgomery County. The ISPSC is the only swimming pool and spa code that is correlated with the construction codes adopted by Maryland.



2111 Eisenhower Ave., Ste 500  
Alexandria, VA 22314



November 12, 2019

It is our position, and recommendation, that the best and safest fencing requirements are compliant with section 305 of the ISPSC, "Barrier Requirements," of the ISPSC. This section provides options for barrier and fencing requirements. Barriers on or around pools and spas significantly restrict unauthorized access to pools and spas.

The perimeter barrier design requirements in section 305 are especially focused on preventing children from having access to an area where the potential for drowning or near drowning is very high. Section 305 includes minimum standards for barrier height and clearances, chain link and conventional fencing, poolside barrier setbacks, gates, latches and others. Section 305 also contains a variety of options for barrier requirements such as automatic pool covers and mesh fences:

[https://codes.iccsafe.org/content/ISPSC2018P2/chapter-3-general-compliance#ISPSC2018P2\\_Ch03\\_Sec305](https://codes.iccsafe.org/content/ISPSC2018P2/chapter-3-general-compliance#ISPSC2018P2_Ch03_Sec305)

On behalf of PHTA and the ICC, we respectfully request that you consider the provisions outlined in the 2018 International Swimming Pool and Spa Code providing options for swimming pool fencing requirements. Thank you.

Sincerely,

A handwritten signature in dark red ink, appearing to read "B. Scanland".

Brendan Scanland  
PHTA, Government Relations Associate  
[bscanland@phta.org](mailto:bscanland@phta.org)



2111 Eisenhower Ave., Ste 500  
Alexandria, VA 22314

## Appendix A

Center support of Shulman, Rogers, Gandal, Pordy & Ecker P.A

12 emails were sent with the same language and request:

Commented [SH1]: This seems biased

Dear Ms. Bartosz,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I support the concerns and suggested solutions described in the 10/15/19 letter to you from Shulman Rogers representing a coalition of Montgomery County providers. I am especially concerned about the impact to my program of continued unfunded mandates, a lack of clarity in the regulations, requirements that child care providers must oversee the work of pediatricians, an unworkable system for substitutes, and being deprived of due process rights in a fraud case where OCC could take my license for any incorrect information, even if it was an honest mistake. Please honor the request made by the State Legislature's AELR Committee and meet with stakeholders to reach more consensus on these regulations before they become final.

- Academy Child Development Center
- Creative Corner
- Ashton Christian Preschool
- The WEE Center
- Takoma Park Child Development Center
- Parents of Preschoolers, Inc.
- Glenbrook Nursery School
- Grace Lutheran School
- New Beginnings Christian Learning Center
- 4 Corners Community Nursery
- Glenbrook Nursery School
- Carl and Norma Miller Children's Center At Frederick Community College

Center support referenced in Shulman, Rogers, Gandal, Pordy & Ecker P.A letter

### Montgomery Child Care Association (MCCA)

- Arcola
- Ashburton/wyngate
- Bel Pre
- Beverly Farms
- Beverly Farms Ivymount
- Brooke Grove
- Garrett Park
- Georgian Forest
- Greenwood
- Jones Lane
- Kensington/Forest Glenn
- Park Street
- River Road
- Weller Road

### Georgetown Hill Early School (GHES)

- Potomac
- Clarkburg
- Darnestown
- North Potomac

- Riverdale
- North Bethesda
- Rockville

**The Goddard School**

- King Farm
- Goddard of Bethesda
- Ellicott city

## **Appendix B**

### **Family Associations in support of MFSCCA**

Allegany County Childcare Professionals Association  
Anne Arundel Family Child Care Association  
Baltimore County Family Child Care Association  
Cecil County Childcare Association  
Charles County Family Day Care Association, Inc.  
Family Child Care Association of Frederick County  
Family Child Care Association of Montgomery County, Inc.  
Family Child Care Providers Association Incorporated of Baltimore City  
Family Daycare Association of Harford County Howard County  
Family Child Care Association  
Latino Child Care Association of Maryland (LCAM)  
Prince George's County Family Child Care Association, Inc.  
Professional Association of Child Care Providers. Inc.  
Professional Child Care Association of Washington County  
Professional Child Care Providers Network of Prince George's County  
Professional Family Provider Association of Lower Shore  
St. Mary's County Family Day Care Association  
Queen Anne's County Child Care Association  
Washington County Child Care Provider's Association  
Talbot County Childcare Association

