




To: Members of the State Board of Education

From: Dr. Sylvia Lawson, Acting State Superintendent of Schools 

Date: October 24, 2023

Subject: COMAR 13A.15.02.02
Family Child Care - Registration Application and Maintenance
COMAR 13A.16.02.02
Child Care Centers - License Application and Maintenance
COMAR 13A.17.02.02
Child Care—Letters of Compliance - Letters of Compliance Application and Maintenance
COMAR 13A.18.02.02
Large Family Child Care Homes - Registration Application and Maintenance
PERMISSION TO ADOPT

Purpose

The purpose of this item is to request permission to adopt amendments to COMAR 13A.15.02.02 *Family Child Care - Registration Application and Maintenance*, COMAR 13A.16.02.02 *Child Care Centers - License Application and Maintenance*, COMAR 13A.17.02.02 *Child Care—Letters of Compliance - Letters of Compliance Application and Maintenance*, and COMAR 13A.18.02.02 *Large Family Child Care Homes - Registration Application and Maintenance*.

Regulation Promulgation Process

Under Maryland law, a state agency, such as the State Board, may propose a new or amended regulation whenever the circumstances arise to do so. After the State Board votes to propose such a regulation, the proposed regulation is sent to the 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, Maryland State Department of Education (MSDE) staff reviews and summarizes the public comments. Thereafter, MSDE staff will present a recommendation to the State Board of Education to either: (1) adopt the regulation in the form it was proposed; or (2) revise the regulation and adopt it as final because the suggested revision is not a substantive change; or (3) revise the regulation and re-propose it because the suggested revision is a substantive change. At any time during this process, the AELR Committee may stop the promulgation process and hold a hearing. Thereafter, it may be recommended 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

MSDE is committed to ensuring that all early care and education programs in the State have clear, rigorous, and multiple pathways toward becoming licensed or registered, especially those representing and serving historically underserved communities. Regulated and licensed programs ensure that children are safe and in high-quality early care and learning environments.

Previous MSDE Guidance

In February 2022, the MSDE Division of Early Childhood, Office of Child Care released additional written guidance to early care and education programs to clarify the laws and regulations around social security numbers (SSN) in child care. This guidance stated that applicants for child care registration or a center license, including co-providers, are required to provide their SSN. Additionally, individuals 18 years and older who work in child care facilities or reside in family child care homes may need to undergo federal and state criminal background checks, which may require providing a SSN. The Office of Child Care relies on other agencies to perform these background checks and defers to them to inform individuals if a SSN is needed. However, it is evident that further guidance was needed around this requirement.

Licensing and Registering Early Care and Education Programs Using Social Security Number and Individual Taxpayer Identification Number (ITIN) and Overview of Stakeholder Engagement

MSDE met with early care and education stakeholder groups to discuss this requirement. Stakeholders shared examples of the difficulty prospective providers face in obtaining a SSN to operate a licensed and regulated child care facility in Maryland. MSDE recognizes that licensure and regulation are vital in ensuring the provision of safe and quality child care and sought to identify multiple, rigorous pathways for expanding child care services.

- Information Sessions (January 26, 2023, February 23, 2023, and March 23, 2023): The inability of people without a SSN to become a licensed and/or registered program was raised as a concern.
- Office of Child Care Advisory Council Meeting (February 16, 2023, and April 13, 2023): The proposed legislation was discussed in the meeting. Stakeholders explained why this proposed legislation was important to the field and would increase the number of licensed and/or registered programs. The ITIN was discussed, and it was stated that people who had an ITIN paid taxes and should be able to apply for a child care license. Finally, it was shared that newcomers or refugees who come to our State bring with them a wealth of expertise, skills, and knowledge from their home countries. There should be clear pathways for them to obtain their license or registration to own an early care and education program.
- State Early Childhood Advisory Council (March 1, 2023): The inability of people without a SSN to become a licensed and/or registered program was raised as an equity issue.

To this end, MSDE, in consultation with legal counsel, proposed revisions to COMAR to eliminate the barrier posed by SSN requirements. The regulation revisions are expected to bring more providers into licensed and regulated early care and education programs. MSDE is working to ensure the language, as drafted, matches any system requirements of MSDE's child care database system, the Child Care Automated Tracking System (CCATS).

Beyond changes to COMAR, it is also important to note that additional barriers to licensure may still exist outside the Department's control. Although SSNs are not required for criminal history background checks, certain local

requirements for leasing or obtaining facilities may still be a challenge for some individuals. MSDE is committed to continuing to partner with stakeholders and doing what it can to address challenges.

Executive Summary

MSDE reviewed the regulations and made the proposed amendments and additions with two goals in mind. First, the proposed regulations were amended to be more inclusive of those who do not have a SSN but do have an ITIN. This proposed regulation amendment (that is, using the SSN and if the applicant does not have a SSN would use the ITIN) is in alignment with how the Child Support Enforcement Administration has interpreted § 10-119.3 of the Family Law Article, which is the primary basis for MSDE's Division of Early Childhood's collection of the SSN in the first place.

Where appropriate, MSDE added clarifying language to ensure that the implementation of the licensing process includes obtaining either the SSN or ITIN from applicants. Second, MSDE considered the feedback from fact-finding conversations with stakeholders to draft language that supports the goal of increasing the number of licensed or registered early care and education programs. MSDE recommended amendments to the following regulations:

COMAR 13A.15.02.02 *Family Child Care - Registration Application and Maintenance*

- Clarifies that a family child care applicant shall provide the SSN, or if the applicant does not have a SSN, the applicant would provide the ITIN.

COMAR 13A.16.02.02 *Child Care Centers - License Application and Maintenance*

- Clarifies that a child care center applicant shall provide the SSN, or if the applicant does not have a SSN, the applicant would provide the ITIN.

COMAR 13A.17.02.02 *Child Care—Letters of Compliance - Letters of Compliance Application and Maintenance*

- Clarifies that a letter of compliance applicant shall provide the SSN, or if the applicant does not have a SSN, the applicant would provide the ITIN.

COMAR 13A.18.02.02 *Large Family Child Care Homes - Registration Application and Maintenance*

- Clarifies that a large family child care home applicant shall provide the SSN, or if the applicant does not have a SSN, the applicant would provide the ITIN.

MSDE incorporated as much feedback from stakeholders as possible into the proposed regulations.

The regulations were presented to the State Board on April 25, 2023, with a request for permission to publish. The amendments were published in the Maryland Register for August 25, 2023, through September 25, 2023. MSDE received one comment that was in support of the amendments to the regulations. A copy of the letter is attached.

Action

Request permission to adopt amendments to COMAR 13A.15.02.02 *Family Child Care - Registration Application and Maintenance*, COMAR 13A.16.02.02 *Child Care Centers - License Application and Maintenance*, COMAR 13A.17.02.02 *Child Care—Letters of Compliance - Letters of Compliance Application and Maintenance*, and COMAR 13A.18.02.02 *Large Family Child Care Homes - Registration Application and Maintenance*.

Attachments

COMAR 13A.15.02.02

Family Child Care - Registration Application and Maintenance

COMAR 13A.16.02.02

Child Care Centers - License Application and Maintenance

COMAR 13A.17.02.02

Child Care—Letters of Compliance - Letters of Compliance Application and Maintenance

COMAR 13A.18.02.02

Large Family Child Care Homes - Registration Application and Maintenance

Letter from Pillar Torres on behalf of the Luna Family Support Services

Title 13A STATE BOARD OF EDUCATION

Subtitle 15 FAMILY CHILD CARE

Chapter 02 Registration Application and Maintenance

Authority: Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, 9.5-321 and 9.5-414; Family Law Article, §§5-550—5-558; 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 Initial Registration.

A. (text unchanged)

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

(1)—(3) (text unchanged)

(4) *Provide the Social Security Number of the applicant or, if the applicant does not have one, the Individual Taxpayer*

Identification Number of the applicant;

[(4)](5)—[(10)](11) (text unchanged)

C.—D. (text unchanged)

Subtitle 16 Child Care Centers

Chapter 02 License Application and Maintenance

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

.02 Initial License.

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

(1)—(2) (text unchanged)

(3) Submit to the office at least 60 days before the proposed opening date a completed and signed application form, supplied by the office, that contains a statement of truthfulness and commitment to comply with this subtitle; [and]

(4) *Provide the Social Security Number of the applicant or, if the applicant does not have one, the Individual Taxpayer*

Identification Number of the applicant; and

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

B.—C. (text unchanged)

Subtitle 17 Child Care—Letters of Compliance

Chapter 02 Letter of Compliance Application and Maintenance

Authority: Education Article, §§9.5-401, 9.5-404, 9.5-405, 9.5-409, 905-411, and 9.5-413—9.5-418; General Provisions Article, §4-333; Human Services Article, §1-202; Annotated Code of Maryland Agency Note: Federal Statutory Reference – Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.); Child Care Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.); Social Security Act §418 (42 U.S.C. 618)

.02 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) (text unchanged)

(2) File with the office at least 60 days before the proposed opening date a signed and completed application form supplied by the office; [and]

(3) *Provide the Social Security Number of the applicant or, if the applicant does not have one, the Individual Taxpayer*

Identification Number of the applicant; and

[(3)](4) (text unchanged)

B.—C. (text unchanged)

Subtitle 18 Large Family Child Care Homes

Chapter 02 Registration Application and Maintenance

Authority: Education Article, §§9.5-301—9.5-308, 9.5-310—9.5-312, 9.5-320, 9.5-321 and 9.5-414; Family Law Article, §§5-550—5-558; 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.); 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 Initial Registration.

A.—B. (text unchanged)

C. Before the proposed opening date of the child care home, an applicant for initial registration shall:

(1) Provide the Social Security Number of the applicant or, if the applicant does not have one, the Individual Taxpayer

Identification Number of the applicant;

[(1)](2)—[(2)](3) (text unchanged)

D.—F. (text unchanged)

MOHAMMED CHOUDHURY
State Superintendent of Schools

Comments regarding **COMAR 13A.15.02** Family Child Care, **COMAR 13A.16.02** Child Care Center, **COMAR 13A.17.02** Letters of Compliance, and **COMAR 13A.18.02** Large Family Child Care Homes

Published in the Maryland Register August 25, 2023, through September 25, 2023

(Volume 50, Issue 17, p. 17)

<p>Public Comment on proposed regulation changes pertaining to Family Child Care, Child Care Centers, Letters of Compliance, and Large Family Child Care Homes</p>		
<p>Amendment Summary:</p> <p>The proposed amendment will allow applicants for a family child care or large family certificate of registration, letter of compliance, or child care center license who do not have a Social Security Number (SSN) to provide an Individual Taxpayer Identification Number (ITIN) instead, thereby allowing them to move forward in the initial application process with intent for approval to operate or work within a child care program.</p>		
<p>Pilar Torres on behalf of LUNA Family Support Services @ pilar.torres@luna-fss.org</p>	<p>Date Received: 8/22/2023</p>	<p>Stance: In Support</p>
<p>MSDE Response: Your public comments regarding the Individual Taxpayer Identification Number (ITIN) amendments for child care regulations have been received. Thank you for your feedback!</p>		
<p>Dear Drs. Choudhury and Cook,</p> <p>As our MSDE-funded project to support the licensing of Latinas in Maryland gains traction, we had the opportunity to discuss the proposed regulations changes with our participants and they asked us to deliver these messages to you word for word.</p> <p><i>“My name is Angelica S., right, I am very interested in having my license. I have been preparing myself throughout these 3 years, studying various courses, doing various things that allow me to teach children.</i></p> <p><i>I have a 3-year-old baby and she is my motivation to start this (I have 4 children.) I did not want to leave the youngest alone, and separate myself from her. Today, children are lost in cell phones, tablets and televisions. The nannies and the babysitters do not teach them anything.</i></p> <p><i>That’s why I want to set up my own childcare. I have also taken care of my other 3 children, set up my own informal program and taught them myself. That is why I began to train myself and begin to prepare myself. The children that I have taken care of have</i></p>		

not been many, because the payment is minimal when we do not have a license. I have been mistreated by parents, they have yelled at me, mistreated me.

In fact, a parent made me sign a letter so that I could take care of her child. I did not physically sign it; she signed it in my name and took the state money subsidy. And she paid me 20 dollars for 12 hours. It's too much time. And the first thing she told me is "you're not authorized to work". It is a way of blackmailing us caregivers. "If you are not authorized, you do not have a license, I will pay you whatever I want. You don't have a license." And for that reason I study, I have taken the CPR, medicine administration. I studied early childhood education at Montgomery college, and they told me I couldn't continue because you don't have social security.

It is sad not to be able to move forward. This would help us a lot. It would be a boost to our economy. I have 4 children. Only my husband works. This would be a way to support the family.

That we're not depending on food stamps, from the government. That we as women could be supporting the family economy. That is very important and to not receive the lowest pay from people. Don't pay 20 dollars for 12 hours. That is less than 1 dollar an hour. That is unfair. In my case, I will not allow children to watch television, or iPhones or tablets. I will give children activities, crafts, drawing... it will be like a little school "

"Good morning. My name is Vanessa A. I am very happy about this opportunity that is being offered. What if this regulation-change passes, as Mrs. Pilar says.

I have been fighting since 2014. I went to trainings, workshops, and classes. I had my first two little boys. I wanted to prepare myself and be involved in her upbringing because I could not be involved with my first child.

I did not want to be a burden to this country and I had to find the financial resources to raise my family.

And since 2014 I went to that orientation at Montgomery College and they told me that one of the requirements was social security, and it was like the door was closed. So I kept working on what I always did. But for a few years I stopped working and dedicated myself to taking care of my children, then I had my daughter and I took care of all three. And there someone told me to take the 90 hours at Montgomery College with a scholarship, I also took advantage of it and what you say is very true. If we have the vocation, we should all take advantage of these opportunities and have a goal, even if we have obstacles, we should not stay halfway because of the mistake we make in our community.

And you have to put them to good use. Don't lose funds. I am very grateful and I know that I am going to take advantage of this opportunity. My first two children have grown up, you are no longer in my charge, right, but I will always be present for them. One never ends.

I want to support other families. I don't want other families to experience what I experienced. Be a leader for the community; contribute from where we are. A grain of sand. That is my mentality. When I take care of children, why am I going to mistreat them? Why am I not going to do it right? I must do my job well and with love if the parents are working. I will take care of the

children as if they were my own. How I wanted them to treat mine. This is a great opportunity for family income, but also for community support. That the parents have a proper place for their little ones.”

The voices of these two women represent the stark realities of thousands of child care providers who provide informal home-based childcare services to essential members of our workforce in key industries: construction, hospitality, health and safety, transportation, the entire chain of food from harvest-table, etc. These immigrant women want an opportunity to provide for their families, remain economically independent and provide a crucial service to families in their communities.

They want to be part of the solution to the child care crisis exacerbated by COVID-19. This crisis is converging with a dramatic demographic shift which has reached its tipping point. In 2018 the 0-5 population of the United States became majority-minority. These compounding situations create complex phenomenon of lack of availability of care, superdiversity among young children and educators, and a chasm in state systems that either do not recognize these changes, or have not taken actionable steps to address it.

“A recent analysis of the infant and toddler workforce showed that 30 percent of all infant and toddler early educators speak a language other than English, and other research finds that family, friends, and neighbor caregivers share a similar language and cultural background with the children and families in their care. The immigrant women in this field are an asset yet in addition to the low wages and respect, and poor working conditions for the workforce in general, they encounter additional barriers related to language, immigration, and discrimination. This makes it more difficult for them to participate in publicly funded programs, start or expand child care businesses, engage in quality initiatives, interface with licensing and workforce development systems, and obtain credentials and degrees. The linguistic and cultural diversity of this workforce is often celebrated, but this has yet to translate to tangible supports in important areas of need, such as professional learning, credential and degree programs in languages other than English; supports for learning English, and better language access services (translation/interpretation) in funding and regulatory processes.” Miriam Calderon, Chief Policy Officer, Zero -Three

Proving a licensing pathway to Latinas in our state will not only benefit the Dual Language Learners in Maryland communities; it will benefit all working families because immigrant women are the child care supply that we are desperately searching for. Igniting the systems and policies that will formally drive, support and keep immigrant women in this field will require resources, effort and time; we are enormously grateful for the opportunity to demonstrate the impact of our model and the incredible capacity and tenacity of our community.

The advocates, legislators and educators who have sounded the alarm and have taken the risk to propose these changes, must be commended for their vision and leadership. Narrowing equity gaps requires deep structural changes and clear understanding of the undervalued assets that this sector of our economy can offer in terms of productivity, competitiveness and solidifying a future tax base; not to mention the 12:1 return on investment^[1] in adult outcomes and that vital role the early care and education plays undergirding the long-term success of **The Blueprint for Maryland's Future, our landmark education legislation.**

