

Small Entity Compliance Guide

Child Care Center and Letter of Compliance Regulations COMAR 13A.16 and 13A.17

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Introduction

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

Purpose of This Regulatory Action

On October 24, 2023, the Agency’s proposed amendments were considered by the Maryland State Board of Education. The purpose of the amendments to the child care regulations found at the Code of Maryland Regulations (COMAR) 13A.16 and 13A.17 is to allow a child care center to utilize a maximum group size of 45 when staffed by at least 1 teacher, 1 assistant teacher, and 1 aide, as opposed to having to be staffed with 2 teachers and 1 aide. A parallel amendment is not necessary for letter of compliance facilities because staff are not required to be qualified as teachers in the same way. The proposed regulation amendment would also allow groups consisting exclusively of school age children within a child care center or letter of compliance facility to only need at least one 1 staff member who is certified in approved first aid and CPR for every 30 children, instead of the need for 2 certified staff members based on the current ratio of 1:20. The proposed changes would provide some additional flexibility in staff/child ratio requirements within child care centers and letter of compliance facilities, especially during a time when programs are still struggling with a shortage in the early child care workforce.

Under current regulations, child care centers and letter of compliance facilities are required to have a certain number of qualified and/or certified staff for the school age group sizes, which proves to be hardship for new and prospective staff who may work part time with low wages and not have certain qualifications and certifications upon hire. As a result, child care centers and letter of compliance facilities have to lower their school age capacity or risk being sanctioned by the OCC, due to the inability to meet supervision requirements. However, the proposed amendments could lessen the impact in that they allow the same number of staff to be present but with one fewer teacher who is fully qualified, and enable programs to provide adequate First Aid/CPR coverage at their current capacity while they obtain and train new/prospective staff in hopes of them becoming qualified and certified.

Definitions

"Child care teacher" as referenced in COMAR 13A.16 regulations means a staff member who is responsible for supervising a child care activity or a group of children in care and meets the requirements of COMAR 13A.16.06.09 or .10, as applicable.

See COMAR 13A.16.01.02B(16).

“School age child” as referenced in COMAR 13A.16 and 13A.17 regulations means a child younger than 16 years old who attends a public or nonpublic school in grades kindergarten or above.

See COMAR 13A.16.01.02B(53) and COMAR 13A.17.02B(39).

Summary of the Major Provisions

As stated, the regulations:

- Amend the group size and staffing regulations to reference child age groups instead of child ages and to further add exceptions of the staff/child and maximum group size requirements for a group of school age children. (COMAR 13A.16.08.03C(2) and (3))
- Amend the first aid and CPR regulations to indicate that for every 20 children present in a group that includes infants, toddlers, or preschoolers, there shall be one staff member currently certified in approved first aid and CPR in attendance, but that for every 30 children present in a group of exclusively school age children, only one staff member so certified needs be in attendance. (COMAR 13A.16.10.02B and 13A.17.10.02B)

Please note that the first bullet, regarding group size and staffing regulations, only pertains to a child care center because a letter of compliance facility is not required to have qualified teachers in its child care program.

Compliance Date for Entities Subject to These Regulations

The implementation date of these regulations depends on when the Agency receives requests for approval from child care centers and/or letter of compliance facilities who seek to utilize the new supervision amendments, which are inclusive of group size, staffing and first aid and CPR, following final adoption of the regulations. As to current centers and facilities, inspections and enforcement will be based on the new standards upon final adoption of the regulations.

Entities Subject to These Regulations

The Agency is responsible for licensing and oversight of child care facilities, including but not limited to, child care centers and letters of compliance facilities. The regulations pertaining to the licensing of child care facilities can be found at COMAR 13A.16 and 13A.17. For Fiscal Year 2022, there were 2,584 child care centers and 98 letter of compliance facilities throughout Maryland. As previously mentioned, child care center and letter of compliance facilities will be subject to these amendments.

Estimate of Economic Impact On Small Entities

The proposed action may allow child care centers and letter of compliance facilities that are small businesses, based on their size or capacity, the opportunity to remain active at a time where

hiring qualified teachers proves difficult due to a workforce shortage. Child care centers and letter of compliance facilities often struggle with finding qualified staff members, not to mention staff members in general. However, the proposed amendments will result in both programs being able to either maintain the child capacity that they have in order to meet teacher/child ratio requirements, without having to worry about obtaining additional certifications, in addition to the option to expand should they wish to do so. Lastly, families seeking school age child care within a child care center or a letter of compliance facility may have more child care options to choose from instead of experiencing a decrease in child care options.

Resources

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

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

The Maryland State Department of Education, Office of Child Care, is happy to assist small entities with questions regarding the child care center care regulations. Please direct questions by telephone to (410) 767-0120.