



Mohammed Choudhury
State Superintendent of Schools

TO: Members of the State Board of Education

FROM: Mohammed Choudhury

DATE: March 22, 2022

SUBJECT: Code of Maryland Regulations (COMAR) 13A.14
Child and Family Day Care
COMAR 13A.15
Family Child Care
COMAR 13A.16
Child Care Centers
COMAR 13A.17
Child Care – Letters of Compliance
COMAR 13A.18
Large Family Child Care Homes
ADOPTION

PURPOSE:

The purpose of this item is to request adoption of:

COMAR 13A.14.06.02 *Definitions*, COMAR 13A.14.06.06 *Provider Requirements*,
COMAR 13A.15.01.02 *Definitions*, COMAR 13A.15.02.07 *Denial of a Registration Application*,
COMAR 13A.16.01.02 *Definitions*, COMAR 13A.16.06.03 *Suitability for Employment*,
COMAR 13A.17.01.02 *Definitions*, COMAR 13A.17.06.03 *Suitability for Employment*,
COMAR 13A.18.01.02 *Definitions*, COMAR 13A.18.02.07 *Denial of a Registration Application*, and COMAR 13A.18.06.03 *Suitability for Employment*.

The amendments to these regulations are necessary to align with the criminal background check requirements of the Federal Child Care Development Block Grant (CCDBG).

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 have been established to ensure the health, safety, and welfare of children when in an out-of-home setting. Regulations are established 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 2014, the Federal 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.

In 2017 and 2019, Maryland's regulations were revised to meet two major aspects of the CCDBG reauthorization including the implementation of comprehensive basic health and safety training for all child care staff and expanded criminal background clearances. The expanded background clearances addressed the CCDBG's mandate requiring all licensed, regulated, or registered child care providers to have a comprehensive background check to ensure that those individuals who have access to children do not have prior criminal records that could endanger children. The expanded background clearances were extended to all adults residing in family child care homes. With the exception of certain drug-related offenses committed during the preceding five years, all convictions listed by the CCDBG are lifetime bans against employment by a child care provider. The CCDBG does not allow any flexibility to grandfather in current child care staff members who have been convicted of one of the disqualifying crimes listed in the CCDBG.

Maryland regulations are stricter for the disqualifying crimes listed in CCDBG in two categories. The first category includes drug-related crimes committed longer than five years ago. Maryland's regulations include for consideration of employment the drug-related crimes committed longer than five years ago. The second category pertains to domestic violence crimes. The CCDBG lists spousal abuse as a disqualifying crime and Maryland's regulations uses the broader term domestic violence, which includes not only abuse between spouses but also abuse between family members, such as siblings.

During the process of updating the regulations to incorporate the CCDBG requirements, corrections and clarifications were identified. The following changes have been identified.

- Clarify the regulations to create a lifetime ban for the mandatory exclusion crimes. The language "has received a conviction" has been expanded upon to include "at any time" to read "has received a conviction at any time" to make it clear the regulations are intended to apply retroactively to any disqualifying crimes committed prior to the promulgation of the regulations consistent with the Office of Child Care's past and current interpretation.

- Permit individuals convicted of older drug-related crimes to be eligible for consideration for possible employment under the discretionary employment provisions. The language “if committed during the preceding 5 years” has been added to the disqualifying drug-related crimes to exclude older drug-related crimes from the mandatory employment exclusions.
- Permit individuals convicted of domestic violence crimes unrelated to spousal or intimate partner domestic violence to be eligible for consideration for possible employment under the discretionary employment provisions. The term “intimate partner” is defined and “means a person eligible to seek relief from domestic violence as specified in Family Law Article, §4-501(m)(1), (2), (6), or (7), Annotated Code of Maryland.” The language “of an intimate partner or spouse” has been added after the term “domestic violence” to exclude certain crimes of domestic violence from the mandatory employment exclusions.

The regulations have been reviewed by the Office of Child Care (OCC) Advisory Council and the Office of the Attorney General.

EXECUTIVE SUMMARY:

The purpose of the proposed amendments is to align the regulations more closely with the requirements of the CCDBG Act, as amended (42 U.S.C. 9858 et seq.). The proposed amendments are consistent throughout all five subtitles of regulations. The State Board reviewed the amendments to the regulations at the September 28, 2021, meeting. The amendments to the regulations were published in the Maryland Register from January 28, 2022, to February 28, 2022. During the 30-day comment period, the MSDE received three public comments. A summary of the comments and the agency response is attached. Based on a thorough review of the comments received, the MSDE recommends no changes to the language of the regulation.

ACTION:

Request adoption of the amendments to:

COMAR 13A.14.06.02 *Definitions*, COMAR 13A.14.06.06 *Provider Requirements*,
COMAR 13A.15.01.02 *Definitions*, COMAR 13A.15.02.07 *Denial of a Registration
Application*,
COMAR 13A.16.01.02 *Definitions*, COMAR 13A.16.06.03 *Suitability for Employment*,
COMAR 13A.17.01.02 *Definitions*, COMAR 13A.17.06.03 *Suitability for Employment*,
COMAR 13A.18.01.02 *Definitions*, COMAR 13A.18.02.07 *Denial of a Registration
Application*, and COMAR 13A.18.06.03 *Suitability for Employment*.

ATTACHMENTS:

Proposed Action on Regulations:

COMAR 13A.14 *Child and Family Day Care*
COMAR 13A.15 *Family Child Care*
COMAR 13A.16 *Child Care Centers*
COMAR 13A.17 *Child Care – Letters of Compliance*
COMAR 13A.18 *Large Family Child Care Homes*

Summary of Comments and MSDE responses

Proposed Action on Regulations

For information concerning citizen participation in the regulation-making process, see inside front cover.

Symbol Key

- Roman type indicates existing text of regulation.
- *Italic type* indicates proposed new text.
- [Single brackets] indicate text proposed for deletion.

Promulgation of Regulations

An agency wishing to adopt, amend, or repeal regulations must first publish in the Maryland Register a notice of proposed action, a statement of purpose, a comparison to federal standards, an estimate of economic impact, an economic impact on small businesses, a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations. The opportunity for public comment must be held open for at least 30 days after the proposal is published in the Maryland Register.

Following publication of the proposal in the Maryland Register, 45 days must pass before the agency may take final action on the proposal. When final action is taken, the agency must publish a notice in the Maryland Register. Final action takes effect 10 days after the notice is published, unless the agency specifies a later date. An agency may make changes in the text of a proposal. If the changes are not substantive, these changes are included in the notice of final action and published in the Maryland Register. If the changes are substantive, the agency must repropose the regulations, showing the changes that were made to the originally proposed text.

Proposed action on regulations may be withdrawn by the proposing agency any time before final action is taken. When an agency proposes action on regulations, but does not take final action within 1 year, the proposal is automatically withdrawn by operation of law, and a notice of withdrawal is published in the Maryland Register.

Title 13A STATE BOARD OF EDUCATION

Notice of Proposed Action

[22-030-P]

The Maryland State Board of Education proposes to:

- (1) Amend Regulations **.02** and **.06** under **COMAR 13A.14.06 Child Care Subsidy Program**;
- (2) Amend Regulation **.02** under **COMAR 13A.15.01 Scope and Definitions**;
- (3) Amend Regulation **.07** under **COMAR 13A.15.02 Registration Application and Maintenance**;
- (4) Amend Regulation **.02** under **COMAR 13A.16.01 Scope and Definitions**;
- (5) Amend Regulation **.03** under **COMAR 13A.16.06 Staff Requirements**;
- (6) Amend Regulation **.02** under **COMAR 13A.17.01 Scope and Definitions**;
- (7) Amend Regulation **.03** under **COMAR 13A.17.06 Staff Requirements**;
- (8) Amend Regulation **.02** under **COMAR 13A.18.01 Scope and Definitions**;
- (9) Amend Regulation **.07** under **COMAR 13A.18.02 Registration Application and Maintenance**; and
- (10) Amend Regulation **.03** under **COMAR 13A.18.06 Provider and Staff Requirements**.

This action was considered by the State Board of Education at their meeting held on September 28, 2021.

Statement of Purpose

The purpose of this action is to align the regulations more closely with 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). The proposed amendments are consistent throughout all five subtitles of regulations.

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 amendments to the regulations under these subtitles benefit child care programs by increasing the candidate pool of potential employees.

II. Types of Economic Impact.

	Revenue (R+/R-)	
	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(+)	Unknown
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Unknown

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

D. Lifetime Ban: The economic impact on child care programs should be neutral as this amendment clarifies the regulations are intended to apply retroactively to any mandatory disqualifying crimes committed prior to the promulgation of the regulations consistent with the Office of Child Care’s past and current interpretation.

Limitation of Domestic Violence Crimes: Child care programs will benefit because they will be allowed to hire individuals that may have a domestic violence charge, that is not related to an intimate partner or spouse. The amendment will decrease the number of denials for child care applicants, staff or residents, that may have a domestic charge against someone other than an intimate partner or spouse. In addition, it will also decrease the number of revocations against existing providers and/or their residents that may have a domestic violence charge against someone, other than an intimate partner or spouse.

Past Drug Convictions: Child care programs will benefit because they will be allowed to hire additional individuals, under the discretionary employment provisions, who have older (i.e., over 5 years old) drug convictions or charges. The amendment will decrease the number of denials for child care applicants, staff or residents, that may have older drug charges or convictions. In addition, it will also decrease the number of revocations against existing providers and/or their residents that may have older drug charges or convictions.

Effect on the Workforce: The amendments would result in an increase to the workforce, in that it would increase the candidate pool for child care programs and the individuals they would be allowed to hire. The increase in child care programs will then lead to an increase in child care options that would be more attainable to families in need, so that the families themselves may enter the workforce.

F. Consumer choice would benefit from the amendments by allowing families access to an increased child care provider candidate pool, which would result in more child care options, especially in areas that may be underserved or that are located in child care deserts.

Economic Impact on Small Businesses

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

The amendments will allow families access to an increased child care provider candidate pool, which would result in more child care options, especially in areas that may be underserved or that are located in child care deserts.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The proposed action may have an impact on individuals with disabilities in that an increase in family child care homes may lead to more employment opportunities for individuals with disabilities and more child care options for parents of children with disabilities.

Opportunity for Public Comment

Comments may be sent to Keisha Maxwell, Administrator of Compliance and Special Projects, Office of Child Care, Division of Early Childhood, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-7852 (TTY 410-333-6442), or email to earlychildhoodregs.msde@maryland.gov, or fax to 410-333-6226. Comments will be accepted through February 28, 2022. 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 March 22, 2022 at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

Subtitle 14 CHILD AND FAMILY DAY CARE

13A.14.06 Child Care Subsidy Program

Authority: Education Article, §2-303 and Title 9.5[.]; *Family Law Article*, §§5-550—5-558; Annotated Code of Maryland
 Agency Note: Federal Regulatory Reference — [Child Care and Development Fund 45 CFR 98.50] *Child Care and Development Block Grant (45 CFR Parts 98 and 99 and 42 U.S.C. 9858 et seq.)*

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(33) (text unchanged)
 - (33-1) “Intimate partner” means a person eligible to seek relief from domestic violence as specified in *Family Law Article*, §4-501(m)(1), (2), (6), or (7), *Annotated Code of Maryland*.
 - (34)—(62) (text unchanged)

.06 Provider Requirements.

- A.—C. (text unchanged)
- D. Informal Child Care.
 - (1)—(5) (text unchanged)
 - (6) Criminal Background Check Review.
 - (a) (text unchanged)
 - (b) The CCS Branch may not approve an individual to serve as an informal child care provider if the individual or a resident in the home who is 18 years old or older has received *at any time* a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:
 - (i) A crime involving a child, cruelty to animals, domestic violence *of an intimate partner or spouse*, or a weapons or firearms violation of federal or State law;
 - (ii)—(vi) (text unchanged)
 - (vii) Manufacturing, distributing, or dispensing a controlled dangerous substance *if committed during the preceding 5 years*;
 - (viii)—(ix) (text unchanged)
 - (x) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance *if committed during the preceding 5 years*; or
 - (xi) (text unchanged)
 - (7)—(14) (text unchanged)

Subtitle 15 FAMILY CHILD CARE

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, *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 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(20) (text unchanged)
 - (20-1) “Intimate partner” means a person eligible to seek relief from domestic violence as specified in *Family Law Article*, §4-501(m)(1), (2), (6), or (7), *Annotated Code of Maryland*.
 - (21)—(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[;], 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)

.07 Denial of a Registration Application.

A. (text unchanged)

B. The office shall deny a certificate of registration if an applicant or resident has received *at any time* 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)—(b) (text unchanged)

(c) Domestic violence *of an intimate partner or spouse*; or

(d) (text unchanged)

(2)—(6) (text unchanged)

(7) Manufacturing, distributing, or dispensing a controlled dangerous substance *if committed during the preceding 5 years*;

(8)—(9) (text unchanged)

(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance *if committed during the preceding 5 years*; or

(11) (text unchanged)

C. The office shall deny a certificate of registration if an applicant or resident has received *at any time* a felony conviction for:

(1)—(3) (text unchanged)

D.—G. (text unchanged)

Subtitle 16 CHILD CARE CENTERS

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, §§5-550—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 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(33) (text unchanged)

(33-1) *“Intimate partner” means a person eligible to seek relief from domestic violence as specified in Family Law Article, §4-501(m)(1), (2), (6), or (7), Annotated Code of Maryland.*

(34)—(60) (text unchanged)

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, §§5-550—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)

.03 Suitability for Employment.

A. A child care center operator may not employ an individual who has received *at any time* 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)—(b) (text unchanged)

(c) Domestic violence *of an intimate partner or spouse*; or

(d) (text unchanged)

(2)—(6) (text unchanged)

(7) Manufacturing, distributing, or dispensing a controlled dangerous substance *if committed during the preceding 5 years*;

(8)—(9) (text unchanged)

(10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance *if committed during the preceding 5 years*;

(11)—(12) (text unchanged)

B. If an individual has been identified *at any time* as responsible for child abuse or neglect or received *at any time* 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)

Subtitle 17 CHILD CARE — LETTERS OF COMPLIANCE

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, §§5-550—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 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(22) (text unchanged)

(22-1) *“Intimate partner” means a person eligible to seek relief from domestic violence as specified in Family Law Article, §4-501(m)(1), (2), (6), or (7), Annotated Code of Maryland.*

(23)—(46) (text unchanged)

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*, §§5-550—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)

.03 Suitability for Employment.

A. A child care facility operator may not employ an individual who has received *at any time* 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)—(b) (text unchanged)
 - (c) Domestic violence *of an intimate partner or spouse*; or
 - (d) (text unchanged)
- (2)—(6) (text unchanged)
- (7) Manufacturing, distributing, or dispensing a controlled dangerous substance *if committed during the preceding 5 years*;
- (8)—(9) (text unchanged)
- (10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance *if committed during the preceding 5 years*;
- (11)—(12) (text unchanged)

B. If an individual has been identified *at any time* as responsible for child abuse or neglect or received *at any time* 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)

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

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, 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 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1)—(23) (text unchanged)
 - (23-1) *“Intimate partner” means a person eligible to seek relief from domestic violence as specified in Family Law Article, §4-501(m)(1), (2), (6), or (7), Annotated Code of Maryland.*
 - (24)—(49) (text unchanged)

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, 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)

.07 Denial of a Registration Application.

- A. (text unchanged)
- B. The office shall deny a certificate of registration if an applicant or resident has received *at any time* 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)—(b) (text unchanged)
 - (c) Domestic violence *of an intimate partner or spouse*; or
 - (d) (text unchanged)
 - (2)—(6) (text unchanged)
 - (7) Manufacturing, distributing, or dispensing a controlled dangerous substance *if committed during the preceding 5 years*;
 - (8)—(9) (text unchanged)
 - (10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance *if committed during the preceding 5 years*; or
 - (11) (text unchanged)
- C. The office shall deny a certificate of registration if an applicant or resident has received *at any time* a felony conviction for:
 - (1)—(3) (text unchanged)
- D.—G. (text unchanged)

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, 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)

.03 Suitability for Employment.

- A. A provider may not employ an individual who has received *at any time* 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)—(b) (text unchanged)
 - (c) Domestic violence *of an intimate partner or spouse*; or
 - (d) (text unchanged)
 - (2)—(6) (text unchanged)
 - (7) Manufacturing, distributing, or dispensing a controlled dangerous substance *if committed during the preceding 5 years*;
 - (8)—(9) (text unchanged)
 - (10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance *if committed during the preceding 5 years*;
 - (11)—(12) (text unchanged)
- B. If an individual has been identified *at any time* as responsible for child abuse or neglect or received *at any time* 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)

MOHAMMED CHOUDHURY
State Superintendent of Schools

Title 14 INDEPENDENT AGENCIES

Subtitle 22 COMMISSION ON CRIMINAL SENTENCING POLICY

14.22.01 General Regulations

Authority: Criminal Procedure Article, §6-211, Annotated Code of Maryland

Notice of Proposed Action

[22-028-P]

The Maryland State Commission on Criminal Sentencing Policy proposes to amend Regulation .11 under **COMAR 14.22.01 General Regulations**. This action was considered at an open public hearing held on December 7, 2021, notice of which was given by publication

in the Maryland Register on November 19, 2021, pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to indicate modifications to the recommended sentencing ranges provided in the sentencing matrix for drug offenses and the sentencing matrix for property offenses in Regulation .11 under COMAR 14.22.01 General Regulations. The revised ranges more accurately reflect actual sentences.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to David Soule, Executive Director, Maryland State Commission on Criminal Sentencing Policy, 4511 Knox Road, Suite 309, College Park, MD 20742, or call 301-403-4165, or email to dsoule@umd.edu. Comments will be accepted through February 28, 2022. A public hearing has not been scheduled.

.11 Determining the Guidelines Sentence.

- A.—C. (text unchanged)
- D. Drug Offenses.
 - (1) (text unchanged)
 - (2) Sentencing Matrix for Drug Offenses.

OFFENSE SERIOUSNESS CATEGORY	SENTENCING MATRIX FOR DRUG OFFENSES OFFENDER SCORE							
	0	1	2	3	4	5	6	7+
VII	P	P	[P] <i>P-1M</i>	[P-1M] <i>P-3M</i>	[P-3M] <i>P-4M</i>	P-6M	[3M-6M] <i>P-9M</i>	[6M-2Y] <i>P-1Y</i>
VI	Row VI is available for future use. There are currently no seriousness category VI drug offenses.							
V	P-1M	[P-6M] <i>P-3M</i>	[P-1Y] <i>P-4M</i>	[1M-1Y] <i>P-6M</i>	[2M-18M] <i>P-9M</i>	[3M-2Y] <i>P-1Y</i>	[4M-3Y] <i>1M-18M</i>	[6M-4Y] <i>2M-2Y</i>
IV	P-3M	[P-9M] <i>P-4M</i>	[1M-1Y] <i>P-6M</i>	[2M-18M] <i>P-9M</i>	[3M-2Y] <i>P-1Y</i>	[4M-2.5Y] <i>1M-18M</i>	[6M-3Y] <i>2M-2Y</i>	[8M-5Y] <i>3M-3Y</i>
III-A Marijuana import 45 kilograms or more, and MDMA 750 grams or more	[P-18M] <i>P-6M</i>	[P-2Y] <i>P-9M</i>	[6M-2Y] <i>P-18M</i>	[1Y-4Y] <i>1M-2Y</i>	[2Y-6Y] <i>3M-3Y</i>	[3Y-8Y] <i>6M-5Y</i>	[4Y-12Y] <i>1Y-6Y</i>	[10Y-20Y] <i>2Y-8Y</i>
III-B Non-marijuana and non-MDMA, Except Import	[6M-3Y] <i>P-9M</i>	[1Y-3Y] <i>P-18M</i>	[18M-4Y] <i>1M-2Y</i>	[3Y-7Y] <i>3M-3Y</i>	[4Y-8Y] <i>6M-5Y</i>	[5Y-10Y] <i>1Y-6Y</i>	[7Y-14Y] <i>2Y-8Y</i>	[12Y-20Y] <i>4Y-12Y</i>
III-C Non-marijuana and non-MDMA, Import	[1Y-4Y] <i>P-18M</i>	[2Y-5Y] <i>1M-2Y</i>	[3Y-6Y] <i>3M-3Y</i>	[4Y-7Y] <i>6M-5Y</i>	[5Y-8Y] <i>1Y-6Y</i>	[6Y-10Y] <i>2Y-8Y</i>	[8Y-15Y] <i>4Y-12Y</i>	[15Y-25Y] <i>6Y-14Y</i>
II	[20Y-24Y] <i>16Y-20Y</i>	[22Y-26Y] <i>18Y-22Y</i>	[24Y-28Y] <i>20Y-24Y</i>	[26Y-30Y] <i>22Y-26Y</i>	[28Y-32Y] <i>24Y-28Y</i>	[30Y-36Y] <i>26Y-30Y</i>	[32Y-37Y] <i>28Y-32Y</i>	[35Y-40Y] <i>30Y-36Y</i>

Note: (text unchanged)

COMAR 13A.14.06.02, COMAR 13A.14.06.06, COMAR 13A.15.01.02, COMAR 13A.15.02.07, COMAR 13A.16.01.02, COMAR 13A.16.06.03, COMAR 13A.17.01.02, COMAR 13A.17.06.03, COMAR 13A.18.01.02, COMAR 13A.18.02.07, and COMAR 13A.18.06.03.

Summary of Comments

Submitted by:	Excerpted Comment:	Revision to Proposal	MSDE Response Rationale and Citations
L. L. (individual)	<p>Would like to see the proposed amendment passed. I would definitely like to see the proposed amendment passed for the drug charges. When I first started my family childcare I was told that I would not be able to hold a license because my husband had previous drug charges from when he is was in high school, which was well over 15 years. The only way I could hold a license is if agreed to continuous monitoring and my husband could not be in the home during childcare hours. I have stuck to the agreement for the past 7 yrs. with no violations. It has truly been a sacrifice for my family which I believe was very unnecessary because my husband has not been in trouble since the early 2000. The current rules leave no room for rehabilitation or growth in life.</p>	NO	<p>Response: Thank you so much for taking the time to provide MSDE with your valuable feedback and it will be submitted for review.</p>
E.M. (individual)	<p>What does preceding 5 years mean? Trying to understand preceding 5 yrs. is it suggested that if u have a drug offense within 5 yrs. or before 5 years prior does this mean that a person can be eligible to seek work in early childhood or is it saying you are disqualified from doing so?</p>	NO	<p>Response: "If committed during the preceding 5 years" means MSDE will refer to the date the criminal activity was committed, which led to the arrest, charges(s) and/or conviction, as the start date of the five year period.</p>

Submitted by:	Excerpted Comment:	Revision to Proposal	MSDE Response Rationale and Citations
N.C. (individual)	<p>Not in agreement with the proposed regulation changes. I do not believe anyone with previous drug charges and domestic violence issues from the past, should be able to provide care. A person with previous drug issues could relapse and a person with domestic violence in their past, could do it again and the children in care might see it. Let up on the providers caring for children now and don't make it easier for the new ones!</p>	NO	<p>Response: Thank you for taking the time to provide MSDE with your valuable feedback and it will be submitted for review. We want to assure you that MSDE will not automatically accept any person with a criminal record to work in child care. Our regulations require the office to carefully scrutinized anyone with a criminal record eligible for possible registration or employment under the regulations. The factors that will be considered include:</p> <ul style="list-style-type: none"> The job position at the center for which the individual is applying or which the individual is currently employed The nature and seriousness of the incident, crime, or offense occurred How long ago the incident, crime, or offense occurred The age of the individual at the time of the incident, crime, or offense occurred The individual's probation or parole status, if applicable, and Any other information the office considers pertinent. See e.g., COMAR 13A16.06.03(B). <p>As to your comment about not making it easier for new providers and let up on current providers, MSDE must enforce all of its regulations for the health, safety, and welfare of children when in and out of their home setting.</p>