



**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:** April 23, 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*

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**PERMISSION TO PUBLISH**

**PURPOSE:**

Request permission to publish 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 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 February 15, 2019 to March 18, 2019.

The public comments were reviewed by the Office of Child Care (OCC) Licensing Branch in the Division of Early Childhood and the Office of the Attorney General. Based on the public comments and additional corrections and clarifications identified as necessary by the OCC, the MSDE recommends amendments to the proposed regulations. The Attorney General’s Office has determined that the additional amendments are substantive and therefore the OCC requests that the revised regulations be published for further review by the community partners, stakeholders, providers, and other entities interested in protecting the health and safety of young children in Maryland.

Ninety-five comments were submitted during the comment period (see attachments). Based on the 95 public comments and additional corrections and clarifications identified as necessary by the OCC, the following changes are recommended:

- Reasonable accommodation regulation has been removed.
- Added a four-foot height requirement for pool fences.
- Medical evaluations must be completed every five years for staff (had requested every two years).
- Basic health and safety training must to be taken within 90 days of employment (center).
- Basic health and safety training must be taken within 90 days of initial registration (family).
- Added that basic health and safety training must be updated annually by each staff member by the end of each 12-month period, measured each calendar year.
- All other revisions were for clarity of language.

**EXECUTIVE SUMMARY:**

Based on corrections and clarifications identified as necessary by the OCC and review of the input from stakeholders, the MSDE recommends several revisions to the proposed regulation changes submitted to the State Board on May 11, 2018 and published in the Maryland Register for public comment from February 15, 2019 to March 18, 2019. The attached chart reflects 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 MSDE regarding any changes made or if the regulation would proceed with no changes.

**ACTION:**

Request permission to publish the 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* as previously published in the Maryland Register from February 15, 2019 to March 18, 2019.

**Attachments:**

Proposed changes to 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 *Family Child Care*

Comments and MSDE responses regarding COMAR 13A.16 *Child Care Center* and COMAR 13A.17 *Letters of Compliance* (These chapters are included together due to the regulation changes being the same in each chapter)

Comments and MSDE responses regarding COMAR 13A.18 *Large Family Homes*

Public Comments

Attachment A

Attachment B

## 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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) *(ii) Does not clearly meet, or is not excluded from, the definition of independent contractor as set forth in §B(19) of this regulation.*

(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)

~~(29) Reasonable Accommodations.~~

~~(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program.~~

~~(b) “Reasonable accommodations” does not include providing accommodations that would significantly:~~

~~(i) Change the nature of the program; or~~

~~(ii) Impose a monetary burden on the provider.~~

[(28)] (30)—[(35)] (37) (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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) *Is signed or verified by the individual who conducted the evaluation;*

(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)(b) and (c) 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) *Written authorization from the lessor, owner, or landlord permitting the provider to continue providing child care in the home; and*

[(6)] (7) Any other documentation required by law or regulation.

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 or resident* [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)—(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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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, 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] *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, *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*; and
  - E.—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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (42 U.S.C. 618)

#### **.03 Child Capacity.**

A.—D. (text unchanged)

E. The office:

(1) (text unchanged)

~~(2) May count as a child in care a child who is visiting the home if the child [:] is younger than 8 years old and unaccompanied by an adult.~~

~~[(a) Is younger than 8 years old and unaccompanied by an adult; or~~

~~(b) Cannot be sent home immediately.]~~

(2) May count as a child in care a child who is visiting the home if the child:

(a) Is younger than 8 years old and unaccompanied by an adult; or

(b) Cannot be sent home immediately.

#### **.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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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 having 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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) During each 12 month period of registration, the approved health and safety training information supplied by the office;~~

*(1) The health and safety training, as required by the office, which shall be completed 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 [shall] *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.] *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, apply for:*
    - (a) *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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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

**.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 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)

## 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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 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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (42 U.S.C. 618)

**.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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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, 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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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, *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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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

## 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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 §B(25) of this regulation; 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)~~
  - ~~(50) Reasonable Accommodations.~~
    - ~~(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program.~~
    - ~~(b) “Reasonable accommodations” does not include providing accommodations that would significantly:~~
      - ~~(i) Change the nature of the program; or~~
      - ~~(ii) Impose a monetary burden on the provider.~~
  - ~~[(50)] (51) [(60)] (61) (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 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (42 U.S.C. 618)*

### .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(5)* 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 shall 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 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 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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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, 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, 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. Unless a school-age child attends a school-age program located in the child’s school, the operator shall obtain, and maintain at the center, an immunization record showing that:
- (1) The child has had immunizations appropriate for the child’s age which meet the immunization guidelines set by the Maryland Department of Health [and Mental Hygiene];
  - (2)—(4) (text unchanged)

H.—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; 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (42 U.S.C. 618)*

**.05 Lead-Safe Environment.**

A. A center operator may not use paint with lead content on any:

(1)—(2) (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 having 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (42 U.S.C. 618)*

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

A. A child care center operator [may] shall 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 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 2 years, measured from the individual's date of hire.~~

**(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, was updated by the end of each 12-month period, measured from the date of employment in the position.~~

(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, was updated by the end of each 12-month period, measured from the date of employment in the position.~~

(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, was updated by the end of each 12-month period, measured from the date of employment in the position.~~

(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, was updated by the end of each 12-month period, measured from the date of employment in the position.~~

(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, was updated by the end of each 12-month period, measured from the date of employment in the position.~~

(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 within 30 days of the request being submitted.~~

(3) The office shall notify the operator of its decision to approve or disapprove a substitute upon approval 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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>

5 years old and older	1 to 15	30
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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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)] *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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)] *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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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], *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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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



**.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

**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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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 §B(17) of this regulation; and*
      - [(ii) Has access to children in care; and]
      - [(iii)] (ii) (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)

~~(37) Reasonable Accommodations.~~

~~(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program.~~

~~(b) “Reasonable accommodations” does not include providing accommodations that would significantly:~~

~~(i) Change the nature of the program; or~~

~~(ii) Impose a monetary burden on the provider.~~

~~[(37)] (38)—[(46)] (47) (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)*; (42 U.S.C. 9858 et seq.); *§418 of the Social Security Act (42 U.S.C. 618)*

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

A.—B. (text unchanged)

C. *The operator shall 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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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, 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, each child admitted to, or continuing in, care has received:*
  - (a) *An appropriate lead screening, if the child is younger than 6 years old and was born before January 1, 2015; or*
  - (b) *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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (42 U.S.C. 618)*

#### **.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 having 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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; *and*
- ~~L. *Effective January 1, 2020, complete basic health and safety training.*~~
- L. Effective January 1, 2020, have completed approved basic health and safety training within 90 days of employment.*
- 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] *shall* 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) (text unchanged)
- (b) *Except for a health care professional serving as a consultant pursuant to Regulation [14C] .06C of this chapter, support staff who will be present at the center while children are in care.*

(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.*

[(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 2 years based on the individual's initial date of hire.~~

(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 recommended [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 within 30 days of the request being submitted.~~

(3) *The office shall notify the operator of its decision to approve or disapprove a substitute upon approval 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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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.17.07.06B*, 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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (42 U.S.C. 618)

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

A. In this chapter, the following terms have the meanings indicated.

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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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.*

### **.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.—D. (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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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

## **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 5-560—5-563;] General Provisions Article, §4-333; Human Services Article, §1-202; [State Government Article, §10-617;] Annotated Code of Maryland*

## .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) Cares for or supervises children in the facility; or

(ii) Has access to children who are cared for or supervised in the facility.

(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 regulation; 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)—(37) (text unchanged)

~~(38) Reasonable Accommodations:~~

~~(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program.~~

~~(b) “Reasonable accommodations” does not include providing accommodations that would significantly:~~

~~(i) Change the nature of the program; or~~

~~(ii) Impose a monetary burden on the provider.~~

(38)—(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 U.S.C. §6081 et seq.); *Child Care Development Block Grant* (45 CFR parts 98 and 99); (42 U.S.C. 9858 et seq.); §418 of the *Social Security Act* (42 U.S.C. 618)

### .01 Registration — General Requirements.

- A. Requirement to Be Registered.
  - (1) (text unchanged)
  - (2) A 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 operator shall not allow an employee, staff member, substitute, additional adult, or volunteer to:~~
- ~~I. The provider shall 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 of the items 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;*
  - (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, submit 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)(b) 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) *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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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, 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 employment.

### **.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 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) (text unchanged)

~~[(b)] (3) [A] 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.~~

[(b)] (3) A medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties.

### **.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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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

**.03 Suitability for Employment.**

A. A provider [may] *shall* 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 must 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; and*

[(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, was updated by the end of each 12-month period, measured from the date of registration or employment in the position.~~

(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 pre-service training in communicating with staff, parents, and the public or at least one academic college course for credit; [and]

(c) [Either] *Approved pre-service 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) (text unchanged)

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, was updated by the end of each 12-month period, measured from the date of employment in the position.~~

(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; and*

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

[(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, was updated by the end of each 12-month period, measured from the date of employment in the position.~~

(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.*

(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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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) Force a child to eat or drink;

(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); (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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 *qualified and cleared* adult other than the driver present in the vehicle.

#### **.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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the *Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the *Social Security Act (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)*; (42 U.S.C. 9858 et seq.); §418 of the *Social Security Act (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 [resident] *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*



**.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*

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**.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.16. Child Care Center and COMAR 13A.17. Letters of Compliance (LOC)  
 Published in the Maryland Register February 15, 2019 through March 18, 2019

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A                      See Attachment A</p> <p>Maryland State Child Care Association (MSCCA)</p> <p>Maryland Family Network (MFN)</p> <p>The Child Care Cottage</p> <p>Potomac Valley Academy</p> <p>Maryland Developmental Disability Council</p> <p>Cedarcroft School</p> <p>Frederick Community</p>	<p>This ignores the complexity of an ADA determination of “reasonable accommodations.” The definition is simply saying that if the accommodation a parent wants changes the nature of the program or is financially burdensome, then it’s not reasonable. A complex analysis is necessary to determine when reasonable accommodations are required under the ADA and what constitutes an undue burden. The undue burden analysis is a fact intensive inquiry based on the nature of the accommodation, the financial status of a business, and the cost/disruption it would cause. Case law on this topic continues to evolve and Congress maintains the power to amend the ADA, which pre-empts state law.</p> <p>We fully support requiring providers to make “reasonable accommodations,” but this regulation should simply refer back to the federal law as to what a “reasonable accommodation” means. This is already done in COMAR 13A.16.08.01.A Child Supervision, which requires providers to make “reasonable accommodations ... in accordance with applicable federal and State laws.” This section of the code should be similarly amended.</p> <p>Refer back to the federal law as to what a “reasonable accommodations” means</p>	<p><b>COMAR 13A.16.01.02. B(50)</b>  <b>(a)(b)(i)(ii)</b>  <b>(Child Care Centers)</b></p> <p>Scope and Definitions  <b>.02 Definitions.</b></p> <p>B. Terms defined</p> <p><i>(50) Reasonable Accommodations.</i></p> <p><i>(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,</i></p> <p><i>(b) “Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p><i>(i) Change the nature of the program; or</i></p>	<p>MSDE will delete definition and revert to original numbering</p> <p><b>(44)-(60) (text unchanged)</b></p> <p><i>[(50) Reasonable Accommodations.</i></p> <p><i>(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,</i></p> <p><i>(b) “Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p><i>(i) Change the nature of the program; or</i></p> <p><i>(ii) impose a monetary burden on the provide]</i></p>

College Clara Barton Margaret Zhang		<i>(ii) impose a monetary burden on the provide</i>	
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>Maryland State Child Care Association (MSCCA)</p> <p>Maryland Family Network (MFN)</p> <p>The Child Care Cottage</p> <p>Potomac Valley Academy</p> <p>Maryland Developmental Disability Council</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p>	<p>This ignores the complexity of an ADA determination of “reasonable accommodations.” The definition is simply saying that if the accommodation a parent wants changes the nature of the program or is financially burdensome, then it’s not reasonable. A complex analysis is necessary to determine when reasonable accommodations are required under the ADA and what constitutes an undue burden. The undue burden analysis is a fact intensive inquiry based on the nature of the accommodation, the financial status of a business, and the cost/disruption it would cause. Case law on this topic continues to evolve and Congress maintains the power to amend the ADA, which pre-empts state law.</p> <p>We fully support requiring providers to make “reasonable accommodations,” but this regulation should simply refer back to the federal law as to what a “reasonable accommodation” means. This is already done in COMAR 13A.16.08.01.A Child Supervision, which requires providers to make “reasonable accommodations ... in accordance with applicable federal and State laws.” This section of the code should be similarly amended.</p> <p>Refer back to the federal law as to what a “reasonable accommodations” means</p>	<p><b>COMAR 13A.17.02.03 B (37)(a)(b)(i)(ii) (Letter of Compliance)</b></p> <p>Scope and Definitions <b>.02 Definitions.</b></p> <p>B. Terms defined</p> <p><i>(37) Reasonable Accommodations.</i></p> <p><i>(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,</i></p> <p><i>(b) “Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p><i>(i) Change the nature of the program; or</i></p> <p><i>(ii) impose a monetary burden on the provider.</i></p>	<p>MSDE will delete definition and revert to original numbering</p> <p><b>(32)- (46) (text unchanged)</b></p> <p><i>[(37) Reasonable Accommodations.</i></p> <p><i>(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,</i></p> <p><i>(b) “Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p><i>(i) Change the nature of the program; or</i></p> <p><i>(ii) impose a monetary burden on the provider.]</i></p>

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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>Maryland State Child Care Association (MSCCA)</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Jessica Kemper</p> <p>Celebree Learning Center</p> <p>Montgomery Child Care</p>	<p>This proposal includes a new section F, which will require providers to apply to OCC for approval of a substitute and permit OCC thirty (30) days to respond to the request. 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. Large programs with multiple sites, would mean that multiple OCC Licensing specialists would need to approve the same substitute as many programs have different specialists who oversee them, but use the same substitutes. This approval process is thus not workable in practice. Substitutes should be treated the same as new hires (as they currently are addressed in COMAR) in that providers should have five (5) days from the date of “hire” for use of the substitute to send paperwork in to Licensing to demonstrate the substitute is qualified. We ask to remove the 30 days for approval by office of substitute and add language addressing emergency approval due to need for substitutes may be necessary on an immediate basis. An additional area of concern related to the feasibility of this proposed regulation is accountability. The proposed language makes no mention of how OCC will communicate with providers as to the approval or disapproval of a substitute. It doesn’t mention what recourse a provider has if it doesn’t receive approval within 30 days. 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 OCC when a substitute is used.</p>	<p><b>COMAR 13A.16.06.13 F (1)(2)(3) (Child Care Centers)</b></p> <p><b>Staff Requirements; .13 Substitutes.</b></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>MSDE agrees with the comments suggested for <b>COMAR 13A.16.06.13 F (3)</b> and will change the regulation to say:</p> <p><i>(3) The office shall notify the operator of its decision to approve or disapprove a substitute (upon approval of all criminal background check information and child protective services clearances) [within 30 days of the request being submitted].</i></p>

	<p>This proposal includes a new section F, which will require providers to apply to OCC for approval of a substitute and permit OCC thirty (30) days to respond to the request. 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. Large programs with multiple sites, would mean that multiple OCC Licensing specialists would need to approve the same substitute as many programs have different specialists who oversee them, but use the same substitutes. This approval process is thus not workable in practice. Substitutes should be treated the same as new hires (as they currently are addressed in COMAR) in that providers should have five (5) days from the date of “hire” for use of the substitute to send paperwork in to Licensing to demonstrate the substitute is qualified. We ask to remove the 30 days for approval by office of substitute and add language addressing emergency approval due to need for substitutes may be necessary on an immediate basis. An additional area of concern related to the feasibility of this proposed regulation is accountability. The proposed language makes no mention of how OCC will communicate with providers as to the approval or disapproval of a substitute. It doesn’t mention what recourse a provider has if it doesn’t receive approval within 30 days. 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 OCC when a substitute is used.</p>	<p><b>COMAR 13A.17.06.05 C(3)</b>  <b>(1)(2)(3)</b>  <b>(Letters of Compliance)</b></p> <p>Staff Requirements;  <b>.13 Substitutes.</b></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 within 30 days of the request being submitted.</i></p>	<p>MSDE will change the regulation to say:</p> <p><i>(3) The office shall notify the operator of its decision to approve or disapprove a substitute (upon approval of all criminal background check information and child protective services clearances) [within 30 days of the request being submitted].</i></p>
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>Maryland State Child Care Association (MSCCA)</p> <p>Maryland Family Network (MFN)</p> <p>The Child Care Cottage</p> <p>Potomac Valley Academy</p> <p>Maryland Developmental Disability Council</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton Cynthia</p>	<p>Under prior agreement, staff are to complete the initial training within 90 days of being hired. This provision currently requires Health and Safety Training by January 1, 2020.</p> <p>This provision currently requires that providers: “[d]ocument 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 employment in the position.”</p> <p>We suggest that this provision should be changed to Office of Child Care send out the annual update for everyone to read, sign and date in January of each year.</p> <p>The reason for this request is that, pursuant to these proposed regulations, staff has 90 days from the date of hire to take their initial training. It thus follows that the 12-month period should be measured from the date of the training, which may have taken place up to three months after hire, not the date of the initial hire. Many staff have proactively already voluntarily taken the health and safety training, but that training did not coincide with their employment date. In addition, the regulation should exempt staff from the requirement to take “updated” training if the Office of Child Care (“OCC”) has not issued an update to the training by the time updated training is required.</p>	<p><b>COMAR 13A.16.06.05 B(5) (Child Care Centers)</b></p> <p>(also <b>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)</b></p> <p><b>Staff Requirements; .05 Directors of All Child Care Centers—General Requirements.</b></p> <p>B. To qualify as a director of a center, an individual shall:</p> <p><i>(5) Effective January 1, 2020, have completed approved basic health and safety training within 90 days of employment; and</i></p>	<p>MSDE agrees that the language should include the following:</p> <p><i>(5) Effective January 1, 2020, have completed approved basic health and safety training (within 90 days of employment); and</i></p>



<p>Poindexter Celebree Learning Center Glenbrook Nursery School Jessica Kemper Margaret Zhang</p>	<p>Under prior agreement, staff are to complete the initial training within 90 days of being hired. This provision currently requires Health and Safety Training by January 1, 2020.</p> <p>This provision currently requires that providers: “[d]ocument 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 employment in the position.”</p> <p>We suggest that this provision should be changed to Office of Child Care send out the annual update for everyone to read, sign and date in January of each year.</p> <p>The reason for this request is that, pursuant to these proposed regulations, staff has 90 days from the date of hire to take their initial training. It thus follows that the 12-month period should be measured from the date of the training, which may have taken place up to three months after hire, not the date of the initial hire. Many staff have proactively already voluntarily taken the health and safety training, but that training did not coincide with their employment date. In addition, the regulation should exempt staff from the requirement to take “updated” training if the Office of Child Care (“OCC”) has not issued an update to the training by the time updated training is required.</p>	<p><b>COMAR 13A.17.06.02 L (Letters of Compliance)</b></p> <p>Staff Requirements; <b>.02 Staff Orientation and Training.</b></p> <p><i>L. Effective January 1, 2020, have completed approved basic health and safety training.</i></p>	<p>MSDE agrees that the language should include the following:</p> <p><i>L. Effective January 1, 2020, have completed approved basic health and safety training (within 90 days of employment; and</i></p> <p><i>(M. Basic health and safety is completed by each staff member* by the end of each 12 month period, measured each calendar year.)</i></p>
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>Maryland State Child Care Association (MSCCA)</p> <p>Maryland Family Network (MFN)</p> <p>The Child Care Cottage</p> <p>Potomac Valley Academy</p> <p>Maryland Developmental Disability Council</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Cynthia Poindexter</p>	<p>Under prior agreement, staff are to complete the initial training within 90 days of being hired. This provision currently requires Health and Safety Training by January 1, 2020.</p> <p>This provision currently requires that providers: “[d]ocument 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 employment in the position.”</p> <p>We suggest that this provision should be changed to <i>Office of Child Care send out the annual update for everyone to read, sign and date in January of each year.</i></p> <p>The reason for this request is that, pursuant to these proposed regulations, staff has 90 days from the date of hire to take their initial training. It thus follows that the 12-month period should be measured from the date of the training, which may have taken place up to three months after hire, not the date of the initial hire. Many staff have proactively already voluntarily taken the health and safety training, but that training did not coincide with their employment date. In addition, the regulation should exempt staff from the requirement to take “updated” training if the Office of Child Care (“OCC”) has not issued an update to the training by the time updated training is required.</p>	<p><b>COMAR 13A.16.06.05 C(3) (Child Care Centers)</b></p> <p>(also <b>COMAR 13A.16.06.09 C(3), COMAR 13A.16.06.10 C(3), COMAR 13A.16.06.11 C(3), and COMAR 13A.16.06.12 B(3),</b></p> <p><b>Staff Requirements; .05 Directors of All Child Care Centers—General Requirements.</b></p> <p>C. A director shall:</p> <p>(3) <i>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 employment in the position.</i></p>	<p>MSDE agrees the annual update needs to be as follows:</p> <p>(3) <i>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.) [was updated by the end of each 12-month period, measured from the date of employment in the position.]</i></p>
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Celebree Learning Center  Glenbrook Nursery School  Jessica Kemper			
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Learning Center  Glenbrook Nursery School  Green Belt Children's Center			
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<p>Good Shepard The Child Care Cottage</p>	<p>Requesting clarification regarding this regulation. The proposed regulations do not specify between in ground and above ground pools nor type and size of fencing. This leaves determination up to the individual OCC licensing specialist.</p>	<p><b>COMAR 13A.16.05.12</b> <b>F(1)</b> <b>(Child Care Centers)</b></p> <p>Physical Plant and Equipment <b>.12 Outdoor Activity Area.</b></p> <p><i>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 having a:</i></p> <p><i>(1) fence that surrounds the pool;</i></p>	<p>MSDE has addressed types of pools by using the words “any pool” but agrees to add the height for the fences for more guidance.</p> <p><i>(1) (At least a 4 foot) fence that surrounds the pool;</i></p>

<p>Good Shepard The Child Care Cottage</p>	<p>Requesting clarification regarding this regulation. The proposed regulations do not specify between in ground and above ground pools nor type and size of fencing. This leaves determination up to the individual OCC licensing specialist.</p>	<p><b>COMAR 13A.17.05.12</b> <b>F(1)</b> <b>(Letters of Compliance)</b></p> <p>Physical Plant and Equipment <b>.12 Outdoor Activity Area.</b></p> <p><i>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 having a:</i></p> <p><i>(1) fence that surrounds the pool;</i></p>	<p>MSDE has addressed types of pools by using the words “any pool” but agrees to add the height for the fences for more guidance.</p> <p><i>(1) (At least a 4 foot) fence that surrounds the pool;</i></p>
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>Maryland State Child Care Association (MSCCA)</p> <p>Trinity Preschool</p> <p>The Child Care Cottage</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Cedar Lane Nursery School</p>	<p>This proposal amends the code to give OCC 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.” However, this will give OCC the power to revoke a license for even an innocent typo or inadvertent mistake. Instead, we suggest that this provision be changed to only apply to intentional misrepresentations or material omissions.</p>	<p><b>COMAR 13A.16.17.07 A(2)</b> <b>(Letter of Compliance)</b></p> <p>Inspections, Complaints, and Enforcement <b>.07 Revocation.</b></p> <p>A. The office may revoke a license if:</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>MSDE respectfully disagrees with the comments and will make no changes.</p>
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Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>The Child Care Cottage</p> <p>AACC Child Development Center</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Glenbrook Nursery School</p> <p>Good Shepherd Preschool</p> <p>Goddard, Bare Hills</p> <p>4 Corners</p>	<p>This proposed regulation is not related at all to CCDF. The federal requirements only discuss medicals for children NOT staff medicals. Repeating Staff Medical Evaluations every two years is a serious financial burden for child care programs and/or individuals working with little or no benefits. The initial medical evaluation provides the program some measure of assurance that the new staff member does not have a communicable disease that will be a risk for children in care and has no health issues that will interfere with the staff member's performance of the duties of the position. The staff member's supervisor will be able to determine whether the staff person is healthy enough to be able to continue to perform the duties of the position without subsequent expensive medical evaluations every two years. We cannot stress enough that this new requirement represents a significant financial burden on staff members and an administrative burden on child care providers. If the office believes medicals for center -based program staff should be medical certification will be mandatory, at the very least, this proposed regulation (not at all related to CCBDG should be updated every five (5) years rather than two (2) years.</p> <p>Procuring medical examinations are costly to the staff and/or employers tracking expiration of this form (in addition to all of the other dates/trainings that providers must track) is extremely burdensome for providers with a large staff. Although this regulation has been in place for family childcare, the burden is much less significant for this cohort of providers. Family childcare regulations require medical completed every two years. COMAR already states Businesses cannot hire any employee without passing the employment medical, which the form is provided by MSDE. Once the employee is hired, MSDE files the paperwork. Centers are required to have Directors to oversee</p>	<p><b>COMAR 13A.16.06.04 A(4)</b></p> <p>Staff Requirements <b>.04 Staff Health.</b></p> <p>A. Medical Evaluation.</p> <p><i>(4) The medical evaluation shall be updated every 2 years, measured from the individual's date of hire.</i></p>	<p>MSDE understands the concerns in reference to medical evaluations being completed every 2 years and will change the regulation to reflect the medical evaluation being completed every 5 years from the date of the medical evaluation.</p> <p>A. Medical Evaluation.</p> <p><i>(4) The medical evaluation shall be updated every (5) [2] years, measured from the individual's (previous medical evaluation) date [of hire].</i></p>

<p>Community Nursery</p> <p>St James's Children's School</p> <p>Cynthia Poindexter</p> <p>Celebree Learning Center</p> <p>Maryland Family Network</p>	<p>staff and program according to COMAR. MSDE also determines qualifications and requires annual training hours as well. Requiring every two years (anniversary dates for employees vary greatly) for the same medical forms are excessive and most businesses/employers do not require.</p>		
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>The Child Care Cottage</p> <p>AACC Child Development Center</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Glenbrook Nursery School</p> <p>Good Shepherd Preschool</p> <p>Goddard, Bare Hills</p> <p>4 Corners Community Nursery</p> <p>St James's</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. 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.</p>	<p><b>COMAR 13A.16.06.04</b> <b>A(1)(2)</b> <b>(Child Care Centers)</b></p> <p><b>Staff Requirements</b> <b>.04 Staff Health.</b></p> <p>A. Medical Evaluation.</p> <p>(1) An operator shall obtain a medical evaluation[, including a tuberculosis screen, if indicated], <i>conducted by a practicing physician, certified nurse practitioner, or registered physician’s assistant</i>, 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 verification that the staff member:</i></p>	<p>MSDE respectfully disagrees with the comment in reference to anyone being able to sign a medical form and will keep the regulation as it is currently.</p>
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Children's School  Cynthia Poindexter  Celebree Learning Center  Maryland Family Network			
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Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>The Child Care Cottage</p> <p>AACC Child Development Center</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Glenbrook Nursery School</p> <p>Good Shepherd Preschool</p> <p>Goddard, Bare Hills</p> <p>4 Corners Community</p>	<p>This proposed regulation is not related at all to CCDF. The federal requirements only discuss medicals for children NOT staff medicals. Repeating Staff Medical Evaluations every two years is a serious financial burden for child care programs and/or individuals working with little or no benefits. The initial medical evaluation provides the program some measure of assurance that the new staff member does not have a communicable disease that will be a risk for children in care and has no health issues that will interfere with the staff member's performance of the duties of the position. The staff member's supervisor will be able to determine whether the staff person is healthy enough to be able to continue to perform the duties of the position without subsequent expensive medical evaluations every two years. We cannot stress enough that this new requirement represents a significant financial burden on staff members and an administrative burden on child care providers. If the office believes medicals for center -based program staff should be medical certification will be mandatory, at the very least, this proposed regulation (not at all related to CCBDG should be updated every five (5) years rather than two (2) years.</p> <p>Procuring medical examinations are costly to the staff and/or employers tracking expiration of this form (in addition to all of the other dates/trainings that providers must track) is extremely burdensome for providers with a large staff. Although this regulation has been in place for family childcare, the burden is much less significant for this cohort of providers. Family childcare regulations require medical completed every two years. COMAR already states Businesses cannot hire any employee without passing the employment medical, which the form is provided by MSDE. Once the employee is hired, MSDE files the paperwork. Centers are required to have Directors to oversee staff and program according to COMAR. MSDE also determines qualifications and requires annual training hours as well.</p>	<p><b>COMAR 13A.17.06.04 A(2) (Letters of Compliance)</b></p> <p><b>Staff Requirements .04 Staff Health.</b></p> <p>A. Medical Evaluation.</p> <p><i>(4) The medical evaluation shall be updated every 2 years, measured from the individual's date of hire.</i></p>	<p>MSDE understands the concerns in reference to medical evaluations being completed every 2 years and will change the regulation to reflect the medical evaluation being completed every 5 years from the date of the medical evaluation.</p> <p>B. Medical Evaluation.</p> <p><i>(4) The medical evaluation shall be updated every (5) [2] years, measured from the individual's (previous medical evaluation) date [of hire].</i></p>

<p>Nursery St James's Children's School  Cynthia Poindexter  Celebree Learning Center  Maryland Family Network</p>	<p>Requiring every two years (anniversary dates for employees vary greatly) for the same medical forms are excessive and most businesses/employers do not require.</p>		
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>The Child Care Cottage</p> <p>AACC Child Development Center</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Glenbrook Nursery School</p> <p>Good Shepherd Preschool</p> <p>Goddard, Bare Hills</p> <p>4 Corners Community</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. 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</p>	<p><b>COMAR 13A.17.06.04 A(4) (Letters of Compliance)</b></p> <p>Staff Requirements <b>.04 Staff Health.</b></p> <p>B. Medical Evaluation.</p> <p><i>(2) The medical evaluation shall be signed by the individual who conducted the evaluation and include verification that the staff member:</i></p>	<p>MSDE respectfully disagrees with the comment in reference to anyone being able to sign a medical form and will keep the regulation as it is currently.</p>

Nursery St James's Children's School Cynthia Poindexter Celebree Learning Center Maryland Family Network			
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Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
Green Belt Children's Center	<p>(1) Not allowing an employee to be assigned to a group or have access to a child until successfully passed abuse and neglect clearance...- in my region and experience, we are not given any information about whether an individual has passed and is cleared.</p> <p>I have to object to the full CJIS and FBI criminal background clearance as a requirement for volunteers. Volunteers are most often parents of children but it is unclear if this regulation applies to parents, high school students who may be fulfilling the Maryland requirement for Community Service or college students who have a requirement for field work, observations, implementation of lesson plans or internship, all unpaid. The expense of the CBC is very prohibitive to these individuals.</p> <p>The providers could be required to “watchdog” and not allow them to be alone with a child. Alternatively, I recommend that volunteers be allowed to submit to the process that is in place for my local school system, Prince George’s County Public Schools, where a parent volunteer can go online and submit a modest fee for a records check that results in the volunteer printing proof of clearance immediately and submitting that to the provider. Could MSDE develop a similar online name check that parents and students could easily and freely access?</p>	<p><b>COMAR 13A.16.02.01 I(1)(2) (Child Care Centers)</b></p> <p>License Application and Maintenance</p> <p><b>01 License—General Requirements.</b></p> <p><i>I. The operator shall 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>MSDE respectfully disagrees with the public comments in reference to volunteers and will keep the regulation as it is currently.</p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>The Child Care Cottage</p> <p>AACC Child Development Center</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Glenbrook Nursery School</p> <p>Good Shepherd Preschool</p> <p>Goddard, Bare Hills</p> <p>4 Corners</p>	<p>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. Further, the proposed regulation raises two concerns.</p> <p>There is no definition of what constitutes an “advertisement.” There have been inconsistent explanations as to what would qualify from OCC personnel. For example, there needs to be explicit guidance as to whether “advertisement” simply refers to mailings, flyers, and other methods of soliciting customers for your service, 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 an advertisement.</p>	<p><b>COMAR 13A.16.03.09 A (Child Care Centers)</b></p> <p>Management and Administration <b>.09 Advertisement.</b></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>COMAR 13A. 16.03.09 B (1)(2) (Child Care Centers)</b></p> <p>Management and Administration <b>.09 Advertisement.</b></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>MSDE respectfully disagrees with the public comment and will keep the regulation as it is currently.</p>

Community Nursery  St James's Children's School			
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<p>Shulman, Rogers, Gandal, Pordy &amp; Ecker P.A See Attachment A</p> <p>The Child Care Cottage</p> <p>AACC Child Development Center</p> <p>Potomac Valley Academy</p> <p>Cedarcroft School</p> <p>Frederick Community College</p> <p>Clara Barton</p> <p>Glenbrook Nursery School</p> <p>Good Shepherd Preschool</p> <p>Goddard, Bare Hills</p> <p>4 Corners Community</p>	<p>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. Further, the proposed regulation raises two concerns.</p> <p>There is no definition of what constitutes an “advertisement.” There have been inconsistent explanations as to what would qualify from OCC personnel. For example, there needs to be explicit guidance as to whether “advertisement” simply refers to mailings, flyers, and other methods of soliciting customers for your service, 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 an advertisement.</p>	<p><b>COMAR 13A.16.03.09 B(1)(2) (Child Care Centers)</b></p> <p>Management and Administration <b>.09 Advertisement.</b></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>MSDE respectfully disagrees with the public comment and will keep the regulation as it is currently.</p>

Nursery St James's Children's School			
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Comments regarding **COMAR 13A.15. Family Child Care**  
 Published in the Maryland Register February 15, 2019 through March 18, 2019

<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response</b>
	<p>Although there were not any public comments regarding COMAR 13A.15.06.02 A(4), the agency's intent was to have the timeframe of this training within 90 days of initial registration.</p>	<p><b>COMAR 13A.15.06.02 A(4)</b>  <b>(Family Child Care)</b></p> <p>Provider Requirements  <b>.02 Training Requirements.</b></p> <p>A. Preservice Training.                      An individual who applies for an initial registration shall:</p> <p><i>(4) Effective January 1, 2020, complete approved basic health and safety training; and</i></p>	<p>MSDE will change the regulation to the following:</p> <p><i>(4) Effective January 1, 2020, complete approved basic health and safety training (within 90 days of initial registration); and</i></p>



Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Maryland State Family Child Care Association (MSFCCA) *See Attachment B</p>	<p>This proposed regulation is vague and needs clarification.</p>	<p><b>COMAR 13A.15.06.02 B (1) (Family Child Care)</b></p> <p>Provider Requirements <b>.02 Training Requirements.</b></p> <p>B. Continued Training. A provider shall successfully complete:</p> <p>(1) <i>During each 12-month period of registration, the approved health and safety training information supplied by the office</i></p>	<p>MSDE will change the regulation to the following:</p> <p>(1) <i>[During each 12-month period of registration, the approved health and safety training information supplied by the office]</i></p> <p>(1) <i>(The health and safety training, as required by the office, which shall be completed by the end of each 12 month period measured each calendar year)</i></p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
	<p>Comments regarding reasonable accommodations were made in response in the proposed center regulations for consistency in the agency</p> <p>Under prior agreement, staff are to complete the initial training within 90 days of being hired. This provision currently requires Health and Safety Training by January 1, 2020.</p> <p>This provision currently requires that providers: “[d]ocument 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 employment in the position.”</p> <p>We suggest that this provision should be changed to <i>Office of Child Care send out the annual update for everyone to read, sign and date in January of each year.</i></p> <p>The reason for this request is that, pursuant to these proposed regulations, staff has 90 days from the date of hire to take their initial training. It thus follows that the 12-month period should be measured from the date of the training, which may have taken place up to three months after hire, not the date of the initial hire. Many staff have proactively already voluntarily taken the health and safety training, but that training did not coincide with their employment date. In addition, the regulation should exempt staff from the requirement to take “updated” training if the Office of Child Care (“OCC”) has not issued an update to the training by the time updated training is required.</p>	<p><b>COMAR 13A.15.01.02 B (29) (a)(b)(i)(ii) (Family Child Care)</b></p> <p>Scope and Definitions <b>.02 Definitions.</b></p> <p>(29) <i>Reasonable Accommodations.</i></p> <p>(a) <i>“Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,</i></p> <p>(b) <i>“Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p>(i) <i>Change the nature of the program; or</i></p> <p>(ii) <i>impose a monetary burden on the provider.</i></p>	<p>MSDE will delete the added definition and revert to the original numbering:</p> <p><b>[(26)] (27-[(27)] (28) text unchanged)</b></p> <p><i>[(29) Reasonable Accommodations.</i></p> <p><i>(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program,</i></p> <p><i>(b) “Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p><i>(i) Change the nature of the program; or</i></p> <p><i>(ii) impose a monetary burden on the provider.]</i></p>

<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response</b>
Maryland State Family Child Care Association (MSFCCA) *See Attachment B	The term “regardless of intent”, added to this regulation is very troublesome. It implies there is absolutely no room for error; regardless of a legitimate mistake being made on the part of the provider when submitting the Office of Child Care	<b>COMAR13A.15.13.07 A(2) (Family Child Care)</b>  Inspection, Complaints and Enforcement <b>.07 Revocations.</b>  A The office may revoke a registration if the  (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;	MSDE respectfully disagrees with the public comments in reference to providing false information and committing fraud and will keep the regulation as it is currently proposed.

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Maryland State Family Child Care Association (MSFCCA) *See Attachment B</p> <p>Maryland Family Network</p> <p>Karen Walsh</p> <p>Nancy Cunningham</p> <p>Nancy E</p>	<p>Requiring a provider to consistently remain on the same level as sleeping children under two, in many cases is not a workable solution for safer sleep. The provider using a video and audio monitor to SEE and HEAR the napping child; as well as following the required visual checks every 15 minutes is the best possible solution in this unique environment to guarantee safe sleep for all children. In addition, it is not certain that making providers follow this regulation change would significantly improve the safety of sleeping infants, but it would almost certainly hinder a provider from being able to continue to care for mixed-age group of children. Children over the age of two require supervision as well when sleeping, due to their ability to get up and move freely when they are thought to be resting. This can also be a problem when older children are playing while an infant may need to rest.</p> <p>This regulation change could force family child care providers to re-evaluate their program options with a possible result being the decision to no longer take children under the age of two, or feel compelled to only take children under two, which would severely limit their income capability. Either of these options could then lead to a decision to close their child care.</p> <p>About supervision of sleeping children, and insuring that sleeping children are on the same level. We are welcoming of any regulation or guidance that improves the safety and well-being of children in care. However the draft regulation changes are not clear. As an example, there are strategies for both electronic “supervision” (cameras, audio devices, etc.) as well as direct supervision (same floor, open doors, etc.) It is not entirely clear what will suffice under what circumstances.</p>	<p><b>COMAR 13A.15.08.01 D (1)(2)(a)(b)(c) (Family Child Care)</b></p> <p>Child Supervision <b>.01 General Supervision.</b></p> <p><i>D. If the home has more than one residential level that is approved for child care:</i></p> <p><i>(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</i></p> <p><i>(2) A child 6 years old or older may be on a different level of the home from the provider or substitute if:</i></p> <p><i>(a) The child’s status is checked by the provider or substitute often enough to ensure the child’s health,</i></p>	<p>MSDE respectfully disagrees with the public comments in reference to infants napping areas and supervision and will keep the regulation as it is currently. MSDE has extensive definition of supervision currently in regulations. <b>COMAR 13A.15.08</b></p>

		<p><i>safety, and welfare, but at least every 15 minutes;</i></p> <p><i>(b) The provider has informed the child's parent that the child is permitted to be on a different level of the home; and</i></p> <p><i>(c) The different home level is approved by the office for</i></p>	
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Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Maryland Family Network</p> <p>Maryland State Family Child Care Association (MSFCCA)</p> <p>*See Attachment B</p>	<p>The word “on” is deleted after “impact” in .01A. It is not deleted in a similar sentence in .03A(1)(c)</p>	<p><b>COMAR 13A.15.14.01 A (Family Child Care)</b></p> <p>Administrative Hearings <b>.01 Scope.</b></p> <p>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, <i>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.</i></p>	<p>MSDE will change the regulation to remove the word “on” from .03A(1)(c).</p> <p>(c) Any other action that adversely impacts <i>[on]</i> registration, including, but not limited to:</p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Maryland State Family Child Care Association (MSFCCA) *See Attachment B</p> <p>Maryland Family Network</p>	<p>This is one of those unique circumstances that develops in the family child care home when the child of a provider may want to have a friend over to play during child care hours. In the instance when the child cannot readily be sent home, an age requirement is understandable; however, the target age should be more in line with the regulation:</p>	<p><b>COMAR 13A.15.04.03 E(2)(a)(b) (Family Child Care)</b></p> <p>Operational Requirements .03 Child Capacity.</p> <p>E. The office:</p> <p>(2) May count as a child in care a child who is visiting the home if the child [:] is younger than 8 years old and unaccompanied by an adult.</p> <p>[(a) Is younger than 8 years old and unaccompanied by an adult; or</p> <p>(b) Cannot be sent home immediately.]</p>	<p>MSDE sees a challenge with the new regulation and will revert back to the original regulation that currently exists in <b>COMAR 13A.15.04.03 E (2)</b></p> <p>E. The office:</p> <p>(2) May count as a child in care a child who is visiting the home if the child [:] <i>[is younger than 8 years old and unaccompanied by an adult.]</i></p> <p><b>(a) Is younger than 8 years old and unaccompanied by an adult; or</b></p> <p><b>(b) Cannot be sent home immediately.</b></p>

<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response</b>
Maryland Family Network	About “or swaddling”. Swaddling does not appear to be defined anywhere and there is a difference between wrapping a child in blankets and using the “sleep sacks” though both are often referred to as swaddling. This section needs greater clarity of terms	<p><b>COMAR 13A.15.10.06 B (Family Child Care)</b></p> <p>Child Safety <b>.06 Rest Time Safety.</b></p> <p>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, <i>or swaddling</i>, that restricts movement may not be used with a child in a crib, portable crib, playpen, cot, bed, mat, or other rest furnishing.</p>	MSDE has addressed this issue in the regulation COMAR 13A.15.10.06.



<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response</b>
	<p>Although there were not any public comments regarding COMAR 13A. 15.08.05 C(1), the agency’s intent will be to include the language (At least a 4 foot).</p>	<p><b>COMAR 13A. 15.08.05 C(1) (Family Child Care)</b></p> <p>Child Supervision <b>.05 Outdoor Activity Areas.</b></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;</i></p>	<p>MSDE has addressed types of pools by using the words “any pool” but agrees to add the height for the fences for more guidance.</p> <p><i>(1) (At least a 4 foot) fence that surrounds the pool;</i></p>

Comments regarding **COMAR 13A.18. Large Family Homes**  
 Published in the Maryland Register February 15, 2019 through March 18, 2019

<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response</b>
Maryland Family Network  Maryland State Family Child Care Association (MSFCCA)  *See Attachment B	“Operator” is not a defined term in 13A.18. It should be replaced with “provider.” And Large Family Child Care Homes do not have “additional adults.”	<p style="text-align: center;"><b>COMAR 13A.18.02.01 I (Large Family Child Care Homes)</b></p> <p style="text-align: center;">Registration Application and Maintenance  <b>.01 Registration — General Requirements.</b></p> <p><i>I. The operator shall not allow an employee, staff member, substitute, additional adult, or volunteer to:</i></p>	MSDE agrees to make the changes to more clearly define the terms being used.  <p style="text-align: center;">Registration Application and Maintenance  <b>.01 Registration — General Requirements.</b></p> <p><i>I. The (provider) [operator] shall not allow an employee, staff member, substitute, [additional adult,] or volunteer to:</i></p>

<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response</b>
<p>Maryland Family Network</p> <p>Maryland State Family Child Care Association (MSFCCA)</p> <p>*See Attachment B</p>	<p>The first section requires medicals for each volunteer for a continuing registration. The second section only requires medicals for volunteers who are present more than once a week. The latter is more reasonable than the former</p>	<p><b>COMAR 13A.18.02.03 A(3)(c)</b>  <b>(Large Family Child Care Homes)</b></p> <p>Registration Application and Maintenance  <b>.03 Continuing Registration.</b></p> <p>A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:</p> <p>(3) A medical evaluation that meets the requirements of Regulation [.02C(2)(b)] .02D(2) of this chapter for:</p> <p><i>(c) Each volunteer; and</i></p>	<p>MSDE agrees that clarification needs to be made and will change the regulation to say:</p> <p><b>COMAR 13A.18.03.05 F(3)</b>  <b>(Large Family Child Care Homes)</b></p> <p>.05 Staff Records.</p> <p>[(b)] (3) [A] <i>[If present more than once per week],</i> a medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer’s duties.</p>

<b>Submitted by:</b>	<b>Excerpted Comments</b>	<b>Regulation Language Referenced</b>	<b>MSDE Response</b>
<p>Maryland Family Network</p> <p>Maryland State Family Child Care Association (MSFCCA)</p> <p>*See Attachment B</p>	<p>Volunteers who do not care for and supervise children, or have unsupervised access to children are not mandated to report child abuse and neglect. The two additions of volunteers to this section should be deleted.</p>	<p><b>COMAR 13A.18.07.02 A</b> <b>(Large Family Child Care Homes)</b></p> <p>Child Protection <b>.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>COMAR 13A.18.07.02 D</b> <b>(Large Family Child Care Homes)</b></p> <p>Child Protection <b>.02 Abuse/Neglect Reporting.</b></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>MSDE respectfully disagrees with the public comments in reference to volunteers reporting child abuse and neglect and will keep the regulation as it is currently.</p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
<p>Maryland Family Network</p> <p>Maryland State Family Child Care Association (MSFCCA)</p> <p>*See Attachment B</p>	<p>The word “resident” should be replaced with the word “residence.”</p>	<p><b>COMAR 13A.18.14.07 A (12) (Large Family Child Care Homes) Inspections, Complaints, and Enforcement .07 Revocation.</b></p> <p>A. The office may revoke a certificate of registration if the:</p> <p>(12) [The child] Child care home is no longer the primary resident of the provider[.];</p>	<p>MSDE agrees with the public comment and will change the regulation to the following:</p> <p>(12) [The child] Child care home is no longer the primary <b>(residence)</b> <b>[resident]</b> of the provider[.];</p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
	<p>Although there were not any public comments regarding COMAR 13A.18.06.05 E 3(d), the agency’s intent was to have the timeframe of this training within 90 days of initial registration.</p>	<p><b>COMAR 13A.18.06.05 E(3)(d)</b> <b>(Large Family Child Care Homes)</b></p> <p>Provider and Staff Requirements <b>.05 Child Care Home Directors.</b></p> <p>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:</p> <p>(3) Have successfully completed:</p> <p>(d) <i>Effective January 1, 2020, approved basic health and safety training; and</i></p> <p><b>COMAR 13A. 18.06.05 G(4)</b> <b>(Large Family Child Care Homes)</b></p> <p>Provider and Staff Requirements <b>.05 Child Care Home Directors.</b></p> <p>G. A director shall:</p> <p>(4) <i>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 registration or employment in the position.</i></p>	<p>MSDE will change the regulation to the following:</p> <p><i>(d) Effective January 1, 2020, have completed approved basic health and safety training (within 90 days of employment); and</i></p> <p>MSDE agrees the annual update needs to be as follows:</p> <p><i>(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.) [was updated by the end of each 12-month period, measured from the date of employment in the position.]</i></p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
	<p>Although there were not any public comments regarding COMAR 13A. 18.06.06 B (1)(e), the agency’s intent was to have the timeframe of this training within 90 days of initial registration.</p>	<p><b>COMAR 13A.18.06.06 B(1)(e)</b> <b>(Large Family Child Care Homes)</b> Provider and Staff Requirements <b>.06 Family Child Care Teachers.</b></p> <p>B. [Except as set forth at §C of this regulation, to] <i>To qualify or continue to qualify as a family child care teacher, an individual:</i></p> <p>1 Shall hold or have successfully completed:</p> <p><i>(e) Effective January 1, 2020, approved basic health and safety training; and</i></p> <p><b>COMAR 13A.18.06.06 D(3)</b> <b>(Large Family Child Care Homes)</b> Provider and Staff Requirements <b>.06 Family Child Care Teachers.</b></p> <p>D. A family child care teacher in a child care home shall:</p> <p><i>(3) 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 employment in the position.</i></p>	<p>MSDE will change the regulation to the following:</p> <p><i>(e) Effective January 1, 2020, have completed approved basic health and safety training (within 90 days of employment);and</i></p> <p>MSDE agrees the annual update needs to be as follows:</p> <p><i>(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.) [was updated by the end of each 12-month period, measured from the date of employment in the position.]</i></p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
	<p>Although there were not any public comments regarding COMAR 13A. 18.06.07 A(3), the agency' intent was to have the timeframe of this training within 90 days of initial registration.</p>	<p><b>COMAR 13A.18.06.07 A(3)</b> <b>(Large Family Child Care Homes)</b></p> <p>Provider and Staff Requirements .07 Aides.</p> <p>A. An aide shall:</p> <p><i>(3) Effective January 1, 2020, complete the approved basic health and safety training; and</i></p> <p><b>COMAR 13A.18.06.07 A(6)</b> <b>(Large Family Child Care Homes)</b></p> <p>Provider and Staff Requirements .07 Aides.</p> <p>A. An aide shall:</p> <p><i>(6) 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 employment in the position.</i></p>	<p>MSDE will change the regulation to the following:</p> <p><i>(3) Effective January 1, 2020, have completed approved basic health and safety training (within 90 days of employment);and</i></p> <p>MSDE agrees the annual update needs to be as follows:</p> <p><i>(6) Document that the health and safety training, as required by the office, (is completed by each staff by the end of each 12 month period, measured each calendar year.) [was updated by the end of each 12-month period, measured from the date of employment in the position.]</i></p>



Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
	<p>Although there were not any public comments regarding COMAR 13A. 18.01.02 B(38) (a)(b)(i)(ii), the agency’s intent was to have the timeframe of this training within 90 days of initial registration.</p>	<p><b>COMAR 13A.18.01.02 B(38)(a)(b)(i)(ii) (Large Family Child Care Homes)</b></p> <p>Scope and Definitions <b>.02 Definitions.</b></p> <p>B. Terms defined</p> <p>(38) <i>Reasonable Accommodations.</i></p> <p>(a) <i>“Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program.</i></p> <p>(b) <i>“Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p>(i) <i>Change the nature of the program; or</i></p> <p>(ii) <i>Impose a monetary burden on the provider.</i></p>	<p>MSDE will delete definition of reasonable accommodation and revert to original numbering.</p> <p><b>(24)-(43) (text unchanged)</b></p> <p><i>[(38) Reasonable Accommodations.</i></p> <p><i>(a) “Reasonable accommodations” means changes made to a child care facility’s program or policies to allow a child with a disability equal access to the benefits of the child care facility and program.</i></p> <p><i>(b) “Reasonable accommodations” does not include providing accommodations that would significantly:</i></p> <p><i>(i) Change the nature of the program; or</i></p> <p><i>(ii) Impose a monetary burden on the provider.]</i></p>

Submitted by:	Excerpted Comments	Regulation Language Referenced	MSDE Response
	<p>Although there were not any public comments regarding COMAR 13A.18.05.12 J(1), the agency's intent will be to include the language (At least a 4 foot)</p>	<p><b>COMAR 13A.18.05.12 J(1)</b>  <b>(1)</b>  <b>(Letters of Compliance)</b></p> <p>Physical Plant and Equipment  <b>.12 Outdoor Activity Area.</b></p> <p><i>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 having a:</i></p> <p><i>(1) fence that surrounds the pool;</i></p>	<p>MSDE has addressed types of pools by using the words "any pool" but agrees to add the height for the fences for more guidance.</p> <p><i>(1) (At least a 4 foot) fence that surrounds the pool;</i></p>

## **Attachment A**

Center and Association support of Shulman, Rogers, Gandal, Porody & Ecker P.A

Geneva Day School  
Kathy Embly  
Susan Custer  
Kristin Draper, Attorney at Law  
Paula Sayag, Ph.D  
Temple Beth Ami

Rock Spring

### **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

## Attachment B

### Individual Family Providers and Local Family Association Chapters in support of Maryland Family State Child Care Association (MFSCCA)

Ashley Walter  
Bonnie Haskins  
Brenda Potash  
Celeste Bulte  
Charmin Parks  
Chris Luipersbeck  
Cynthia McCallam  
Cynthia Palmer  
Dawn Hollenczer  
Dawn Quade  
Deborah Cook  
Deborah Gardner  
Debra Jones  
Debra Shipley  
Diana Holzberger  
Donna Neal  
Frances Whitehead  
Jessica Patrick  
Karolyn Martin  
Katheryn S Weiss  
Kathryn L. Mikulski  
Kathryn Mikulski  
Kathy Embly  
Kim Hayas  
Kimberley Browne  
LaTevea Richardson-Carson  
Lauren Huntt  
Leilani Gaskins  
Leslie Anderson  
Leticia Shelton  
Lillian Serio  
Linda Church  
Lisa Dillon  
Lisa Noel  
Lisa Poe  
Lynn Grffiths  
Madie Green  
Maria Smith  
Marian Robinson  
Mary Young  
Melanie Richardson  
Melissa Jewell  
Michele Denson  
Milagros Arias  
Nissi Grimes

Patricia Ward  
Peggy Anderson  
Rebecca Hancock  
Rebecca Hancock  
Rhonda Watson  
Sharon Chaney  
Susan Dembrow  
Susan Milstead  
Tausha Smith  
Terry StevenSon  
Valerie Lavala  
Wanda Digregory  
Wendy Dingus  
Wendy Farley  
Yolande Chandler

### Family Associations in support of MFSCCA

Allegheny 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



March 7, 2019

**VIA EMAIL AND FEDERAL EXPRESS**jennifer.nizer@maryland.gov

Jennifer A. Nizer, Director, Office of Child Care  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

Re: **Proposed Revisions to Child Care Regulations – Comments and Suggested Changes to the COMAR Revisions**

Dear Ms. Nizer:

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 regulations regarding Health and Safety Training and related topics, which were published on February 15, 2019. 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.

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 requirements; and (iii) maintain the due process rights of providers. Please consider the following revisions, which are in line with MSDE's goal for more widespread, affordable early child care:

**1. Fiscal Note Does Not Recognize 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, 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 every two years. There is also an additional administrative cost to tracking the additional requirements. 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 ("OCC") has calculated this amount differently. We request that the fiscal impact of this proposal be revised to include this analysis, and that the regulations should not be considered 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)
  - a. Pre-Service Health and Safety Training is not Feasible

For well over a year, providers have been raising concerns about the proposed additional requirement that all staff must take the newly required Health and Safety training prior to being employed as a child care worker, or continuing in employment, unless the training is complete as of January 1, 2020. The industry expressed similar concerns about the ADA and breastfeeding training that were added as preservice requirements in 2016. These added trainings are all unfunded mandates that increase costs for providers and ultimately passed through to the parents who pay for child care. Adding the training as a pre-service requirement is the most expensive way to do it and is often simply not workable.

Finding candidates who already have the newly required training prior to the date they are hired is unlikely. Permitting training within the first six months of employment is a far more reasonable approach, and one that OCC leadership had assured providers would be in the revised regulations, albeit on a shorter time frame (90 days) than had been requested and, at this point, only for the new health and safety training. 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 them to be worked into a convenient time during the new employee's work day, thus reducing the costs to providers. Indeed, requiring preservice 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 interests of children, families, and building quality programs. We thus respectfully request that you revise this proposal to allow the health and safety, the ADA, and the breastfeeding trainings "within 180 days of employment" or at least "within 90 days of employment" as you have indicated you would support.

**b. Training Renewal Dates Should not be Measured from Date of Hire**

In addition to the preservice requirement, the proposed regulation requires that providers: “[d]ocument that the health and safety training, as required by the OCC, was updated by the end of each 12-month period, measured from the date of employment in the position.” We request that this provision be changed so that staff must complete the training update “within 30 days of each twelve (12) month anniversary of taking the initial training, if the OCC has issued such an update, or within six (6) months of the release of any update. Notwithstanding the foregoing, no staff member should be required to take health and safety training more than once in any twelve (12) month period.”

The reason for this request is that, pursuant to these proposed regulations, if our clients; proposal is accepted, the staff will have 180 or 90 days from the date of hire to take their initial training. Indeed, many staff have already voluntarily taken the health and safety training, but that training did not coincide with their employment date. *It thus follows that the 12-month period should be measured from the date of the training, not the date of the initial hire. In addition, the regulation should exempt staff from the requirement to take “updated” training if the OCC has not issued an update to the training by the time updated training is required.*

**3. Divergence from Federal Law - COMAR 13A.16.01 Scope and Definitions - Reasonable Accommodations**

The proposed definition of “reasonable accommodations” in this section states that “reasonable accommodations” do not require changes that would: (i) fundamentally alter the program; or (ii) cause an undue burden on the provider. This proposed definition is not consistent with federal law under the Americans with Disabilities Act (“ADA”).<sup>1</sup>

A complex analysis is necessary to determine when reasonable accommodations are required under the ADA and what constitutes an undue burden. The undue burden analysis is a fact intensive inquiry based on the nature of the accommodation, the financial status of a business, and the cost/disruption it would cause. Case law on this topic continues to evolve and Congress maintains the power to amend the ADA, which pre-empts state law.

We support requiring providers to make “reasonable accommodations,” but this regulation should simply refer back to the federal law as to what a “reasonable accommodation” means. *This is already done in the current version COMAR 13A.16.08.01.A Child Supervision, which*

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<sup>1</sup> In addition, this proposed change is inconsistent with the simultaneous change to the Family Child Care regulation, the proposed language for which reads: “[r]easonable accommodations” are not required when providing the accommodations would significantly: (i) Change the nature of the program; or (ii) Impose a monetary burden on the provider. (Emphasis added.)



requires providers to make "reasonable accommodations ... in accordance with applicable federal and State laws." This section of the proposed changes should be similarly amended.

**4. 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, not the child care provider who generally does not have any formal medical education and is in no position to second guess the pediatrician.

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, but 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 obtain documentation of these tests that would have had to take place years prior when the children were infants and toddlers and to exclude them from care if they do not have proof that the test was done. 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.*

**5. 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. Further, 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 OCC personnel. For example, there needs to be explicit guidance as to whether “advertisement” simply refers to mailings, flyers, and other methods of soliciting customers for your service, 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 an advertisement. *Further clarification as to what constitutes an advertisement should be included.*

Second, the requirements to list both that you have a license and that you list the license number is redundant. OCC 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.*

**6. 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 OCC 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 OCC 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 dated it January 2018 (instead of 2019), this date could be considered “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 OCC the power to revoke almost any provider’s license any time it wished. This is how the regulation currently is written, so this proposed change should not be placed in COMAR. Indeed, OCC 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 will permit OCC to have such sweeping and broad power once this issue is raised through the appropriate channels. *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 proposal should be deleted.*

7. **Another Unfunded Mandate - COMAR 13A.16.06.04 Staff Health - Medical Evaluations**

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 OCC can have a space for a signature, but the medical facility should be permitted to sign it consistent with its procedures for completing paperwork.*

In addition, Section A.4 requires that the staff medical evaluation form to be updated every two years from date of hire. This new requirement represents a significant financial burden on staff members and an administrative burden on child care providers. *This proposed provision for medical recertification should be dropped. If this medical certification will be mandatory, it should be updated every five (5) years rather than two (2) years.* To the extent that health insurance covers these exams, they usually only do so for exams every three years. Moreover, getting medical examinations are costly to the staff and tracking expiration of this form (in addition to all of the other dates/trainings that providers must track) is extremely burdensome for providers with a large number of employees.

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

This proposal includes a new section F, which will require providers to apply to OCC for approval of a substitute and permit OCC thirty (30) days to respond to the request. Has the OCC considered whether this is required in other states? It is unlikely that this process is required in other states (and should not be required in Maryland) because this proposal is not workable for a number of reasons:

1. Providers are not required to get "pre-approval" for 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 OCC 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 had to wait months to get responses from OCC's licensing specialists on new hires. This approval process is thus not workable in practice.

*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 OCC when a substitute is used.*

9. *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 OCC 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.*

+++++



SHULMAN  
ROGERS

GANDAL  
PORDY  
ECKER

Ms. Jennifer Nizer  
March 7, 2019  
Page 8

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. 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. Because the issues in this letter are likely to be of interest to all child care providers in the State of Maryland, it would be useful to receive a response to this letter before the scheduled meeting of the Maryland Board of Education meeting on April 23.

Sincerely,

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

By: Lawrence A. Shulman  
Lawrence A. Shulman

LAS:KED

Copy: Dr. Karen B. Salmon, Office of the State Superintendent  
Dr. Carol A. Williamson, Office of the Deputy for Teaching and Learning  
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

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42701462.1

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## 72 Years of Excellence in education

**DATE:** March 11, 2019  
**TO:** Jennifer Nizer  
**RE:** Comments on February 15, 2019 Proposed Child Care Center Regulations  
**FROM:** Kate L. Gentry

Dear Jennifer,

**Thank you for the opportunity to comment on the proposed changes to the child care center regulations. As the owner and operator of an 85 child capacity school, I am very concerned with the regard to the financial and record keeping burden, the additional burden to find staffing in and employment field that is already desperately short of employable candidates, and the financial impact to and availability of childcare for families. My comments are below and mirror comments you will have received from others. We are all very concerned.**

*Staff Medical Evaluation (13A.16.06.04A and 13A.17.06.04A)*

This proposed regulation is not related at all to CCDF. The federal requirements only discuss medicals for children NOT staff medicals.

Repeating Staff Medical Evaluations every two years is a serious financial burden for child care programs and/or individuals working with little or no benefits. The initial medical evaluation provides the program some measure of assurance that the new staff member does not have a communicable disease that will be a risk for children in care and has no health issues that will interfere with the staff member's performance of the duties of the position. The staff member's supervisor will be able to determine whether the staff person is healthy enough to be able to continue to perform the duties of the position without subsequent expensive medical evaluations every two years. We cannot stress enough that this new requirement represents a significant financial burden on staff members and an administrative burden on child care providers. If the office believes medicals for center-based program staff should be medical certification will be mandatory, at the very least, this proposed regulation (not at all related to CCBGDG should be updated every five (5) years rather than two (2) years. Getting medical examinations are costly to the staff and/or employers tracking expiration of this form (in addition to all of the other dates/trainings that providers must track) is extremely burdensome for providers with a large staff. Although this regulation has been in place for family childcare, the burden is much less significant for this cohort of providers. Family childcare regulations require medical completed every two years. There is no supervisor or director/administrator to determine whether a family child care provider can perform duties of the position and although family child care are required to have substitute/s thus requiring more than one medical every two years, the majority of programs MSCCA represents would encompass an average of 10-15 staff with our larger businesses with staff of 40 up to 800 employees. Medicals for all staff will be onerous every two years. COMAR already states Businesses cannot hire any employee without passing the employment medical, which the form is provided by MSDE. Once the employee is hired, MSDE files the paperwork. Centers are required to have Directors to oversee staff and program according to COMAR. MSDE also determines qualifications and requires annual training hours as well. Requiring every two years (anniversary dates for employees vary greatly) for the same medical forms are excessive and most businesses/employers do not require.

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,

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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. 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.

### *Comprehensive Criminal Background Checks to Comply with 2016 CCDF Final Rule*

In the CCDF Rule published in September 2016, comprehensive criminal background checks for child care programs were mandated. The pertinent section of the Rule follows.

45 CFR § 98.43 Criminal background checks.

(a)(1) States, Territories, and Tribes, through coordination of the Lead agency with other State, territorial, and tribal agencies, shall have in effect:

(i) Requirements, policies, and procedures to require and conduct criminal background checks for child care staff members (including prospective child care staff members) of all licensed, regulated, or registered child care providers and all child care providers eligible to deliver services for which assistance is provided under this part as described in paragraph (a)(2) of this section;

(ii) Licensing, regulation, and registration requirements, as applicable, that prohibit the employment of child care staff members as described in paragraph (c) of this section; and

(iii) Requirements, policies, and procedures in place to respond as expeditiously as possible to other States', Territories', and Tribes' requests for background check results in order to accommodate the 45 day timeframe required in paragraph (e)(1) of this section.

(2) In this section:

(i) Child care provider means a center based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that:

(A) Is not an individual who is related to all children for whom child care services are provided; and

(B) Is licensed, regulated, or registered under State law or eligible to receive assistance provided under this subchapter; and

(ii) Child care staff member means an individual (other than an individual who is related to all children for whom child care services are provided):

(A) Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;

(B) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

(C) Any individual residing in a family child care home who is age 18 and older.

"Child care staff members," as defined by the federal rule, must have comprehensive background checks. The proposed Maryland child care regulations add new categories of individuals to the current background check requirements, but the proposed Maryland regulation does not cleanly follow the federal requirement. If the regulations become effective, comprehensive criminal background

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checks will be mandated for child care employees, staff members, substitutes, and volunteers. Employees, staff members, and substitutes are all engaged in activities that involve the care or supervision of children or have unsupervised access to children, and therefore, fall within the federal mandate. Volunteers in child care programs, however, often neither supervise children nor have unsupervised access to children. Parents of children in care often volunteer in the child care program, reading a story, sharing a family tradition, pitching in the whiffle ball game, and helping with a holiday party. High school students can volunteer in a child care program to earn community service hours. None of these volunteers would have unsupervised access to children and requiring them to have expensive comprehensive background checks would almost certainly eliminate programs' use of volunteers.

A better way to comply with the federal comprehensive background check mandate would be to amend the definitions of either (or both) employee and staff member to mirror the federal staff member definition, and include substitutes in those definitions. Then volunteers can be defined as individuals with no supervisory responsibilities and no unsupervised access to children in care, and they can be exempted from background checks.

### COMAR 13A.16.06.05.B.(5) Staff Requirements

*Basic Health and Safety Training for All Center Staff (13A.16.06.05 et seq. and 13A.17.06.02L)*

Under prior agreement, staff are to complete the initial training within 90 days of being hired. MSDE shared in writing they would NOT require Basic Health and Safety Training as Pre-Service. Staff would complete the training within 90 days of hire date.

This provision currently requires Health and Safety Training by January 1, 2020.

### COMAR 13A.16.06.05.C.(3) Staff Requirements (also 13A.16.06.09.C.(3), .10.C.(3), .11.C.(3) and .12.C.(3))

This provision currently requires that providers: "[d]ocument 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 employment in the position." We suggest that this provision should be changed to *Office of Child Care send out the annual update for everyone to read, sign and date in January of each year.* The reason for this request is that, pursuant to these proposed regulations, staff has 90 days from the date of hire to take their initial training. It thus follows that the 12-month period should be measured from the date of the training, which may have taken place up to three months after hire, not the date of the initial hire. MSCCA is aware many staff have proactively already voluntarily taken the health and safety training, but that training did not coincide with their employment date. In addition, the regulation should exempt staff from the requirement to take "updated" training if the Office of Child Care ("OCC") has not issued an update to the training by the time updated training is required. Very unclear the way regulation is currently written.

### COMAR 13A.16.01 Scope and Definitions - Reasonable Accommodations

The proposed definition of "reasonable accommodations" in this section states that "reasonable accommodations" do not require changes to the child care facility that would: (i) fundamentally alter the program; or (ii) cause an undue burden on the provider. *The new definition provides: (b) "Reasonable accommodations" does not include providing accommodations that would significantly: (i) Change the nature of the program; or (ii) Impose a monetary burden on the provider. This is exactly the same as the FCC definition. This ignores the complexity of an ADA determination of "reasonable accommodations." The definition is simply saying that if the accommodation a parent wants changes the nature of the program or is financially burdensome, then it's not reasonable.* A complex analysis is necessary to determine when reasonable accommodations are required under the ADA and what constitutes an undue burden. The undue burden analysis is a fact intensive inquiry based on the nature of the accommodation, the financial status of a business, and the cost/disruption it would cause. Case law on this topic continues to evolve and Congress maintains the power to amend the ADA, which pre-empts state law.

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We fully support requiring providers to make "reasonable accommodations," but this regulation should simply refer back to the federal law as to what a "reasonable accommodation" means. This is already done in COMAR 13A.16.08.01.A Child Supervision, which requires providers to make "reasonable accommodations ... in accordance with applicable federal and State laws." This section of the code should be similarly amended.

#### COMAR 13A.16.02.06 & 16.17.09 – "Regardless of intent"

This proposal amends the code to give OCC 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." However, this will give OCC the power to revoke a license for even an innocent typo or inadvertent mistake. Instead, we suggest that this provision be changed to only apply to intentional misrepresentations or material omissions.

Under the current drafting, for example, if a provider submits a form in January 2018 and accidentally dated it January 2017 (instead of 2018), this date could be considered "false information" and the license could be revoked for this simple typo. OCC's power to revoke should be limited to situations where there is some substantial fraud, and not based on a minor mistake.

#### COMAR 13A.16.06.13 - Substitutes

This proposal includes a new section F, which will require providers to apply to OCC for approval of a substitute and permit OCC thirty (30) days to respond to the request. 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. Large programs with multiple sites, would mean that multiple OCC Licensing specialists would need to approve the same substitute as many programs have different specialists who oversee them, but use the same substitutes. This approval process is thus not workable in practice. Substitutes should be treated the same as new hires (as they currently are addressed in COMAR) in that providers should have five (5) days from the date of "hire" for use of the substitute to send paperwork in to Licensing to demonstrate the substitute is qualified. We ask to remove the 30 days for approval by office of substitute and add language addressing emergency approval due to need for substitutes may be necessary on an immediate basis.

#### Request for Additional Changes - COMAR 13A.16.06 Staff Requirements for ADA and Breastfeeding Training Within 90 Days of Employment

The child care community is pleased that MSDE listened to concerns about "pre-service" requirements for health and safety training and instead proposes that the training must be taken within 90 days of employment. This change demonstrates that OCC is listening to providers' concerns and recognizes that it is nearly impossible to find prospective staff members who already have the required training before hiring the individual.

COMAR currently require "pre-service" training for ADA and breastfeeding. The same concerns that initiated providers' request to change the health and safety training to 90 days after employment apply to the requirement for ADA and breastfeeding training. In addition to consistency for the timing of all training requirements, these trainings have much more meaning for new hires after they get 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 available on demand and giving time to complete these trainings after hire allows them to be worked into a convenient time during the new employee's work day. Requiring these additional preservice for trainings 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 interests of children, families, and building quality programs. We respectfully request that you propose additional changes to the code to permit the ADA and breastfeeding training "within 90 days of employment," parallel to the health and safety

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Sincerely,

Kate L Gentry

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Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

## Comments regarding draft regulations

1 message

Brooke Hurman <bhurman@celebree.com>

Wed, Mar 13, 2019 at 2:57 PM

To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

Hi Jenn,

Thank you again for visiting the AA County MSCCA meeting yesterday. It was nice to hear from you and Lou the proposed regulations and how they will impact us as providers. I do appreciate that you have been in the trenches and can respect the changes from a provider's shoes.

With regards to the proposed regulations, I have a few concerns. In all of my feedback, I certainly weigh what is best for children and quality education, and hope that you can understand the strain that some of these proposed regulations put on providers and employees. The industry is already challenging to staff, and we often lose amazing teachers to the public system. Though I originated in the public system and ended up in private education, I know the financial appeal, stability of employment, and other tangible benefits often outweigh the ability for quality and degreed early childhood educators to remain in private education.

Thank you for adding in the 90 day provision for the Basic Health and Safety, ADA, and Breastfeeding trainings. This is a huge win for us as providers, in that we can now hire staff who are capable but not yet fully qualified and do so without a burden or asking them to engage in unpaid work as a condition of employment, which is not legal. I appreciate that OCC has listened to the community and been flexible in this requirement.

I do have concerns about the medical evaluation component for the team. Though we clearly all want our team to be healthy and physically capable of caring for young children, we also know that childcare teachers do not have the funding to obtain these physicals annually or biannually. Some teachers do not have insurance, others do not see their provider unless they have a medical need, and yet others may not have the financial means to get this annual physical. Given the CCDF requirement at the federal level, I cannot see how the every 2 year requirement is included at all. Our Directors already monitor the ability of our team to perform their jobs, which is different from the onus on a family provider. Attempting to monitor the physical regulation on top of other requirements will be setting our team up to fail.

I also have a continued question regarding the definition of a volunteer. Even in our meeting yesterday, the interpretation of the definition of "volunteer" as written in current regulations was quite different and seemed to evolve as the meeting progressed. Do we define a volunteer as someone who has "regular" contact with children (and, if so, how do we define regular)? Do we define a volunteer as someone who comes in to read a book once? As someone who helps with a class party? Something else? To ask families or community members to be fingerprinted, at a significant cost, for occasional contact will discourage engagement from families and the community, which is a key part of our programs and a hallmark of accredited schools. If these volunteers will not be left alone with children, why require them to be printed?

Finally, I have concerns regarding the provision for pre-approval by OCC of substitutes. This prior approval is not required for regular employees, and often subs are needed at the last moment because of an out of control circumstance. The same rule that applies for new hires requiring us to submit paperwork within 5 days of hire should apply to substitutes. As leaders in our school, we provide ongoing support and monitoring to our substitutes, and help them to grow and succeed. In our case, we often share substitutes among several centers in the same area/county, and would need to involve multiple specialists to ensure that substitutes are approved by each area. We already struggle to receive responses from some specialists, and are concerned that this would interfere with our ability to continue to run a quality program. As

each of us undergoes the MSDE Accreditation process, we need to be focused on hiring and developing quality talent, and cannot do so if we are forced into a classroom while waiting for a substitute to be approved. This requirement may also prevent us from further enrolling our programs, observing our teachers, and just generally providing amazing care and education to our families and children. Removing the 30 day pre-approval would allow us to continue to develop our programs in all elements while still providing a safe environment for children.

Thank you for your continued commitment to communication, support, clarity, and transparency with the provider community. We all have the same common goal—quality education for our youngest learners—and can achieve this by continued partnership and growth. I look forward to hearing the considerations you will make based on community feedback, and to seeing the continued partnership between the provider community and OCC grow.

Wishing you well,

Brooke M. Hurman, MS

District Director

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### MSCCA Comments on February 15, 2019 Proposed Child Care Center Regulations

#### *Staff Medical Evaluation (13A.16.06.04A and 13A.17.06.04A)*

This proposed regulation is **not related at all** to CCDF. The federal requirements only discuss medicals for children NOT staff medicals.

Repeating Staff Medical Evaluations every two years is a serious financial burden for child care programs and/or individuals working with little or no benefits. The initial medical evaluation provides the program some measure of assurance that the new staff member does not have a communicable disease that will be a risk for children in care and has no health issues that will interfere with the staff member's performance of the duties of the position. The staff member's supervisor will be able to determine whether the staff person is healthy enough to be able to continue to perform the duties of the position without subsequent expensive medical evaluations every two years. We cannot stress enough that this new requirement represents a significant financial burden on staff members and an administrative burden on child care providers. If the office believes medicals for center-based program staff should be medical certification will be mandatory, at the very least, this proposed regulation (not at all related to CCBDG should be updated every five (5) years rather than two (2) years. Getting medical examinations are costly to the staff and/or employers tracking expiration of this form (in addition to all of the other dates/trainings that providers must track) is extremely burdensome for providers with a large staff. Although this regulation has been in place for family childcare, the burden is much less significant for this cohort of providers. Family childcare regulations require medical completed every two years. There is no supervisor or director/administrator to determine whether a family child care provider can perform duties of the position and although family child care are required to have substitute/s thus requiring more than one medical every two years, the majority of programs MSCCA represents would encompass an average of 10-15 staff with our larger businesses with staff of 40 up to 800 employees. Medicals for all staff will be onerous every two years. COMAR already states Businesses cannot hire any employee without passing the employment medical, which the form is provided by MSDE. Once the employee is hired, MSDE files the paperwork. Centers are required to have Directors to oversee staff and program according to COMAR. MSDE also determines qualifications and requires annual training hours as well. Requiring every two years (anniversary dates for employees vary greatly) for the same medical forms are excessive and most businesses/employers do not require.

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. 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.

#### *Comprehensive Criminal Background Checks to Comply with 2016 CCDF Final Rule*

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(a)(1) States, Territories, and Tribes, through coordination of the Lead agency with other State, territorial, and tribal agencies, shall have in effect:

- (i) Requirements, policies, and procedures to require and conduct criminal background checks for child care staff members (including prospective child care staff members) of all licensed, regulated, or registered child care providers and all child care providers eligible to deliver services for which assistance is provided under this part as described in paragraph (a)(2) of this section;
- (ii) Licensing, regulation, and registration requirements, as applicable, that prohibit the employment of child care staff members as described in paragraph (c) of this section; and
- (iii) Requirements, policies, and procedures in place to respond as expeditiously as possible to other States', Territories', and Tribes' requests for background check results in order to accommodate the 45 day timeframe required in paragraph (e)(1) of this section.

(2) In this section:

(i) Child care provider means a center based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that:

(A) Is not an individual who is related to all children for whom child care services are provided; and

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(B) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or

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"Child care staff members," as defined by the federal rule, must have comprehensive background checks. The proposed Maryland child care regulations add new categories of individuals to the current background check requirements, but the proposed Maryland regulation does not cleanly follow the federal requirement. If the regulations become effective, comprehensive criminal background checks will be mandated for child care employees, staff members, substitutes, and volunteers. Employees, staff members, and substitutes are all engaged in activities that involve the care or supervision of children or have unsupervised access to children, and therefore, fall within the federal mandate. Volunteers in child care programs, however, often neither supervise children nor have unsupervised access to children. Parents of children in care often volunteer in the child care program, reading a story, sharing a family tradition, pitching in the whiffle ball game, and helping with a holiday party. High school students can volunteer in a child care program to earn community service hours. None of these volunteers would have unsupervised access to children and requiring them to have expensive comprehensive background checks would almost certainly eliminate programs' use of volunteers.

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#### COMAR 13A.16.06.05.B.(5) Staff Requirements

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Under prior agreement, staff are to complete the initial training within 90 days of being hired. MSDE shared in writing they would NOT require Basic Health and Safety Training as Pre-Service. Staff would complete the training within 90 days of hire date.

This provision currently requires Health and Safety Training by January 1, 2020.

#### COMAR 13A.16.06.05.C.(3) Staff Requirements (also 13A.16.06.09.C.(3), .10.C.(3), .11.C.(3) and .12.C.(3))

This provision currently requires that providers: "[d]ocument 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 employment in the position." We suggest that this provision should be changed to *Office of Child Care send out the annual update for everyone to read, sign and date in January of each year.* The reason for this request is that, pursuant to these proposed regulations, staff has 90 days from the date of hire to take their initial training. It thus follows that the 12-month period should be measured from the date of the training, which may have taken place up to three months after hire, not the date of the initial hire. MSCCA is aware many staff have proactively already voluntarily taken the health and safety training, but that training did not coincide with their employment date. In addition, the regulation should exempt staff from the requirement to take "updated" training if the Office of Child Care ("OCC") has not issued an update to the training by the time updated training is required. Very unclear the way regulation is currently written.

#### COMAR 13A.16.01 Scope and Definitions - Reasonable Accommodations

The proposed definition of "reasonable accommodations" in this section states that "reasonable accommodations" do not require changes to the child care facility that would: (i) fundamentally alter the program; or (ii) cause an undue burden on



the provider. *The new definition provides: (b) "Reasonable accommodations" does not include providing accommodations that would significantly: (i) Change the nature of the program; or (ii) Impose a monetary burden on the provider. This is exactly the same as the FCC definition. This ignores the complexity of an ADA determination of "reasonable accommodations." The definition is simply saying that if the accommodation a parent wants changes the nature of the program or is financially burdensome, then it's not reasonable.* A complex analysis is necessary to determine when reasonable accommodations are required under the ADA and what constitutes an undue burden. The undue burden analysis is a fact intensive inquiry based on the nature of the accommodation, the financial status of a business, and the cost/disruption it would cause. Case law on this topic continues to evolve and Congress maintains the power to amend the ADA, which pre-empts state law.

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This proposal amends the code to give OCC 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." However, this will give OCC the power to revoke a license for even an innocent typo or inadvertent mistake. Instead, we suggest that this provision be changed to only apply to intentional misrepresentations or material omissions.

Under the current drafting, for example, if a provider submits a form in January 2018 and accidentally dated it January 2017 (instead of 2018), this date could be considered "false information" and the license could be revoked for this simple typo. OCC's power to revoke should be limited to situations where there is some substantial fraud, and not based on a minor mistake.

#### COMAR 13A.16.06.13 - Substitutes

This proposal includes a new section F, which will require providers to apply to OCC for approval of a substitute and permit OCC thirty (30) days to respond to the request. 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. Large programs with multiple sites, would mean that multiple OCC Licensing specialists would need to approve the same substitute as many programs have different specialists who oversee them, but use the same substitutes. This approval process is thus not workable in practice. Substitutes should be treated the same as new hires (as they currently are addressed in COMAR) in that providers should have five (5) days from the date of "hire" for use of the substitute to send paperwork in to Licensing to demonstrate the substitute is qualified. We ask to remove the 30 days for approval by office of substitute and add language addressing emergency approval due to need for substitutes may be necessary on an immediate basis.

#### Request for Additional Changes - COMAR 13A.16.06 Staff Requirements for ADA and Breastfeeding Training Within 90 Days of Employment

The child care community is pleased that MSDE listened to concerns about "pre-service" requirements for health and safety training and instead proposes that the training must be taken within 90 days of employment. This change demonstrates that OCC is listening to providers' concerns and recognizes that it is nearly impossible to find prospective staff members who already have the required training before hiring the individual.

COMAR currently require "pre-service" training for ADA and breastfeeding. The same concerns that initiated providers' request to change the health and safety training to 90 days after employment apply to the requirement for ADA and breastfeeding training. In addition to consistency for the timing of all training requirements, these trainings have much more meaning for new hires after they get 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 available on demand and giving time to complete these trainings after hire allows them to be worked into a convenient time during the new employee's work day. Requiring these additional preservice for trainings 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 interests of children, families, and building quality programs. We respectfully request that you propose additional changes to the code to permit the ADA and breastfeeding training "within 90 days of employment," parallel to the health and safety





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March 8, 2019

Ms. Jennifer Nizer  
Office of Child Care  
Division of Early Childhood  
Maryland State Department of Education

This letter is in reference to the proposed changes in Maryland Child Care Regulations which are now open for comment.

Geneva Day School is an independent, not-for-profit child care center servicing 250+ students in the lower Montgomery County area. It is a high quality center which has earned various distinctions for its provision of appropriate and excellent early childhood programs.

The proposed changes include a number of issues that are of concern for our center which are delineated below:

- 1) The requirement that staff must take the required Health and Safety training prior to being employed as a child care worker imposes hardships on a center. A new staff member may not end up "being a good fit" for a center, so spending time and funds to take the training in advance of employment may be wasted. It would be better to provide a 90 or 180 day grace period to accomplish this task after employment has begun. It is assumed that everyone else in the center has taken this training, so each center already has qualified staff members to respond to various first aid and CPR emergencies as appropriate.
- 3) Training renewal dates should be measured from the date of training and not from the date of initial hire. This will allow for a full year to have passed before training is required again. Further, if OCC has not issued annual training updates in a timely manner, then the staff should not be penalized if an anniversary training date is delayed. There should also be a grace period to allow for completion of training updates.
- 4) Since the completion of a form to verify that a child has had a blood test for lead is a medical concern, this requirement should more appropriately be placed on the pediatricians and medical practitioners, rather than child care centers.

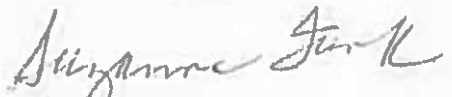
5) There is no definition of what constitutes an "advertisement" which would be required to include specific information as the center "license number" or that is "a center is licensed." There should also be a grace period by which to include a number or license language on all marketing items. The cost to centers to redo flyers, mailings, or other marketing items can be sizeable.

6) Shulman Rogers has made a careful study of the proposed regulations on behalf of a number of child care centers in our area. Geneva appreciates their efforts which appear to be extensive and thoughtful, that it reflects concerns of many our own center, as well.

7) It is hoped that the final version reflects what is appropriate and realistic without penalizing centers. Our industry only wants to provide the best services for its important clients without services becoming unaffordable for parents or business owners. Many of these regulations require new expenses for centers which do not have funding readily available. Providing state funding to cover costs that would be required by new regulations should also be included in the final regulations.

Thank you, Ms. Nizer, for providing Maryland child care centers time to comment on proposed new regulations.

Very truly yours,



Suzanne Funk  
Director

pc: MSCCS  
MoCoMSCCA  
OCCD  
Shaun Rose  
Shulman Rogers  
Senator Cheryl Kagen  
Delegate Sandy Rosenberg



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

**(no subject)**

1 message

Cynthia <childrenfirstofbaltimore@yahoo.com>  
To: jennifer.nizer@maryland.gov

Mon, Mar 18, 2019 at 2:10 PM

Dear Ms. Nizer,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I am especially concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. I also think that staff medical evaluations are unnecessary and if they must be imposed should be every 5 years rather than every 2. I have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians. I think that the "reasonable accommodations" language is confusing and I don't think the new substitutes policy is workable. Finally, I am worried that the new language would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Sincerely,

Cynthia A. Poindexter



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**proposed child care regulations**

1 message

Paula Sayag &lt;pls@bethami.org&gt;

Tue, Mar 12, 2019 at 8:59 AM

To: "jennifer.nizer@maryland.gov" &lt;jennifer.nizer@maryland.gov&gt;

Dear Ms. Nizer,

Regarding the proposed revisions to the Child Care Regulations, I am writing to support the analysis and modifications offered by the law firm of Shulman Rogers on behalf of a conglomeration of child care providers. Though I am not one of the providers included in the March 7 memo to you, I whole-heartedly agree with the findings.

As a smaller, private, non-profit, faith-based early childhood center, I actually believe that the financial and logistical burdens that will accompany the proposed regulations would be significantly detrimental to our efforts to continue to provide child care services to our community.

I would further add that although the memo addresses the impact of the proposed revisions, I think many of the current regulations hinder our ability to provide the very highest quality of early education. If the discussion is broadened, I welcome the opportunity to share my experiences and insights on these issues.

Please do not hesitate to contact me at any time. My contact information is below. I appreciate your attention to this matter, and I trust that we will reach a mutually agreeable conclusion.

Sincerely,

Dr. Paula Sayag

*Paula Sayag, Ph.D.*

Early Childhood Director

Temple Beth Ami

14330 Travilah Road

Rockville, MD 20850

301-762-5594

[pls@bethami.org](mailto:pls@bethami.org)[www.tbans.org](http://www.tbans.org)



**The Child Care Cottage**  
**MSDE License 10-253372**  
**(301)-662-0517**



***We Play! We Grow! We Learn!***

Date: March 10, 2019

VIA EMAIL AND FEDERAL EXPRESS

[jennifer.nizer@maryland.gov](mailto:jennifer.nizer@maryland.gov)

Jennifer A. Nizer, Director, Office of Child Care  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

Re: Proposed Revisions to Child Care Regulations - Comments and Suggested Changes to the COMAR Revisions

Dear Ms. Nizer,

My name is Susan Custer and I do business as (dba) in the State of Maryland under the Tradename of The Child Care Cottage. Thank you for the opportunity to submit comments regarding MSDE's proposal. The Child Care Cottage supports MSDE's efforts to increase quality, affordable and safe child care throughout the State, and believes that these regulations can enhance this goal.

The modifications suggested below will: (i) decrease the potential costs for providers as contrasted with the proposed regulations as written as The Child Care Cottage operates as a large family child care and is held to the same standards as large, corporate centers;. (ii) clarify language so that both providers and licensing specialists can better understand the requirements; and (iii) maintain the due process rights of providers. Please consider the following revisions, which are in line with MSDE's goal for more widespread, quality, **affordable** early child care.

**Ms. Jennifer Nizer**

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**1. Fiscal Note Does Not Recognize 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. The Child Care Cottage employs 2 full time quality, early childhood education professionals and 2 to 3 part-time aides/substitutes. If providers are required to pay for an average of three (3) hours of new training at the current Frederick County/State of Maryland minimum wage of \$10.10 per hour (and projected to increase to \$15 per hour), this creates an undue financial hardship on quality, large family child cares, who have the same overhead costs (on margins of scale) as the large corporate centers.

There is also an additional administrative cost to tracking the additional requirements. I act as owner, director and educator. When children are present at The Child Care Cottage, I am in the classroom to keep our staff/children ratio numbers. 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 The Child Care Cottage if MSDE has performed an economic analysis that reflects the additional burdens or whether Office of Child Care ("OCC":) has calculated this amount differently. We request that the fiscal impact of this proposal be revised to include this analysis, and that the regulations should not be considered 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)**

**a) Pre-Service Health and Safety Training is not Feasible:**

For well over a year, providers have been raising concerns about the proposed additional requirements that all staff must take the newly required Health and Safety training prior to being employed as a child care worker, or continuing in employment, unless the training is complete as of January 1, 2020. The industry expressed similar concerns about the ADA and Breastfeeding training that were added as preservice requirements in 2016. These added trainings are all unfunded mandates that increase costs for providers and ultimately passed through to the parents who pay for child care. Adding the training as a pre-service requirement is the most expensive way to do it and is often simply not workable.

Finding candidates who already have the newly required training prior to the date they are hired is unlikely. Permitting training with the first six months of employment is a far more reasonable approach, and one that OCC leadership has assured providers would be in the revised regulations, albeit on a shorter time frame (90 days) than had been requested and; at

**Ms. Jennifer Nizer**

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this point, only for the new health and safety training. 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 allows them to be worked into a convenient time during the new employee's work day, thus reducing the costs to providers. **Indeed, requiring preservice 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 the best approach in the best interests of young children, families, and building quality programs. I, myself, can attest to this situation at The Child Care Cottage. As a smaller center-based site, this puts us at a financial disadvantage and creates an undue financial hardship. We thus respectfully request that you revise this proposal to allow the health and safety, the ADA, and the breastfeeding trainings "within 180 days of employment" or at least "within 90 days of employment" as you have indicated you would support!**

**b. Training Renewal Dates Should not be Measured from Date of Hire**

In addition to the preservice requirement, the proposed regulation requires that providers; "document that the health and safety training, as required by theOCC was updated by the end of each 12 month period, measured from the date of employment in the position." We request that this provision be changed so that staff must complete the training update "within 30 days of each twelve (12) month anniversary of taking the initial training, if the OCC has issued such an update, or within six (6) months of the release of any update. Notwithstanding the foregoing, no staff member should be required to take health and safety training more than once in any twelve (12) month period."

The reason for this request is that, pursuant to these proposed regulations, if our proposal is accepted, the staff will have 180 or 90 days from the date of hire to take their initial training. Indeed, many staff have already voluntarily taken the health and safety training, but that training did not coincide with their employment date. ***It thus follows that the 12-month period should be measured from the date of the training, not the date of the initial hire. In addition, the regulation should exempt staff from the requirement to take "updated" training if the OCC has not issued an update to the training by the time updated training is required.***

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### **3. Divergence from Federal Law - COMAR 13A.16.01 Scope and Definition - Reasonable Accommodations**

The proposed definition of “reasonable accommodations” in this section states that “reasonable accommodations” do not require changes that would (i) fundamentally alter the program; or (ii) cause an undue burden on the provider. **This proposed definition is not consistent with federal law under the Americans with Disabilities Act (“ADA”).(1)**

A complex analysis is necessary to determine when reasonable accommodations are required under the ADA and what constitutes an undue burden. The undue burden analysis is a fact intensive inquiry based on the nature of the accommodation, the financial status of a business, and the cost/disruption it would cause. Case law on this topic continues to evolve and Congress maintains the power to amend the ADA, which preempts state law.

We support requiring providers to make “reasonable accommodations” but this regulation should simply refer back to the federal law as to what a “reasonable accommodation” means. **This is already done in the current version COMAR 13A.16.08.01.A Child Supervision, which requires providers to make “reasonable accommodations...in accordance with applicable federal and state laws.” This section of the proposed changes should be similarly amended.**

### **4. 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

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(1) In addition, this proposed change is inconsistent with the simultaneous change to the Family Child Care regulation, the proposed language for which reads: “reasonable accommodations” are not required when providing the accommodations would significantly: (I) Change the nature of the program; or (ii) **impose a monetary burden on the provider.** (Emphasis added.)



medical professional that is marked on the health form. This lead screening may or may not lead to a lead test, but that is an issue between the pediatrician and the parent, not the child care provider, who generally does not have any medical education and is in no position to second guess the pediatrician.

The proposed regulations 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 non compliance.** Additionally, if a 13 month old or 25 month old moves from out of state and there was no such test required at 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 Maryland State case record experience with a recent appeal for a violation for this provision, licensing specialists are quite strict about giving citations on this, but 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 professionals, 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 obtain documentation of these tests that would have had to take place years prior when the children were infants and toddlers and to exclude them from care if they do not have proof that the test was done. 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.**

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**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 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.**

**5. 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. Further, the proposed regulations raises two concerns.

First, there is no definition of what constitutes an “advertisement”. There have been inconsistent explanations as to what would qualify from OCC personnel. For example, there needs to be explicit guidance as to whether “advertisement” simply refers to mailings, flyers and other methods of soliciting customers for your service, 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 an advertisement. **Further clarification as to what constitutes an advertisement should be included.**

Second, the requirements to list both that you have a license and that you list the license number is redundant. OCC 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.**

**6. 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 OCC the ability to deny an initial or

Ms. Jennifer Nizer

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continuing license, or revoke a license if the provider gives false information on any required forms "regardless of intent". This amendment will give OCC 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 dated it January 2018 (instead of 2019), this date could be considered "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 OCC the power to revoke almost any provider's license any time it wished.** This is how the regulation is currently written, so this proposed change should not be placed in COMAR. Indeed, OCC 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 will permit OCC to have such sweeping and broad power once this issue is raised through the appropriate channels. **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 proposal should be deleted.**

#### **7. Another Unfunded Mandate - COMAR 13A.16.06.04 Staff Health - Medical Evaluations**

Section A.2 of this proposal requires that "the 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 doctor/nurse practitioner's notes. Indeed, frequently forms are returned from the doctors' offices completed by administrative staff and "stamped" with the medical facility 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 the OCC can have a space for a signature but the medical facility should be permitted to sign it consistent with its procedures for completing paperwork.**

In addition, Section A. 4 requires that the staff medical evaluation form be updated every two years from date of hire. This new requirement represents a significant financial burden on staff members and an administrative burden on child care providers. **This proposed provision for medical recertification should be dropped. If this medical certification will be mandatory, it should be updated every five (5) years rather than two (2) years.** To the extent that health insurance covers these exams, they usually only do so for exams every three (3) years.

**Ms. Jennifer Nizer**

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Moreover, getting medical examinations are costly to staff without medical insurance and tracking expiration of this form (in addition to all of the other dates/trainings that providers must track) is extremely burdensome for providers.

## **8. An Unworkable Process - COMAR 13A.16.06.13 - Substitutes**

This proposal includes a new section F, which will require providers to apply to OCC for approval of a substitute and permit OCC thirty (30) days to respond to the request. Has the OCC considered whether this is required in other states? It is unlikely that this process is required in other states (and should not be required in Maryland) because this proposal is not workable for a number of reasons:

1. Providers are not required to get "pre approval" for 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 OCC 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 had to wait months to get responses from OCC's licensing specialists on new hires. This approval process is thus not workable in practice.

**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 OCC when a substitute is used.**

## **9. COMAR 13A.15.05 Home Environment and Equipment/.05 Outdoor Activity Area "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:

- (1) Fence that surrounds the Pool
- (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 alarm in the pool and on the access door"

**Ms. Jennifer Nizer  
March 10, 2019  
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The Child Care Cottage property contains an **ABOVE GROUND** pool with custom wrap around fencing above the entire pool and deck area. It also has a self closing, and self latching gate (one door entry). Our pool is fully inspected and approved by Frederick County, MD permits department.

**Our concern is that the proposed regulations do not specify between inground and above ground pools nor type and size of fencing. This leaves determination up to the individual OCC licensing specialist. Our above ground pool is already fully inaccessible to the children with a 6 to 7 foot wrap around fence with self closing and self latching gate on the inaccessible steps. We are concerned that this lack of distinguishing between the types of pools and fencing could lead to OCC licensing specialists determining The Child Care Cottage has to put a fence around an already existing fence. It would make no sense to put a 6 foot fence around a 7 foot fence.**

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, quality child care throughout the State. If these important changes are not made and the regulations go into effect without revisions, licensed child care will be significantly more expensive, which will definitely have a negative effect on provider's ability to stay in business.

Child Care Cottage staff 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 The Child Care Cottage if you would like to set up a meeting or if you would otherwise like additional information about the

**Ms. Jennifer Nizer**  
**March 10, 2019**  
**Page 10**

foregoing. Because the issues in this letter are likely to be of interest to all child care providers in the State of Maryland, it would be useful to receive a response to this letter before the scheduled meeting of the Maryland Board of Education meeting on April 23.

Respectfully submitted,

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Susan Custer  
Owner/Director/Educator  
The Child Care Cottage  
5538 Ballenger Creek Pike  
Frederick, Maryland 21703  
(301) 662-0517  
[childcarecottage@gmail.com](mailto:childcarecottage@gmail.com)  
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Copy: Shaun M. Rose, President Rock Spring Children's Center: [Shaun@RockSpringCC.com](mailto:Shaun@RockSpringCC.com)  
Patty Morison, Child Care Choices, Frederick, MD: [pmorison@fcmha.org](mailto:pmorison@fcmha.org)  
Dr. Karen B. Salmon, Office of the State Superintendent  
Dr. Carol A. Williamson, Office of the Deputy for Teaching and Learning  
Shulman, Rogers, Gandal, Pordy & Ecker, P.A.  
AELR Chair, Senator Cheryl Kagan: [Cheryl.Kagan@senate.state.md.us](mailto:Cheryl.Kagan@senate.state.md.us)  
AELR Chair, Sandy Rosenberg: samuel [rosenberg@house.state.md.us](mailto:rosenberg@house.state.md.us)



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**Comments on the Proposed Child Care Regulatory Changes**

1 message

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**Margaret Zhang** <lgmontessori@gmail.com>  
To: jennifer.nizer@maryland.gov

Thu, Mar 7, 2019 at 8:18 PM

Dear Ms. Nizer,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I am especially concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. I also think that staff medical evaluations are unnecessary and if they must be imposed should be every 5 years rather than every 2. I have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians. I think that the "reasonable accommodations" language is confusing and I don't think the new substitutes policy is workable. Finally, I am worried that the new language would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Sincerely,

--

**Margaret Zhang**

Director

Little Genius Montessori School

14315 Marian Dr.

Rockville, MD 20850

(301) 738-7851

[www.littleGeniusMontessori.com](http://www.littleGeniusMontessori.com)



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

## proposed regulations questions

1 message

Jessica Kemper <jkemper@woodscdc.org>  
To: Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

Thu, Mar 14, 2019 at 3:11 PM

Hi Jenn;

After I finished up with the minutes, I thought it might be a good idea to have you review what I wrote about the proposed regulations. They are a hot topic! I want to be accurate. I didn't add anything about the back of the emergency form, pending your response to my first email.

Here's the text on your presentation:

Jenn Nizer stepped through the proposed regulation changes for 2019. She requests comments through March 15. Although there is a letter from a law firm responding to the proposed regulations and some providers are writing to say they are in agreement with this letter, feedback on specific regulations, if possible, is more helpful. If you truly agree with everything in the letter, then it is fine to say so in lieu of specific comments.

**Basic Health and Safety:** this regulation will be changed to read "90 days from date of hire." BHS is NOT an annual training. The eventual annual update will be in the form of a memo that will state that there are "no changes" to the original training or will detail any changes. Each staff member will sign off on a copy of the memo, the copy is placed in the staff member's personnel file. The memo will come out at the same time each year so directors won't have to track a different date for each staff member.

No state can fully meet the requirements of the fingerprinting regulations (dictated by the Federal government, Maryland has no choice in the way this regulation is written\*) because one requirement is to check the National Sex Offender Registry which is available only to law enforcement. Maryland has requested a one year waiver and intends to ask for a second year while this issue is resolved (among others). New hire at MSDE who will have access to the NSOR; working out how information is distributed. It's illegal for CBCs to be shared with unauthorized persons and so how and what we receive as directors may change soon. OCC will be responsible for receiving reports (except perhaps State CBC) and will call us if adverse action required.

CBCs will be required of substitutes, fieldwork students, and volunteers. A volunteer is an unpaid individual who has a regular (most likely weekly) assignment in your center. A volunteer is not a parent who comes in once or twice in the entire year to chaperone a field trip or read a book. If you have a parent in charge of a group of children on a field trip and that parent is not matched up with a staff member, you should choose to have the parent fingerprinted.

One item that is often found non-compliant is emergency forms. EVERY LINE must be completed. Parents must write down at least one emergency contact, even if it is someone out of



state. Courtney Feather told a story of a child who was dropped off and then mom was killed in a car accident. If you had no emergency contact, you would have no way to notify *some* family member of the situation and have any assistance in reuniting the child with an appropriate person.

The every-two-years medical regulation is a Federal requirement. Jenn does not know if this requirement was extended to public school teachers as well. Medicals will need to be tracked for each staff member. If the staff member hasn't had one yet in the current calendar year, the one from the previous year will be acceptable, as long as it isn't dated over two years' previous from date of personnel list update.

Best practice would be for a staff member to take the medical form (updated March 2019) to primary care every year for physical. If regulation goes into effect, every staff member will need to have a physical on file that is dated within two years of January 2020.

You must tell your LS if you terminate an employee using form 1203a (page two of the Personnel List). You must also notify CJIS using SAM system. SAM is a little glitchy but keep trying. If you haven't received your employee roster from CJIS within the past year and you can't access it in SAM, you can call and request it. Note: a PBJ (probation before judgement) and pending charge can exclude an employee from working until resolved, depending on charge. The Release of Information is due to licensing within 5 days of date of hire and can result in an employee being put on leave until any questions are resolved. You might have a clear CBC but an issue on the ROI.

Every state in the nation is looking at the CDA as entry level training for child care. There is an ongoing discussion about paying for training or paying for better compensation in child care. MSDE has money; where can it best be spent because both needs cannot be supported at an acceptable level at the same time.

Some trainers are under probation while sloppy paperwork is being resolved. Jenn recommends that we ask for original training documents when hiring. Some classes, in particular 45-hour school age training, have been altered or issued without any actual training. Every training certificate must have the course title, the trainer's name and CKO number, the training date and hours, and the participant's name. Does it look as though the participant's name is the original?

Thank you for your assistance and support.

—  
Jessica Kemper, Director  
Woods Child Development Center  
MSDE Accredited, MD EXCELS Level 5 Highest Quality Rating  
410-647-9168  
jkemper@woodscdc.org



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**Proposed Regulations Feedback**

2 messages

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**January Souders** <goodshepherd168@verizon.net>  
To: jennifer.nizer@maryland.gov

Mon, Feb 25, 2019 at 9:55 AM

Good Morning;

My feedback on the proposed changes in regulations and questions for clarifications;

**Staff Records – Basic Health and Safety to be taken Yearly**

Redundant for Staff on an Annual Basis

Not cost effective for centers who pay for employees

Duplicate Information most likely to be received when most staff are already taking at least 24 CEUs toward Credentialing each year

If refreshers are needed, perhaps extending the timeframe from yearly to every 3...

**Staff Health – Medical Evaluation every 2 years for Employees**

Difficult for Non or Under Insured to cover the cost of their center doesn't pay for it

Difficult for those employees that do not see a doctor regularly to get appts

Not cost effective for centers who pay for employees health checks

**Physical Plant/ Equipment – No plastic pools** I really have a question for clarification. Obviously, we do not use for Toddlers/ Preschoolers for swimming.

Can these be used if Raised on a platform as make shift water tables/ water play and children are unable to get in them?

During the Summer, we play a lot of outdoor games with our School Age Group (Elementary Age 5-10)and have seen the substitution of the pools as Bases in Wiffleball, Kickball, etc. Is this acceptable or is it absolutely NO for any reason?

Thank You!

*January M. Weber, Director***Good Shepherd Preschool**

168 West Main Street

Hancock, MD 21750



Christle Sheppard-Southall -MSDE- &lt;christle.sheppard-southall@maryland.gov&gt;

**Fwd: Proposed Revisions to Child Care Regulations**

1 message

Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

Thu, Mar 14, 2019 at 3:53 PM

To: Christle Sheppard-Southall -MSDE- &lt;christle.sheppard-southall@maryland.gov&gt;, Steven Hicks &lt;steven.hicks@maryland.gov&gt;

I am not responding to this...just an fyi

**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

If you need to speak with someone immediately, please contact Levette Trusty-Woodrum at 410-767-0583 or email to [levette.trusty-woodrum1@maryland.gov](mailto:levette.trusty-woodrum1@maryland.gov). You will receive a reply within 24 hours.

[Click here to complete a three question customer experience survey.](#)



----- Forwarded message -----

From: Kristin Draper &lt;KDraper@shulmanrogers.com&gt;

Date: Thu, Mar 14, 2019 at 3:32 PM

Subject: RE: Proposed Revisions to Child Care Regulations

To: Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;, Larry Shulman &lt;LShulman@shulmanrogers.com&gt;

Cc: Karen Salmon (karen.salmon@maryland.gov) &lt;karen.salmon@maryland.gov&gt;, Carol Williamson (carol.williamson@maryland.gov) &lt;carol.williamson@maryland.gov&gt;, Shaun Rose (Shaun@RockSpringCC.com) &lt;Shaun@rockspringcc.com&gt;, Michelle Green &lt;Michelle.Green@mccaedu.org&gt;, Ross Flax (Rflax@goddardkingfarm.com) &lt;Rflax@goddardkingfarm.com&gt;, Pete Cromwell (petercromwell@georgetownhill.com) &lt;petercromwell@georgetownhill.com&gt;, Barbara Hawes &lt;BHawes@shulmanrogers.com&gt;

Ms. Nizer,

I am working with Larry Shulman on this matter and he asked me to respond to your email. We appreciate your attention to this matter and look forward to discussing our comments with you in greater detail.

The majority of the concerns we have raised with the regulations are unrelated to the federal regulation changes. For example, the federal regulations do not require the state to lower its burden of proof so that intent to deceive is no longer a requirement for the revocation of a provider's license.

To the extent the issues we raised are related to the federal regulations, our proposed revision are consistent with what the federal regulations require. For example, the proposed revisions to the Maryland regulation would require all Health and Safety training to be complete *before a staff member is hired*. See COMAR 13A.16.06.05 Staff Requirements (also 13A.16.06, .09, .10, .11 and .12). Our clients request that you allow staff to complete the training *within 90 days* of hire. This suggested revision is consistent with the Child Care Development Fund and the Child Care and Development Block Grant Act of 2014. See 45 C.F.R. § 98.44 ("The plan must include

3/15/2019

Maryland.gov Mail - Fwd: Proposed Revisions to Child Care Regulations

established requirements for pre-service ***or orientation (to be completed within three months)*** and ongoing professional development for caregivers, teachers, and directors of child care providers... ") (Emphasis added.)

In addition, the proposed Maryland regulation would require background checks for "individuals living on the child care premises." See **COMAR 13A.16.02.02**. Our clients request that OCC revise this section to reflect that this provision only applies to centers operated within private residences owned by the operator. This suggested revision/clarification is consistent with the federal regulations, which require background checks for, inter alia, "any individual residing ***in a family child care home*** who is 18 or older." 45 C.F.R. § 98.43(a)(2)(ii).

Our clients are mindful that the Maryland regulations need to comply with Federal requirements and we are not requesting that Maryland ignore the Federal framework. Our providers seek to ensure, however, that the regulatory environment supports the delivery of high quality learning and care experiences and regulatory oversight is relevant to issues of developmentally appropriate practice, health and safety for children without imposing undue administrative burdens. We look forward to meeting with you to discuss all of our proposed changes, and how they support the federal regulations, in more detail.

Thank you,

Kristin

**KRISTIN E. DRAPER**  
ATTORNEY AT LAW

[KDraper@shulmanrogers.com](mailto:KDraper@shulmanrogers.com) | T (301) 231-0943 | F (301) 230-2891

12505 PARK POTOMAC AVENUE, 6<sup>TH</sup> FLOOR, POTOMAC, MD 20854

VCARD | BIO   

**SHULMAN  
ROGERS**

*A Professional Association*

**From:** Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

**Sent:** Friday, March 08, 2019 3:06 PM

**To:** Larry Shulman <LShulman@shulmanrogers.com>

**Cc:** Karen Salmon (karen.salmon@maryland.gov) <karen.salmon@maryland.gov>; Carol Williamson (carol.williamson@maryland.gov) <carol.williamson@maryland.gov>; Shaun Rose (Shaun@RockSpringCC.com) <Shaun@rockspringcc.com>; Michelle Green <Michelle.Green@mccaedu.org>; Ross Flax (Rflax@goddardkingfarm.com) <Rflax@goddardkingfarm.com>; Pete Cromwell (petercromwell@georgetownhill.com) <petercromwell@georgetownhill.com>; Kristin Draper <KDraper@shulmanrogers.com>; Barbara Hawes <BHawes@shulmanrogers.com>

**Subject:** Re: Proposed Revisions to Child Care Regulations

3/15/2019

Maryland.gov Mail - Fwd: Proposed Revisions to Child Care Regulations

Mr. Shulman,

Thank you for your response during the public comment period on the proposed child care regulations. We will be looking at all comments and addressing them after the comment period comes to a close. As I am sure you are aware, most of the regulation changes are due to federal regulation changes that have been in existence since 2014 and revised in 2016, known as the Child Care Development Block Grant.

Again, I thank you and your constituents for your comments,

**Jennifer A. Nizer, M.Ed.**

**Director, Office of Child Care**

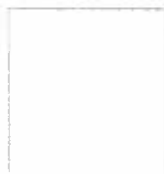
Division of Early Childhood  
Maryland State Department of Education  
200 West Baltimore St.  
Baltimore, MD 21201

Office: 410-767-7806

[jennifer.nizer@maryland.gov](mailto:jennifer.nizer@maryland.gov)

If you need to speak with someone immediately, please contact Levette Trusty-Woodrum at 410-767-0583 or email to [levette.trusty-woodrum1@maryland.gov](mailto:levette.trusty-woodrum1@maryland.gov). You will receive a reply within 24 hours.

[Click here to complete a three question customer experience survey.](#)



On Thu, Mar 7, 2019 at 11:40 AM Larry Shulman <[LShulman@shulmanrogers.com](mailto:LShulman@shulmanrogers.com)> wrote:

On behalf of our clients listed in the attached Letter, please find their comments in response to MSDE's proposed regulations regarding Health and Safety Training and related topics, which were published on February 15<sup>th</sup>, 2019.

If there is an interest in discussing any of the points raised by our clients before any action is taken by MSDE to move the proposed regulations forward, both my clients and I would be willing to do that in the interest of moving the process forward.

Thank you in advance for your consideration.

T:03229

**LAWRENCE A. SHULMAN**  
ATTORNEY AT LAW



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

## Proposed Regulation changes

2 messages

Director I, Bare Hills, MD - The Goddard School® <DBareHillsMD@goddardschools.com> Thu, Feb 21, 2019 at 4:52 PM  
To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

Hi Jennifer-

We reviewed the proposed new regulations and just had feedback on one of the regulations (see below for proposed regulation change)

13A.10.06 – Staff Requirements

.04 – Staff Health

a. Medical Evaluation

4. The medical evaluation shall be updated every 2 years, measured from the individual's date of hire

We feel that the operator should make the decision if the employee needs a medical evaluation every 2 years. We should be able to determine if they need to have another evaluation because maybe they do not have the ability to perform their job or they had a health status change. We are concerned that is going to be very costly for the teachers. Many teachers do not have adequate health insurance and this is going to be huge cost for them. And with 50 plus staff members this is not a cost that our school could absorb.

Thanks for the consideration and please let me know if you have any questions.

Thanks,

Callie

Callie Gould

Operations Director

EMAIL: Dbarehillsmd@goddardschools.com

MAIN: 410-486-2305

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7300 Old Pimlico Rd

Baltimore, MD 21209

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Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

**Serious concern re: proposed changes to COMAR 13A.16**

1 message

Glenbrook Vice President <glenbrookvp@gmail.com>  
To: jennifer.nizer@maryland.gov

Sat, Mar 16, 2019 at 6:04 PM

Ms. Nizer,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16.

I am especially concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. I also have serious reservations about this requirement as my preschool is a cooperative and one of many in Montgomery County. My school can have parent volunteer turnover of 12-20 people per school year. That means organizing the training and paperwork for both my school and the OCC for 12-20 new people each year as well as any possible yearly updates for approximately 50 other staff and parent volunteers. This will present an expense and excessive paperwork burden for all involved. I can see this training being required of lead teachers or possibly in the same way that Pediatric First Aid/CPR is required for one adult to every 20 children. I do not see the need for this training for every adult in classrooms. Yes, I have taken the class and am familiar with its content.

If the state is going to deem staff medical evaluations as necessary, every 2 years is not necessary. It seems reasonable to ask for a medical every 5 years. To make the jump from a medical evaluation every 10 years to every 2 is a huge policy change with real world work.

I have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians. I think that the "reasonable accommodations" language is confusing and I don't think the new substitutes policy is workable.

Finally, I am worried that the new language would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Specifically, I think that MSDE and the OCC need to think whether Cooperative preschools should be in the same grouping with child care centers. We provide exactly what the State says is so important - parent involvement and education. To do this we have parents in the classroom with trained lead teachers. These COMAR changes are making this very burdensome for both us and the OCC.

Sincerely,

Hanieh Saberinia-Claise  
Board Vice President, 2018-19  
Glenbrook Cooperative Nursery School, Inc.  
[10010 Fernwood Rd, Bethesda, MD 20817](https://www.glenbrooknursery.com/)





Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

## COMAR 13.A.16 regulations

1 message

Becky D'Amour <beckydamour2006@gmail.com>

Mon, Mar 18, 2019 at 10:50 AM

To: cheryl.kagan@senate.state.md.us, samuel.rosenberg@house.state.md.us, jennifer.nizer@maryland.gov, ariana.kelly@house.state.md.us, marc.korman@house.state.md.us, sara.love@house.state.md.us, susan.lee@senate.state.md.us

Good Morning,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16.

I am especially concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. If the state is going to deem staff medical evaluations as necessary, every 2 years is not necessary. It seems reasonable to ask for a medical every 5 years. To make the jump from a medical evaluation every 10 years to every 2 is a huge policy change with real world work.

I have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians. I think that the "reasonable accommodations" language is confusing and I don't think the new substitutes policy is workable.

Finally, I am worried that the new language would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Specifically, I think that MSDE and the OCC need to think whether Cooperative preschools should be in the same grouping with child care centers.

Sincerely,

*Becky D'Amour, Recording Secretary*

Glenbrook Nursery School, Inc.

10010 Fernwood Rd

Betheda, MD 20817



----- Forwarded message -----

From: Susan Anderson <[susan@glenbrookschoo.org](mailto:susan@glenbrookschoo.org)>

Date: Tue, Mar 12, 2019 at 8:55 PM

Subject: Comments on the Proposed Child Care Regulatory Changes

To: <[jennifer.nizer@gmaryland.gov](mailto:jennifer.nizer@gmaryland.gov)>, <[cheryl.kagan@senate.state.md.us](mailto:cheryl.kagan@senate.state.md.us)>, <[samuel.rosenberg@house.state.md.us](mailto:samuel.rosenberg@house.state.md.us)>

Cc: Al Carr <[alfred.carr@gmail.com](mailto:alfred.carr@gmail.com)>

Hello Senator Kagan, Delegate Rosenberg, and Ms. Nizer,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16.

I am especially concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. I also have serious reservations about this requirement as my preschool is a cooperative and one of many in Montgomery County. My school can have parent volunteer turnover of 12-20 people per school year. That means organizing the training and paperwork for both my school and the OCC for 12-20 new people each year as well as any possible yearly updates for approximately 50 other staff and parent volunteers. This will present an expense and excessive paperwork burden for all involved. I can see this training being required of lead teachers or possibly in the same way that Pediatric First Aid/CPR is required for one adult to every 20 children. I do not see the need for this training for every adult in classrooms. Yes, I have taken the class and am familiar with its content.

If the state is going to deem staff medical evaluations as necessary, every 2 years is not necessary. It seems reasonable to ask for a medical every 5 years. To make the jump from a medical evaluation every 10 years to every 2 is a huge policy change with real world work.

I have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians. I think that the "reasonable accommodations" language is confusing and I don't think the new substitutes policy is workable.

Finally, I am worried that the new language would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Specifically, I think that MSDE and the OCC need to think whether Cooperative preschools should be in the same grouping with child care centers. We provide exactly what the State says is so important - parent involvement and education. To do this we have parents in the classroom with trained lead teachers. These COMAR changes are making this very burdensome for both us and the OCC.

Sincerely,

*Susan Anderson, Director*

Glenbrook Nursery School, Inc.

10010 Fernwood Rd

Betheda, MD 20817



**Maryland Developmental  
Disabilities Council**

EMPOWERMENT • OPPORTUNITY • INCLUSION

March 18, 2019

Jennifer Nizer, Director  
Office of Child Care, Division of Early Childhood  
Maryland State Department of Education  
200 West Baltimore Street, Baltimore, Maryland 21201  
VIA EMAIL

Re: Comments on Proposed Regulations

Dear Ms. Nizer:

The Maryland State Department of Education's Office of Child Care, Division of Early Childhood has taken many steps to increase opportunities for children with disabilities to learn and play alongside their peers without disabilities. These proposed regulations are another critical step to recognize the rights of children with disabilities and their families and reiterate the importance of high-quality, inclusive child care for all children.

It has been long recognized that high quality early care and education ensure that children enter kindergarten ready to learn, and result in positive outcomes for children and their families. Yet, children with disabilities are not reaping the benefits from some of these programs. This is evidenced by the fact that the school readiness gap for children with and without disabilities has grown by six percent (6%) this year. According to the 2018-2019 Maryland State Department of Education's school readiness report only nineteen percent (19%) of young children with disabilities entered kindergarten fully ready to learn compared to fifty-one percent (51%) of their non-disabled peers. Children with disabilities have the lowest percentage of school readiness compared to all other specific groups analyzed in the report.<sup>4</sup>

Access to high quality, inclusive early care and education programs, is more critical than ever; therefore, the Maryland Developmental Disabilities Council and the undersigned organizations are pleased to see the following changes within these proposed regulations:

1. Include a specific definition of *reasonable accommodations* in COMAR 13A.15.01.02(29); COMAR 13A.16.01.02(50); COMAR 13A.17.01.02(37); and COMAR 13A.18.01.02(38);
2. Require 3 clock hours of approved training in complying with the Americans with Disabilities Act (ADA) in order for a family child care provider to be approved for an initial registration or continuing registration in COMAR 13A.15.06.02(F)(2); and,
3. Require child care teachers in school age centers complete 3 clock hours of approved training in compliance with the ADA; and,
4. Change language from "special needs" to disability.

While state and federal law already require early care and education settings to provide accommodations to children with disabilities, including these changes, a definition of reasonable accommodations will especially ensure that the Office of Child Care licensing specialists are able to implement the dispute resolution process for

children with disabilities and child care providers. This is a process that ensures child care facilities are in compliance with child care regulations. With a regulation to cite, the process is formalized.

Given that, we recommend revising COMAR 13A.17.08.01 Child Supervision to mirror changes made in other sections. Specifically, **we recommend the following change to COMAR 13A.17.08.01(A) 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 a disability. ~~{with special needs in accordance with applicable federal and State laws};~~ and
  - (b) Allowing an adult who provides specialized services to a child in care to provide those services on the facility premises as specified in the child's individualized education program, individualized family services plan, or written behavioral plan; and
- (2) (Text unchanged)

In addition, there are references to a child's "individualized education plan" throughout the regulations. The Individuals with Disabilities Education Act refers to those plans as Individualized Education Programs. For consistency and clarity, we recommending making that change throughout the regulations.

Thank you for the opportunity to provide comments. We look forward to our continued partnership to ensure all children, including children with disabilities, learn and play together.

Sincerely,



Rachel London, Deputy Director  
Maryland Developmental Disabilities Council

Leslie Seid Margolis, Managing Attorney  
Disability Rights Maryland

Carol Quirk, Executive Director  
Maryland Coalition for Inclusive Education

Rene Averitt-Sanzone, Executive Director  
Parents' Place of Maryland

Ande Kolp, Executive Director  
The Arc Maryland

Sharon Holloway-Gentemann, Director  
PACT Medical Child Care Program

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<sup>1</sup> 2018-2019 School Readiness Infographic. This information describes the percentage of students assessed who receive special education services and have an Individualized Education Plan (IEP).



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

## Proposed child care regulations

1 message

Debbie Moore <dmoore.ece@gmail.com>  
 To: Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

Thu, Mar 14, 2019 at 4:50 PM

All four chapters of the child care regulations have proposed changes to the criminal background check requirements to comply with the 2016 federal CCDBG rule. It is my strong belief that the proposed regulations have cast too wide a net in the attempt to be comprehensive, in particular in the inclusion of volunteers in the new requirement.

The pertinent section of the Rule follows (with my highlights and bold).

45 CFR § 98.43 Criminal background checks.

(a)(1) States, Territories, and Tribes, through coordination of the Lead agency with other State, territorial, and tribal agencies, shall have in effect:

- (i) Requirements, policies, and procedures to require and conduct criminal background checks for child care staff members (including prospective child care staff members) of all licensed, regulated, or registered child care providers and all child care providers eligible to deliver services for which assistance is provided under this part as described in paragraph (a)(2) of this section;
- (ii) Licensing, regulation, and registration requirements, as applicable, that prohibit the employment of child care staff members as described in paragraph (c) of this section; and
- (iii) Requirements, policies, and procedures in place to respond as expeditiously as possible to other States', Territories', and Tribes' requests for background check results in order to accommodate the 45 day timeframe required in paragraph (e)(1) of this section.

(2) In this section:

(i) **Child care provider means a center based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that:**

- (A) Is not an individual who is related to all children for whom child care services are provided; and
- (B) Is licensed, regulated, or registered under State law or eligible to receive assistance provided under this subchapter; and

(ii) **Child care staff member means an individual (other than an individual who is related to all children for whom child care services are provided):**

- (A) **Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;**
- (B) **Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or**
- (C) **Any individual residing in a family child care home who is age 18 and older.**

"Child care staff members," as defined by the federal rule, must have comprehensive background checks. The proposed Maryland child care regulations add new categories of individuals to the current background check requirements, and they exceed the scope of the federal requirement. If the regulations become effective, comprehensive criminal background checks will now be mandated for providers, additional adults, employees, staff members, substitutes (all of whom could all be included in the definition of child care staff members), residents of the home, and volunteers, and if required by the office, any other individual with regular access to the child care area during operating hours. This clearly goes beyond the scope of the federal rule.

Child care staff members, whatever their job title is, are all engaged in activities that involve the care or supervision of children or have unsupervised access to children, and therefore, fall within the federal mandate. Volunteers in child care programs, however, should be defined as individuals who neither supervise children nor have unsupervised access to children. Only staff members should supervise children in a child care program or have unsupervised access







Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

## COMAR 13A, 16 Feedback

1 message

Glenbrook Communications <glenbrookcomms@gmail.com>  
To: jennifer.nizer@maryland.gov

Mon, Mar 18, 2019 at 5:18 PM

Dear Ms. Nizer:

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16.

I am especially concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. I also have serious reservations about this requirement as my preschool is a cooperative and one of many in Montgomery County. My school can have parent volunteer turnover of 12-20 people per school year. That means organizing the training and paperwork for both my school and the OCC for 12-20 new people each year as well as any possible yearly updates for approximately 50 other staff and parent volunteers. This will present an expense and excessive paperwork burden for all involved. I can see this training being required of lead teachers or possibly in the same way that Pediatric First Aid/CPR is required for one adult to every 20 children. I do not see the need for this training for every adult in classrooms. As a parent, I am comfortable knowing that there are several fully trained lead teachers onsite at all times.

If the state is going to deem staff medical evaluations as necessary, every 2 years is not necessary. It seems reasonable to ask for a medical every 5 years. To make the jump from a medical evaluation every 10 years to every 2 is a huge policy change with real world work.

I have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians. I think that the "reasonable accommodations" language is confusing and I don't think the new substitutes policy is workable.

Finally, I am worried that the new language would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Specifically, I think that MSDE and the OCC need to think whether Cooperative preschools should be in the same grouping with child care centers. We provide exactly what the State says is so important - parent involvement and education. To do this we have parents in the classroom with trained lead teachers. These COMAR changes are making this very burdensome for both us and the OCC.

I can say without reservation that being a part of a cooperative has been transformative for both my son and my family's lives. Thank you in advance for your consideration. Please do not hesitate to contact me with any questions at this email address or via phone at 480-677-0523.

Sincerely,

*Courtney Papillon, Parent & Board Member*

Glenbrook Nursery School, Inc.

10010 Ferrwood Rd

Betheda, MD 20817







Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

## Proposed child care regulations COMAR 13A.16

2 messages

M Winter <mwinterfamily5@gmail.com>  
To: jennifer.nizer@maryland.gov

Wed, Mar 13, 2019 at 8:07 PM

Dear Ms. Nizer,

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16.

I am especially concerned about the **new Health and Safety Training**. It should not be made a pre-service training and the language regarding the annual update is confusing. I also have serious reservations about this requirement as my preschool is a cooperative and one of many in Montgomery County. My school of 43 students can have parent volunteer turnover of 12-20 people per school year. That means organizing the training and paperwork for both my school and the OCC for 12-20 new people each year as well as any possible yearly updates for approximately 50 other staff and parent volunteers. This will present an expense and excessive paperwork burden for all involved. I can see this training being required of lead teachers or possibly in the same way that Pediatric First Aid/CPR is required for one adult to every 20 children. I do not see the need for this training for every adult in classrooms. The content of this class is a repeat of many of things teachers are already trained in from the First Aid/CPR trainings and the Medical administration classes.

If the state is going to deem **staff medical evaluations** as necessary, every 2 years is not necessary. It seems reasonable to ask for a medical every 5 years. To make the jump from a medical evaluation every 10 years to every 2 is a huge policy change with real personal costs and time expenditures for staff.

I have concerns about the **lead testing requirement** as it seems providers are being held responsible for something best left to pediatricians. I think that the "reasonable accommodations" language is confusing and I don't think the new substitutes policy is workable.

Finally, I am worried that the new language would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Specifically, I think that MSDE and the OCC need to think whether Cooperative preschools should be in the same grouping with child care centers. We provide exactly what the State says is so important - parent involvement and education. To do this we have parents in the classroom with trained lead teachers. These COMAR changes are making this very burdensome for both us and the OCC.

Co operative preschool are a unique balance of education and parent involvement. All of the recent and proposed changes for volunteers in the classroom have made it very cumbersome for the parents and the person in charge of the paperwork. **Shouldn't we be encouraging parents to be involved in their child's education rather than making it extremely difficult?**

Sincerely,

*Michelle Winter*

*4 and 5 year old lead teacher*

3/14/2019

Maryland.gov Mail - Proposed child care regulations COMAR 13A.16

*Former Co-op Parent, Former FPCS 1st grade teacher*

Glenbrook Nursery School, Inc.

10010 Fernwood Rd

Betheda, MD 20817

**Jennifer Nizer -MSDE-** <jennifer.nizer@maryland.gov>  
To: M Winter <mwinterfamily5@gmail.com>

Thu, Mar 14, 2019 at 5:12 AM

Good Morning

Thank you for your feedback. We will be reviewing the public comments shortly.

**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

If you need to speak with someone immediately, please contact Levette Trusty-Woodrum at 410-767-0583 or email to [levette.trusty-woodrum1@maryland.gov](mailto:levette.trusty-woodrum1@maryland.gov). You will receive a reply within 24 hours.

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Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**Comments on the Proposed Child Care Regulatory Changes**

1 message

**d johnson** <sisdee5@hotmail.com>

Fri, Mar 8, 2019 at 2:48 AM

To: "jennifer.nizer@maryland.gov" &lt;jennifer.nizer@maryland.gov&gt;

**Dear Ms. Nizer,**

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. I am concerned about the limited view of the impacts these proposed changes would make. As a small center, we already are struggling to find and keep qualified staff. These new requirements would add more financial strain on our center causing us to further increase tuition for families. In addition, many of our families would not qualify for new increases in subsidies because they don't meet other requirements such as having both parents working.

I understand the premise behind offering a more qualified childcare force, however I do not agree these changes are directly related to children performing better. Our small center is able to provide individualized programs and support to the families we serve, but would not be able to do that and remain financially sound with burden of meeting the health and safety, medical and substitute policies.

Furthermore, as a former public school educator, I do not see such stringent requirements put on that sector even though they receive full government funding. Then how is it right to expect early childhood to do more?

Finally, I am worried about the new language relating OCC to taking away a provider's license if there is any false information on any of our forms. It seems that if we are trying to offer the best for children and families OCC would work with providers to help us meet requirements and not just shut down programs. Please consider making revisions to these regulations to address my concerns before enacting them. Include providers in the process to give real life examples of how these changes will impact children, families and staff. I strongly believe if you don't, you will end up with the opposite of your intentions with less people deciding to become a provider because of the unnecessary burden it would entail.

Sincerely,

Deidra Johnson  
Trinity Preschool Director



**Early Learning Center**

Lynda Celmer | Director

t: 410-461-2859 e: Lynda.celmer@glenmarumc.org

March 15<sup>th</sup>, 2019

Jennifer A. Nizer, Director, Office of Child Care  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

Re: **Proposed Revisions to Child Care Regulations**

Dear Ms. Nizer:

I am writing to express my concern with the proposed changes to the child care regulations in COMAR 13A.16. As a private, non-profit, community-based pre-school; some of these changes would heavily affect our program.

The first change that is concerning is that providers will be required to pay for any pre-service and mandatory training for new and current staff. This is a huge cost to providers, especially for those in the private, non-profit sector. Within this change, we would be required to pay for the recurring health exams required for staff every two years, which has an enormous financial impact on our program.

Also, we propose a revision to the regulation stating that all new staff must have had all pre-service training completed before the candidate can begin in a center. This seems unreasonable, as it would be difficult to find candidates that would already have these things accomplished, and ready to start in a timely manner. Also, for people coming into the job as a new professional, many of these trainings will not carry the same impact as someone who first was able to spend some time in the classroom.

Additionally, the proposed change that mandates that training renewal dates be measured from date of hire would heavily affect a program like ours because the administrative leg work required to track and implement this change would be extremely difficult to accommodate. We propose that the renewal dates would be tracked per fiscal or school year. We do most of our training during the week before school starts, so to be able to measure renewals based on one date for our large staff would be most effective.

The last proposition that I would like to address is that of the required lead test screening for any child entering the program. I feel as though if a doctor signs off stating that the child does not need a lead test, then we should not require it for a child to enroll in our program. Medical professional opinion should surpass a regulatory test enforced by the state.

Although many of the other proposed regulations seem unreasonable in a variety of contexts, the ones mentioned above would most dramatically affect our program. In an effort to provide quality yet affordable child care to our community, we hope that our concerns with the proposed regulation changes are reviewed closely and revised appropriately. Thank you for your continued support.

Sincerely,

Lynda Celmer, Director



**Montgomery  
CHILD CARE  
ASSOCIATION**

March 15, 2019

Jennifer A. Nizer, Director, Office of Child Care  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

Re: Proposed Revisions to Child Care Regulations – Comments  
and Suggested Changes to COMAR Revisions

Dear Ms. Nizer,

Thank you for the opportunity to submit comments regarding MSDE's proposed regulation revisions. Respectfully, Montgomery Child Care Association, Inc. (MCCA) offers the following comments related to: COMAR 13A.16.06.13 – Substitutes.

In this section, there are two proposed changes to the regulations which cause great concern. These include:

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

We believe establishing a separate approval process of a category of employees termed "Substitutes" will set up significant challenges related to consistency and feasibility within the Office of Child Care (OCC) and with its Licensing Specialists.

**Consistency:**

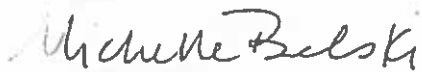
The requirement to have "Substitute" staff pre-approved by OCC prior to being used in a substitute capacity is not consistent with the approval process for any other staff person who works in child care and gets approved by OCC. Current regulations state:

*"The operator shall: Within 5 working days of its occurrence, provide written notification to the office about the: (1) Addition of a new employee or staff member..."*

locations, we would potentially be sending OCC Licensing Specialists 420 requests for approval of Substitutes. Given that substitutes usually choose to work in that temporary capacity while searching for regular, full time positions, this qualification requirement would significantly increase OCC's administrative work. Given that OCC already struggles with caseload challenges, we are concerned that an unintended consequence of this proposed regulation would be to increase inefficiency and delays at OCC.

For all of these reasons, we respectfully request that the proposed new requirements in COMAR 13A.16.06.13 – Substitutes be deleted from the proposed regulations.

Sincerely,



Michelle Belski

Senior Center Director, Montgomery Child Care Association, Inc.









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Frederick Community College  
*The Carl & Norma Miller*  
Children's Center

March 13, 2019

Dear Ms. Nizer,

I am wiring to express my concern with the proposed changes to the child care regulations in COMAR 13A.16., specifically the Health and Safety Training annual requirement, medical evaluations every 2 years, new lead testing requirements, the proposed definition of reasonable accommodations, the new substitute teacher pre-approval, and power of OCC to revoke a license regardless of intent.

I am concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. Annual updates should be based on the date the training was first taken, not the hire date. Staff should be given 30 days from the anniversary date to complete the training.

I also think that staff medical evaluations should be completed every 5 years rather than every 2. Medical examinations are costly to staff and tracking expiration dates of this form in addition to all of the other dates/ trainings that providers must track is EXTREMELY burdensome for providers.

I also have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians.

I think that the proposed definition of "reasonable accommodations" language is confusing. It is not clear what constitutes an undue burden.

The new proposal concerning substitutes is not workable. Providers are not required to get pre-approval for staff before using them and the requirement for substitutes should not be any different.

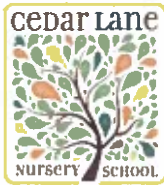
Finally, I am concerned that the new language giving OCC the ability to revoke a license regardless of intent would allow OCC to take away a provider's license if there is any false information on any of our forms regardless of whether we intended to deceive. Does this include typographical errors? OCC's power to revoke should be limited to situations where there is substantial fraud and not based on minor mistakes.

Please consider making revision to these regulations to address my concerns before enacting them.

Sincerely,



Teri Bickel, M.S. ECE  
Director, Carl and Norma Miller Children's Center  
At Frederick Community College  
(301) 846-2612  
tbickel@frederick.edu



Cedar Lane Nursery School  
9601 Cedar Lane  
Bethesda, MD 20814  
(301) 564-1680  
[www.clns.org](http://www.clns.org)

March 15,2019

Subject: Comments on the Proposed Child Care Regulatory Changes

Dear Ms. Nizer,

We are writing to express our concerns with the proposed changes to the child care regulations in COMAR 13A.16. We are especially concerned about the new Health and Safety Training. It should not be made a pre-service training and the language regarding the annual update is confusing. We are a cooperative nursery school and we do use parents to meet our ratios. Asking every parent to do the Health and Safety requirement will put us out of business. We also think that staff medical evaluations are unnecessary and if they must be imposed should be every 5 years rather than every 2. I have concerns about the lead testing requirement as it seems providers are being held responsible for something best left to pediatricians. We think that the “reasonable accommodations” language is confusing and I don’t think the new substitutes policy is workable. Finally, We are worried that the new language would allow OCC to take away a provider’s license if there is any false information on any of our forms regardless of whether we intended to deceive. This seems extreme. Please consider making revisions to these regulations to address my concerns before enacting them.

Sincerely,

Staff and Administration

Cedar Lane Nursery School





March 14, 2019

Ms. Jennifer A. Nizer  
Director  
OFFICE OF CHILD CARE  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

Dear Ms. Nizer,

I am writing to express my concern to the proposed changes to the child care regulations COMAR 13A.16.

First of all, the Health and Safety Training should not be made a pre-service training. Many times, we are in a bind to hire someone quickly. This is one more step to hire someone and if we are required to have proper ratios, this will make it that much more difficult. The annual updates for staff also need clarification.

Second, the staff medicals every 2 years is excessive and costly. I understand the need to have staff medically evaluated since the current regulations only require it upon hiring. Five (5) years is more reasonable.

A pre-approval process for substitutes is another added layer of hurdles for us to operate. It is already difficult to find a sub, especially at short notice. To require pre-approval will make it impossible for staff to take time off, especially with illness or family emergency.

Lastly, there is a lot of language written that would make it easy for OCC to deny, revoke a provider's license. The new language would allow OCC to revoke our license if there is any false information on any forms regardless if we intended to deceive. There is also language which could possibly add significant expenses, confusion and conflict with Federal Law as to what constitutes "reasonable accommodations."

Over the many years I have been in the field, regulations have become more and more extreme and making this job almost impossible. The regulations by OCC are not reasonable in the day to day operations of our business. 4 Corners Community Nursery is a part-time nursery school. We have been in business since 1969. Most of our families are a one income family. Our program gives children an opportunity to go to "school" to transition into kindergarten. We are not a full-time child care center. We are a small community of families who would like to enrich children's lives with a loving and educational environment to give them a solid foundation before heading off to the rigors of elementary school. These additional regulations cost us money which we need to pass to our families who are already on a tight budget.

Please reconsider making revisions to these regulations before enacting them. It is time that some common sense be used when revising and creating regulations. I appreciate your time in this matter.

Regards,  
  
Susie Ostermeyer  
Director



13A.16.06 Staff Requirements .13 Substitutes (1) may not be used in that capacity unless the office has approved the individual...

(3) the office to notify approval or disapproval within 30 days of the request...

These regulations should be changed to allow for watchdogging where the substitute is not alone with a child until the notice is received from the office. I have a very big concern about the ability of the local office to give notification within the 30 days in a timely manner that would allow for providers to maintain adequate child/staff ratios in unpredictable and emergency situations.

13A. 16.08 Child Supervision .03 Group Size and Staffing Has there been any proposed changes to mixed age groupings? I see that is not included in the proposed regulations, but perhaps that is in text unchanged.

Thank you for the opportunity to make comments and recommendations on these proposed regulations.

Sincerely,

Flora Gee

Flora Gee | Director

**Greenbelt Children's Center**

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Children's Mental Health Awareness Week is May 5 – 11, 2019! Visit [www.ChildrensMentalHealthMatters.org](http://www.ChildrensMentalHealthMatters.org) for more information."

**I am a Community Champion for Children's Mental Health**

**Visit [www.ChildrensMentalHealthMatters.org](http://www.ChildrensMentalHealthMatters.org) for more information**





March 13, 2019

Dear Jenn,

Here are some concerns from St. James' regarding items in the proposed new regulations:

**Basic Health and Safety training as preservice for all staff:**

We fully support having our staff well trained and prepared to do their best for the children, our concern is that MSDE does not make it easy for staff to fulfill the requirements. The Basic Health & Safety class has limited enrollment periods with only a Spanish version approved in a true on demand format, so even with 90 days it will be a challenge to get the timing right for all staff. We have already had all of our staff complete this training and we had several staff run into trouble. They would forget to enroll on time, so they had to wait another month, or forget to take it in the allotted time, so they had to re-enroll, or complete the class then they'd forget to print the certificate (so they had to retake it) It has been a nightmare to get the last few completed! PLEASE, PLEASE consider other options for completing this requirement!!! If this is a federal mandate, there must be other states with something similar in place – or other online training companies that can reconfigure a current class to fulfill state requirements?

**Staff Medical renewals:**

I completely agree with the need to renew staff medicals, especially since we have many staff that have been with us over 15 years on the same medical report. If this is considered required for the job, like some training, then isn't the school required to pay for their time and the cost of getting the new report? Most of my staff have been here more than 2 years, so if this regulation passes, we will need to pay for 30 teachers to go to the doctor, and in some cases pay for the doctor's visit as we have several staff without health insurance. For our school, this will easily cost over a thousand dollars this year – something that hasn't been budgeted.

**Fingerprint requirements for Volunteers**

We already have our volunteers fingerprinted, as it reassures our parents. My concern with this regulation is the vague and confusing reference to a volunteer. Volunteers are not part of the ratios, and can not supervise or be alone with children, so why do they need to pass a background check before they can be "assigned to a group/have access to a child, or be alone with a child" when they can't do that anyway?? Also, please better define a volunteer. Is it a parent who comes into class to read a book, or lead a cooking class, help at class parties or chaperoning on a field trip? As you can imagine we will not have many parent "volunteers" for school events if they need to pay for fingerprints, and we certainly can't afford to cover the cost ourselves.

Thank you, as always, for the hard work you do every day,

  
Astrid Crookshank

ST. JAMES' CHILDREN'S SCHOOL

11815 Seven Locks Road, Potomac, Maryland 20854

Phone: 301.762.3246 Fax: 301.762.4076 Email: schoolstjames@comcast.net

Web: [www.stjameschildrensschool.com](http://www.stjameschildrensschool.com)



Jen-

Thanks for this opportunity to give comments on the proposed action on regulation.

Below are my comments.

Janet Klenkel

Director- AACC Child Development Center

#### .04 Staff Health

##### A. Medical Evaluation

Medical Evaluation may transfer from one center to another if evaluation was completed within 24 months.

Question/Concern: Why does it matter if there was a gap of employment 3 months or longer? I don't see how this is relevant to meeting this requirement. This is an added expense to the potential employee that is unnecessary for our low wage staff.

#### .09 Child Care Teachers in a Preschool Setting

##### A. Qualifications

(4) Have completed the 3-clock hours of approved training with the ADA

(5) Have completed approved basic health and safety training (Annual Renewal)

Concern: I am unsure how we can require a person we want to hire to complete a training prior to hiring especially with the lack of access for these required approved training. I have continued concern over the lack of access of both of these training. If these courses are pre-service, they need to be more readily available- on-demand and online at any time.

Basic Health and Safety in it's current online form is not acceptable. Limited enrollment times, and delays in receiving certificates make this very difficult. Additionally, the training is not user friendly- somewhat difficult to negotiate. In person classes (at cost) are offered infrequently (once per month or less).

Similarly, there are no online ADA courses that I am aware of that offer quick access and a certificate upon completion. Howard County Community College is the only on-line provider that I am aware of and certificates are not available upon completion employee must wait until the end of the semester. Obviously, we know there is no renewal process at this point, so the unknown of this process is also concerning.

Also, there needs to be consideration of college coursework that can meet the content of these courses. Here at AACC all Education students must take a 3- credit hour course=45 clock hours on Health, Safety and Nutrition which far exceeds a 3-4 hour class. A review of the content of such courses by OCC Training staff could confirm this. Additionally, most Education students take a Special Education course (3- credit hours= 45 clock hours) which the emphasis of this course is inclusion and ADA information. Again, this course exceeds the 3 hours of training in Inclusion and the ADA and OCC Training Dept. could review the content of these education courses to verify this.

Additional Note: With the current low unemployment rate and documented teacher shortage, the Office of Child Care must consider allowing more variances with regard to staff qualifications. AA County only allows 1 per center at a time. (This is not consistent with other jurisdictions I am told).

It is my understanding that we may apply for a variances for those who are missing or need a short term period to meet the full requirements. Additionally, this should be an allowable request for those who have not completed the ADA or Basic Health and Safety Training. Also, variance requests should be approved/denied within a 1-2-week period. (Could be sent via e-mail). We need these staff working in the position, not waiting for 30+ days.

OCC should consider making a change to allow for electronic submission of paperwork and also sending/responding with information to programs digitally. I have noticed OCC is using a secure e-mail system now. This would speed up these processes and save programs and OCC/tax-payer money on postage/envelopes.





MSFCCA.org

March 12, 2019

Jennifer A. Nizer, Director, Office of Child Care  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

**Re: Proposed Revision to Child Care Regulations**

Dear Ms. Nizer:

The Maryland State Family Child Care Association (MSFCCA), in reviewing the proposed revisions to the COMAR Regulations is requesting your office consider the following comments and concerns by our members regarding the proposed changes. We appreciate the opportunity to work with you on this matter and are available for any questions. Please contact the MSFCCA Vice President of Public Policy, Rebecca Hancock at 301-934-1795.

• **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 COMMENT:**

The term “regardless of intent”, added to this Regulation is very troublesome. It implies there is *absolutely* no room for error; regardless of a legitimate mistake being made on the part of the provider when submitting forms to the Office of Child Care. MSFCCA feels the old language that emphasizes a deliberate attempt to misrepresent or give false information is adequate to achieve the goal of this regulation.



MSFCCA.org

March 12, 2019

- **COMAR 13A.15.08.01E(1)(a) Child Supervision**

[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 COMMENT:**

The attempt to change this regulation has generated a significant amount of discussion with MSDE in previous years. Family child care is unique in that many providers have *multi-level homes* that are approved for child care, but may *not have multiple rooms available on each level of the home*. Due to the nature of mixed-ages in family child care, it often-times requires a provider to utilize 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, specifically under four months, sleeps 16 to 18 hours 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 an immense challenge for the provider who has a small group of toddlers, preschoolers and/or school-age children, in addition to those infants. Requiring a provider to consistently remain on the same level as sleeping children under two, in many cases is not a workable solution for safer sleep. The provider using a video and audio monitor to SEE and HEAR the napping child; as well as following the required visual checks every 15 minutes is the best possible solution *in this unique environment* to



MSFCCA.org

March 12, 2019

guarantee safe sleep for all children. In addition, it is not certain that making providers follow this regulation change would significantly improve the safety of sleeping infants, but it would almost certainly hinder a provider from being able to continue to care for a mixed-age group of children. Children over the age of two require supervision as well when sleeping, due to their ability to get up and move freely when they are thought to be resting. This can also be a problem when older children are playing while an infant may need to rest.

This regulation change could force family child care providers to re-evaluate their program options with a possible result being the decision to *no longer take* children under the age of two, or feel compelled to *only take* children under two, which would severely limit their income capability. Either of these options could then lead to a decision to close their child care.

MSFCCA feels a better solution is having the family child care provider follow all recommendations for safe sleep, such as sleeping a child on their back, requiring a firm mattress, a clutter free crib, and a smoke free environment, in addition to the 15-minute bed checks and a video and audio monitor for sight and sound observation. 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 the issue in family child care homes.

MSFCCA would like clarification on whether a sight and sound monitor satisfies the requirement for sleeping children under two (2) and older than two (2) as identified in the new regulations under [D.] E. (1) (a) and (2).

- **COMAR 13A.15.04.03E(2) Operational Requirements**

(2) May count as a child in care a child who is visiting the home if the child [:] *is younger than 8 years old and unaccompanied by an adult.*

- [(a) Is younger than 8 years old and unaccompanied by an adult; or
- (b) Cannot be sent home immediately.]

**MSFCCA COMMENT:**



MSFCCA.org

March 12, 2019

This is one of those unique circumstances that develops in the family child care home when the child of a provider may want to have a friend over to play during child care hours. In the instance when the child cannot readily be sent home, an age requirement is understandable; however, the target age should be more in line with the regulation: *COMAR 13A.15.04.03E (1)*, that says a provider's child over age 6 should not be counted in their capacity.

- **COMAR 13A.15.03 Management and Administration**

.04 Child Record

[B] C. (a)(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

**MSFCCA COMMENT:**

MSFCCA would like to recommend that there be a change to the Health Inventory Form, specifically the last page "At Risk Areas by Zip Codes". This is important because providers are often told by parents that their child is exempt, per their pediatricians. We would like the last page deleted from the Health Inventory form.

- **COMAR 13A.15.06 Provider Requirements**

B. Continued Training. A provider shall successfully complete:

(1) *During each 12-month period of registration, the approved health and safety training information supplied by the office*

**MSFCCA COMMENT:**

This proposed regulation is vague and needs clarification in the following areas:

1. Will this be a form that is pre-printed that providers will sign online and send to their specialist; or will they sign and print the form and keep for when their specialist comes in?
2. Will it be an online training? If so, then how long will the training take to complete?
3. Will it be taken each calendar year (January-December) or align with the provider's renewal month to renewal month of the following year?



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March 12, 2019

4. In 2018, the Office of Child Care made it a requirement that providers complete this five-hour training which we were told was a one-time requirement. Now that it is going into regulations with an effective date of 2020, will the training be retroactive for those providers who completed it in 2018? Since this is an annual requirement, we would also like to know if it can be counted towards a provider's continuing education requirement.

- **COMAR 13A.18.07.02 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 COMMENT:**

Volunteers who do not care for and supervise children, or have unsupervised access to children are not mandated to report child abuse and neglect. The two additions of volunteers to this section should be deleted.

- ***Comprehensive Criminal Background Checks to Comply with 2016 CCDF Final Rule***

In the CCDF Rule published in September 2016, comprehensive criminal background checks for child care programs were mandated. The pertinent section of the Rule follows:

45 CFR § 98.43 Criminal background checks.

(a)(1) States, Territories, and Tribes, through coordination of the Lead agency with other State, territorial, and tribal agencies, shall have in effect:

(i) Requirements, policies, and procedures to require and conduct *criminal background checks for child care staff members (including prospective child care staff members) of all*



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March 12, 2019

*licensed, regulated, or registered child care providers and all child care providers eligible to deliver services for which assistance is provided under this part as described in paragraph (a)(2) of this section;*

*(ii) Licensing, regulation, and registration requirements, as applicable, that prohibit the employment of child care staff members as described in paragraph (c) of this section; and*  
*(iii) Requirements, policies, and procedures in place to respond as expeditiously as possible to other States', Territories', and Tribes' requests for background check results to accommodate the 45-day timeframe required in paragraph (e)(1) of this section.*

*(2) In this section:*

*(i) Child care provider means a center based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that:*

*(A) Is not an individual who is related to all children for whom child care services are provided; and*

*(B) Is licensed, regulated, or registered under State law or eligible to receive assistance provided under this subchapter; and*

*(ii) Child care staff member means an individual (other than an individual who is related to all children for whom child care services are provided):*

*(A) Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;*

*(B) Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or*

*(C) Any individual residing in a family child care home who is age 18 and older.*

“Child care staff members,” as defined by the federal rule, must have comprehensive background checks. The proposed Maryland child care regulations add new categories of individuals to the current background check requirements, but the proposed Maryland regulation does not cleanly follow the federal requirement. If the regulations become effective, comprehensive criminal background checks will now be mandated for providers, additional adults, employees, staff members, substitutes (who could all be included in the definition of child care staff members), residents of the home, and volunteers, and if required by the office, any other individual with regular access to the child care area during operating hours. This clearly goes beyond the scope of the federal rule.



March 12, 2019

Child care staff members, whatever their job title is, are all engaged in activities that involve the care or supervision of children or have unsupervised access to children, and therefore, fall within the federal mandate. Volunteers in child care programs, however, should be defined as individuals who neither supervise children nor have unsupervised access to children. Only staff members should supervise children in the family child care program or have unsupervised access to them. Parents of children in care often volunteer in child care programs, reading a story, sharing a family tradition, pitching in the whiffle ball game, and helping with a holiday party. High school students can volunteer in a child care program to earn community service hours. None of these volunteers would have unsupervised access to children, and requiring them to have expensive comprehensive background checks would almost certainly eliminate programs' use of volunteers.

A better way to comply with the federal comprehensive background check mandate would be to amend the definitions of either (or both) employee and staff member to mirror the federal staff member definition, and include substitutes in those definitions. Then volunteers can be defined as individuals with no supervisory responsibilities and no unsupervised access to children in care, and they can be exempted from background checks.

### **Additional technical corrections in Large Family Child Care Regulations**

- **COMAR 13A.18.02.01I**

“Operator” is not a defined term in 13A.18. It should be replaced with “provider.” And Large Family Child Care Homes do not have “additional adults.”

- **COMAR 13A.18.02.03A(3)(c) and 12A.18.03.05F(3)**

The first section requires medicals for each volunteer for a continuing registration. The second section only requires medicals for volunteers who are present more than once a week. The latter is more reasonable than the former.

- **COMAR 13A.18.14.07A(12)**

The word “resident” should be replaced with the word “residence.”



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March 12, 2019

- **COMAR13A.18.15.01A and 13A.18.15.03A(1)(c)**

The word “on” is deleted after “impact” in .01A. It is not deleted in a similar sentence in .03A(1)(c).

These comments are being submitted on behalf of the MSFCCA membership and the following local associations:

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





Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

## Maryland Register comments, Volume 46, Issue 4 from Friday February 15, 2019

1 message

Steve Rohde <srohde@marylandfamilynetwork.org>  
To: Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>  
Cc: Steve Rohde <srohde@marylandfamilynetwork.org>

Mon, Mar 18, 2019 at 4:36 PM

Jenn.

Here are the MFN comments to Child Care Regulations proposed changes in the Maryland Register, Volume 46, Issue 4 from Friday February 15, 2019

P. 228. For Family Child Care, about II. Assumptions, A. Background Clearances, B. Maryland DPSCS, and D (1) Background clearances, as well as comparable sections for large family child care, center based care, LOCs, etc. MFN is in support of any regulations and standards that insures the safety of children in care. However we have questions about the assumptions in two areas.

First, we would like more information about how these figures were determined, including number of individuals these new regulations will include. We think the number represented in the projection of each of the types of care (family child care, large family child care, child care center, LOC, etc.) in the different sections does not represent the full amount that will be affected by the expanded requirement for background check and medical information. We think that the estimate for the economic impact estimate does not fully include those who may not be reimbursed by the state. Second, from our reading of the Federal Requirements, it appears that the proposed Maryland Regulations go beyond the referenced Federal Requirements. We borrow the following language from the MSFCCA & MSCCA responses and agree with the questions raised.

"Child care staff members," as defined by the federal rule, must have comprehensive background checks. The proposed Maryland child care regulations add new categories of individuals to the current background check requirements, but the proposed Maryland regulation does not clearly follow the federal requirement. If the regulations become effective, comprehensive criminal background checks will now be mandated for providers, additional adults, employees, staff members, substitutes (who could all be included in the definition of child care staff members), residents of the home, and volunteers, and if required by the office, any other individual with regular access to the child care area during operating hours. This clearly goes beyond the scope of the federal rule.

Child care staff members, whatever their job title is, are all engaged in activities that involve the care or supervision of children or have unsupervised access to children, and therefore, fall within the federal mandate. Volunteers in child care programs, however, should be defined as individuals who neither supervise children nor have unsupervised access to children. Only staff members should supervise children in the family child care program or have unsupervised access to them. Parents of children in care often volunteer in child care programs, reading a story, sharing a family tradition, pitching in the

whiffle ball game, and helping with a holiday party. High school students can volunteer in a child care program to earn community service hours. None of these volunteers would have unsupervised access to children, and requiring them to have expensive comprehensive background checks would almost certainly eliminate programs' use of volunteers.

A better way to comply with the federal comprehensive background check mandate would be to amend the definitions of either (or both) employee and staff member to mirror the federal staff member definition, and include substitutes in those definitions. Then volunteers can be defined as individuals with no supervisory responsibilities and no unsupervised access to children in care, and they can be exempted from background checks.

P. 232. 13A.15.04 Operational Requirements. About counting a visiting child. The word "may" is used without fully describing when a child "may" count and when a child "may" not count. More clarification is needed.

P. 233. 13A.15.06 .02 B (1) about "safety training information supplied by the office". This is referring to the annual update of that required basic health and safety training, but the language is extremely vague – this could be to leave room for implementation at the later date but the vagueness does raise concerns about it going from being a memo (as currently predicted by MSDE) to training hours (which would put a huge amount of work on those conducting training). This language/approach is in other parts of the MSDE proposed regulations for family child care, large family child care, center based care, LOCs, etc.

P. 234. 13. A.15.08, Child Supervision. About supervision of sleeping children, and insuring that sleeping children are on the same level. We are welcoming of any regulation or guidance that improves the safety and well-being of children in care. However the draft regulation changes are not clear. As an example, there are strategies for both electronic "supervision" (cameras, audio devices, etc.) as well as direct supervision (same floor, open doors, etc.) It is not entirely clear what will suffice under what circumstances.

P. 235. 13A.15.10 .06 B about "or swaddling". Swaddling does not appear to be defined anywhere and there is a difference between wrapping a child in blankets and using the "sleep sacks" though both are often referred to as swaddling. This section needs greater clarity of terms.

P. 234. 13A.15.06 about "prior 12 months". It appears that family child care and centers/LOCs have a different window for the medical evaluation. Is there a reason for this or just an oversight?

P. 242. 13A.16.06 .04 A (1) about "completed within 6 months". It appears that family child care and centers/LOCs have a different window for the medical evaluation. Is there a reason for this or just an oversight?

PP. 242 – 243 13A.16.06 .05 C (3) about health and safety training updates. This language differs slightly from the family child care language and appears to be a key language change. As mentioned previously, the language is extremely vague – this could be to leave room for implementation at the later date but the vagueness is present. Additionally, in each of the sections (family child care, large family child care, center based care, LOC, etc.) it is not clear about the timing for

completion of the basic health and safety training requirement. MSDE in conversation has mentioned a 90 day time frame for this completion; that is not clear in the language, and clearer language/interpretation needs to occur.

#### Additional comments for Large Family Child Care Regulations

13A.18.02.01 "Operator" is not a defined term in 13A.18. It should be replaced with "provider." And Large Family Child Care Homes do not have "additional adults."

13A.18.02.03A. (3) (c) and 12A.18.03.05F(3) The first section requires medicals for each volunteer for a continuing registration. The second section only requires medicals for volunteers who are present more than once a week. The latter is more reasonable than the former.

13A.18.14.07 A (12) The word "resident" should be replaced with the word "residence."

13A.18.15.01A and 13A.18.15.03 A (1) (c) The word "on" is deleted after "impact" in .01A. It is not deleted in a similar sentence in .03 A (1) (c).

Thank you for this opportunity.

Should you have questions, please let me know.

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 *ext.*240

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[srohde@marylandfamilynetwork.org](mailto:srohde@marylandfamilynetwork.org)

3/18/2019

Maryland.gov Mail - Maryland Register comments, Volume 46, Issue 4 from Friday February 15, 2019

If you are a child care professional, please complete the Market Rate Survey of child care costs at: <https://locate.marylandfamilynetwork.org/Provider/login>

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

I provide licensed child care in my home and wish to express my **opposition** to a proposed change to the current regulations governing sleeping children in my care.

The language proposed in 13A.15.08.01.D(1)(a) "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*". 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, 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.

Current regulations require providers to:

1. Remain no more than one (1) level away from a napping child,
2. Observe the napping child at least every 15 minutes, and
3. Use a video camera and 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 townhouses 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 happy, 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 interests of the child.

Napping children need a quiet, dimly-lit space to gain adequate rest. Children who do not nap need space to play and be active and exuberant. These scenarios produce well-developed, healthy and happy children.

I believe that 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.

Very truly yours,



2/25/2019

Maryland.gov Mail - Proposed regulations



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposed regulations

1 message

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**Sheri Brown** <sheri@tikvatisrael.org>  
To: jennifer.nizer@maryland.gov

Mon, Feb 25, 2019 at 11:54 AM

I'm relatively new to Maryland, so I can't claim to totally understand all of our new regulations, yet. But it does seem to me when I read the proposed regulations that two could have a big cost for our schools/staff. The need for a physician to sign a medical form every two years has a direct cost to underpaid teachers. Most physicians charge to fill out forms even if the visit is paid for by insurance. Also, getting fingerprints every two years will have a cost in staff time, even if MD pays for the fingerprinting itself.

Are these cost issues being addressed? Thanks for any insights you have.

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

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3. Use a video and sound monitoring system for each napping child.

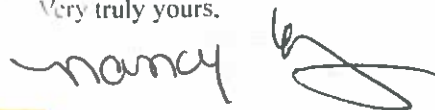
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Napping children need a quiet, dimly-lit space to gain adequate rest. Children who do not nap need space to play and be noisy and exuberant. These scenarios produce well-developed, healthy and happy children.

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.

Very truly yours,



**"... Christ  
died for  
our sins..."**  
1 Corinthians 15:3

Ms Nancy Cunningham  
8250 Stone Trail Ct  
Laurel, MD 20723-1181

301-317-8518

Karin L. Walsh  
8425 Blue Stone Court  
Columbia, MD 21046  
(410) 381-1875 • [karintalks@verizon.net](mailto:karintalks@verizon.net)



February 23, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

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 concerns to you about a proposed regulation change.

The language proposed in **13A.15.08.01.D(1)(a) "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"**. 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, 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.

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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.



Page Two  
February 23, 2019

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 look forward to hearing from you as to my thoughts.

Very truly yours,



Karin L. Walsh  
Childcare Registration No. 25130

cc: Jody Lamberti, HCFCCA

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

I provide licensed child care in my home and wish to express my **opposition** to a proposed change to the current requirements governing sleeping children in my care.

The language proposed in 13A.15.08.01.D(1)(a) "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*". 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, 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.

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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.

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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.

Very truly yours,

  
Lesley Wood  
6582 River Run  
Columbia, MD - 21044  
License # 155756

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

I provide licensed child care in my home and wish to express my **opposition** to a proposed change to the current requirements governing sleeping children in my care.

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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.

Very truly yours,

Debra Halper

Debra Halper  
7099 Copperwood Way  
Columbia, md. 21046  
(301) 596-2808 - home  
dhalper1004@gmail.com

P.S. Please feel free to  
contact me with  
any questions!  
Thanks



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

**MSFCCA Proposed Regulations Changes**

1 message

**Rebecca Hancock** <kaysplayhouse1@yahoo.com>  
To: Jennifer Nizer <jennifer.nizer@maryland.gov>

Sat, Mar 16, 2019 at 8:11 PM



March 16, 2019

Dear Ms. Nizer,

My name is Rebecca Hancock, I am the Vice-President of Public Policy for Maryland State Family Childcare Association (MSFCCA). I have been a registered family child care provider since 1995. I live in Charles County Maryland. I am writing you today to ask that your office take another look at some of the proposed regulations that were in the Maryland Register, February 15, 2019.

The MSFCCA Public Policy Committee composed comments that were submitted on behalf of MSFCCA. MSFCCA comments were submitted to by myself after the Maryland Family Network Public Policy Meeting, emailed and mailed to your office. MSFCCA's Public Policy Committee held several conference calls regarding the proposed regulations. The results of these discussions were included in our comments to your office. Many important points were made in the document that deserve a second look.

Therefore, I support the comments submitted by MSFCCA and hope that more discussion can take place before the regulations are finalized and can adversely affect providers.

I appreciate your openness in this process and the discussion that I have had with you after the MFN Public Policy Meetings.

Thank you for the opportunity to help in this process.

Sincerely,

Rebecca K. Hancock





Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

## Proposed Regulations for Child Care

1 message

Kim Hayas &lt;littledragonfly48@gmail.com&gt;

Sat, Mar 16, 2019 at 7:48 PM

To: jennifer.nizer@maryland.gov

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

Dear Ms. Nizer:

I am writing to you today as a concerned Family Child Care Provider and the proposed regulations in COMAR 13A.15.

The proposed regulation for Inspections, Complaints, and Enforcement. 07 Revocation - the words "regardless of intent" are truly disturbing. To revoke a registration because of a non-intentional error or typo, is absurd. Where has this proposal come from? Has no one that works in your department or any other state agency ever made a mistake or a typo? There are a lot of forms that have to be submitted to the Office of Child Care and though I try to carefully review what I write before I send it, there may come a time I misspell something, write a date wrong, etc.. I respectfully request that the wording be substituted with perhaps "intentionally misrepresents" or "intentionally gives false information."

**COMAR 13A.15.06 Provider Requirements B. Continued Training.** A provider shall successfully complete: (1) During each 12-month period of registration, the approved health and safety training information supplied by the office

I took this training in March 2017 because I was told it would become a regulation by December 2017. In January 2018, I began contacting my specialist as to when/how I would be notified that the renewal training was available. She informed me that as of March 2018 there was no renewal training available. I asked about how this would affect me since I'd already taken the training as "required" and it was going to expire in March 2018. She said that I would *not* have to retake the original training and I would *not* be cited as out of compliance.

Since this will not become a regulation until 2020, how will this effect me? How will the renewal training be given? A short online form to be filled out and printed or sent to my specialist? Will I take it each calendar year (Jan-Dec) or when I take the training (Mar-Mar)? How will I be notified it's available for me?

I am also concerned about the additional proposed regulations. As I stated in a previous email, I support the comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) in the letter they sent to you on March 12, 2019.

In closing, I'd like to say that I have been a provider for 26 years and each year it becomes more difficult to keep up with the mandates being handed down by OCC. I feel like my business and the vision I have for how it should be run is slowly being taken from me. I feel that OCC ultimately wants to take over the field of child care and model it after the public schools. I do not have any fancy degrees or letters after my name, but I know that what children need most to thrive in our world today isn't knowing their letters/numbers, how to sit still, or how to take a standardized test, it's love, acceptance, learning to get along with peers, and having an opportunity to be and enjoy the years of childhood before they're thrust into classrooms and expected to conform. I personally strive to provide a loving, safe environment for my children. Do I help prepare them for kindergarten? Yes. Is that my main focus? No. At one time, I was credentialed at a Level 4 (for nine (9) years), but due to an issue with my personal information not being safeguarded by OCC staff/vendor and OCC not accepting one certificate, that came to an end. Does this mean I am no longer a quality provider? In the eyes of OCC, yes. Yet I continue to provide quality, loving care for my children all without this certification. I know that health and safety is important, but I have to say that so many of these proposed and current regulation truly don't have anything to do with either of these. How is a child in care that hasn't been lead tested at 12 months and again at 24 months of age a hazard to other children in care enough to exclude them? If a pediatrician doesn't feel that this test is necessary, who am I to override his decision? Perhaps OCC should work with the pediatricians directly.

I thank you for the opportunity to comment on the proposed regulations.

Sincerely,  
Kimberley Hayas



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

**MSFCCA Proposed Regulations Changes**

1 message

Linda's Family Child Care <lindaschildcare@gmail.com>  
To: Jennifer Nizer <jennifer.nizer@maryland.gov>

Sat, Mar 16, 2019 at 11:45 AM

Good afternoon,

My name is Linda Church and I have been a registered family child care provider in Anne Arundel County since 1994, and have worked with MSFCCA on behalf of providers since 1999. My goal in writing this letter is to encourage your office to take a second look at some of the proposed regulations that were released in the February 15, 2019 Maryland Register.

I am on the Public Policy Committee that took part in composing the comments submitted on behalf of MSFCCA. During the process we polled providers as well as had frequent discussions on the proposed changes. As a result I believe many important points were made in the document that deserve a second look. Therefore I support the comments submitted by MSFCCA and hope that more discussion can take place before the regulations are finalized and can adversely affect providers.

I appreciate your openness in this process and thank you for this opportunity.

Sincerely,

Linda Church



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

## Comments on proposed regulations

1 message

Lynn Griffiths <lynngriffithslg@gmail.com>  
To: jennifer.nizer@maryland.gov

Sat, Mar 16, 2019 at 10:47 AM

Hello,

I am a registered family child care provider in Anne Arundel County. I am a member of AAFCCA and MSFCCA and been a licensed provider for twelve years.

There are many regulations I find beneficial for the safety of one of our most vulnerable generations.

I also believe that children should be brought up in a loving environment that is stable; which is the reason I am so compassionate and dedicated to family child care. Research has proven a child grows and builds healthy foundations while in the care of a consistent caregiver. A child enrolled in a child care center or shuffled from family member to family member may have difficulty bonding and have delayed development due to the fluctuating environments.

I learned in an early education class, that a child can be exposed to up to 3500 adults, before the age of five due to high turn-over of caregivers and moving from class to class until age five. This statistic was shocking to me. But a family child care is the perfect fix for this! We start children as early as 12 weeks and they grow alongside the same eight children, much like a family. They are with the provider, in some cases until middle school if they live in the same school district as the provider. Our family becomes the children's family, in my case, my child care children call my father Grandpop and ask that my husband pick up yogurt if we run out.

I completely understand when someone questions the benefits of family child care when they have never had the wonderful opportunity of bringing eight littles of all ages, stages, and ethnicity up in a loving family environment. Our past children invite us to their graduations, weddings and we receive yearly updates and Christmas cards. I have a fellow provider who was just on a destination (all paid for by the child) wedding for one of their childcare children they raised.

I have seven children, aged 1 to 4 in my child care as of this time, one of which has special needs and today was observed by Childfind while in my home. I am very proud to say that the two women who have degrees shared with me that my four older three-year olds are already ready for kindergarten in many developmental areas. I shared with them that we focus on using the same language and approaches here and at home.

I am asking that you please consider the comments on the proposed regulations that the Maryland State Family Childcare has submitted. We are a group of professional women that have many years invested in our programs and still volunteer on behalf of our profession. We are in the trenches daily, many times we miss our own children's special events to care for other children. We know what it takes to offer the best in our programs and still take care of all the facets of running a small business. Quality is always our goal and that shows because most of our clients are by word of mouth. This is our career choice, to care for littlest human beings and we do more than care, we love



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

**Maryland Register comments, Volume 46, Issue 4 from Friday February 15, 2019**

1 message

Steve Rohde <srohde@marylandfamilynetwork.org>  
To: Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>  
Cc: Steve Rohde <srohde@marylandfamilynetwork.org>

Mon, Mar 18, 2019 at 4:36 PM

Jenn.

Here are the MFN comments to Child Care Regulations proposed changes in the Maryland Register, Volume 46, Issue 4 from Friday February 15, 2019

P. 228. For Family Child Care, about III. Assumptions, A. Background Clearances, B. Maryland DPSCS, and D (1) Background clearances, as well as comparable sections for large family child care, center based care, LOCs, etc. MFN is in support of any regulations and standards that insures the safety of children in care. However we have questions about the assumptions in two areas.

First, we would like more information about how these figures were determined, including number of individuals these new regulations will include. We think the number represented in the projection of each of the types of care (family child care, large family child care, child care center, LOC, etc.) in the different sections does not represent the full amount that will be affected by the expanded requirement for background check and medical information. We think that the estimate for the economic impact estimate does not fully include those who may not be reimbursed by the state. Second, from our reading of the Federal Requirements, it appears that the proposed Maryland Regulations go beyond the referenced Federal Requirements. We borrow the following language from the MSFCCA & MSCCA responses and agree with the questions raised.

"Child care staff members," as defined by the federal rule, must have comprehensive background checks. The proposed Maryland child care regulations add new categories of individuals to the current background check requirements, but the proposed Maryland regulation does not clearly follow the federal requirement. If the regulations become effective, comprehensive criminal background checks will now be mandated for providers, additional adults, employees, staff members, substitutes (who could all be included in the definition of child care staff members), residents of the home, and volunteers, and if required by the office, any other individual with regular access to the child care area during operating hours. This clearly goes beyond the scope of the federal rule.

Child care staff members, whatever their job title is, are all engaged in activities that involve the care or supervision of children or have unsupervised access to children, and therefore, fall within the federal mandate. Volunteers in child care programs, however, should be defined as individuals who neither supervise children nor have unsupervised access to children. Only staff members should supervise children in the family child care program or have unsupervised access to them. Parents of children in care often volunteer in child care programs, reading a story, sharing a family tradition, pitching in the whiffle ball game, and helping with a holiday party. High school students can volunteer in a child care program to earn community service hours. None of these volunteers would have unsupervised access to children, and requiring them to have expensive comprehensive background checks would almost certainly eliminate programs' use of volunteers.

A better way to comply with the federal comprehensive background check mandate would be to amend the definitions of either (or both) employee and staff member to mirror the federal staff member definition, and include



13A.18.14.07 A (12) The word "resident" should be replaced with the word "residence."

13A.18.15.01A and 13A.18.15.03 A (1) (c) The word "on" is deleted after "impact" in .01A. It is not deleted in a similar sentence in .03 A (1) (c).

Thank you for this opportunity.

Should you have questions, please let me know.

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 ext.240*

*fax 443.873.5805*

[srohde@marylandfamilynetwork.org](mailto:srohde@marylandfamilynetwork.org)

If you are a child care professional, please complete the Market Rate Survey of child care costs at: <https://locate.marylandfamilynetwork.org/Provider/login>



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March 12, 2019

Jennifer A. Nizer, Director, Office of Child Care  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

**Re: Proposed Revision to Child Care Regulations**

Dear Ms. Nizer:

The Maryland State Family Child Care Association (MSFCCA), in reviewing the proposed revisions to the COMAR Regulations is requesting your office consider the following comments and concerns by our members regarding the proposed changes. We appreciate the opportunity to work with you on this matter and are available for any questions. Please contact the MSFCCA Vice President of Public Policy, Rebecca Hancock at 301-934-1795.

• **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 COMMENT:**

The term “regardless of intent”, added to this Regulation is very troublesome. It implies there is *absolutely* no room for error; regardless of a legitimate mistake being made on the part of the provider when submitting forms to the Office of Child Care. MSFCCA feels the old language that emphasizes a deliberate attempt to misrepresent or give false information is adequate to achieve the goal of this regulation.



March 12, 2019

- **COMAR 13A.15.08.01E(1)(a) Child Supervision**

[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 COMMENT:**

The attempt to change this regulation has generated a significant amount of discussion with MSDE in previous years. Family child care is unique in that many providers have *multi-level homes* that are approved for child care, but may *not have multiple rooms available on each level of the home*. Due to the nature of mixed-ages in family child care, it often-times requires a provider to utilize 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, specifically under four months, sleeps 16 to 18 hours 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 an immense challenge for the provider who has a small group of toddlers, preschoolers and/or school-age children, in addition to those infants. Requiring a provider to consistently remain on the same level as sleeping children under two, in many cases is not a workable solution for safer sleep. The provider using a video and audio monitor to SEE and HEAR the napping child; as well as following the required visual checks every 15 minutes is the best possible solution *in this unique environment* to



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guarantee safe sleep for all children. In addition, it is not certain that making providers follow this regulation change would significantly improve the safety of sleeping infants, but it would almost certainly hinder a provider from being able to continue to care for a mixed-age group of children. Children over the age of two require supervision as well when sleeping, due to their ability to get up and move freely when they are thought to be resting. This can also be a problem when older children are playing while an infant may need to rest.

This regulation change could force family child care providers to re-evaluate their program options with a possible result being the decision to *no longer take* children under the age of two, or feel compelled to *only take* children under two, which would severely limit their income capability. Either of these options could then lead to a decision to close their child care.

MSFCCA feels a better solution is having the family child care provider follow all recommendations for safe sleep, such as sleeping a child on their back, requiring a firm mattress, a clutter free crib, and a smoke free environment, in addition to the 15-minute bed checks and a video and audio monitor for sight and sound observation. 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 the issue in family child care homes.

MSFCCA would like clarification on whether a sight and sound monitor satisfies the requirement for sleeping children under two (2) and older than two (2) as identified in the new regulations under [D.] E. (1) (a) and (2).

- **COMAR 13A.15.04.03E(2) Operational Requirements**

(2) May count as a child in care a child who is visiting the home if the child [:] *is younger than 8 years old and unaccompanied by an adult.*

- [(a) Is younger than 8 years old and unaccompanied by an adult; or
- (b) Cannot be sent home immediately.]

**MSFCCA COMMENT:**



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This is one of those unique circumstances that develops in the family child care home when the child of a provider may want to have a friend over to play during child care hours. In the instance when the child cannot readily be sent home, an age requirement is understandable; however, the target age should be more in line with the regulation: *COMAR 13A.15.04.03E (1)*, that says a provider's child over age 6 should not be counted in their capacity.

- **COMAR 13A.15.03 Management and Administration**

.04 Child Record

[B] C. (a)(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

**MSFCCA COMMENT:**

MSFCCA would like to recommend that there be a change to the Health Inventory Form, specifically the last page "At Risk Areas by Zip Codes". This is important because providers are often told by parents that their child is exempt, per their pediatricians. We would like the last page deleted from the Health Inventory form.

- **COMAR 13A.15.06 Provider Requirements**

B. Continued Training. A provider shall successfully complete:

(1) *During each 12-month period of registration, the approved health and safety training information supplied by the office*

**MSFCCA COMMENT:**

This proposed regulation is vague and needs clarification in the following areas:

1. Will this be a form that is pre-printed that providers will sign online and send to their specialist; or will they sign and print the form and keep for when their specialist comes in?
2. Will it be an online training? If so, then how long will the training take to complete?
3. Will it be taken each calendar year (January-December) or align with the provider's renewal month to renewal month of the following year?



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4. In 2018, the Office of Child Care made it a requirement that providers complete this five-hour training which we were told was a one-time requirement. Now that it is going into regulations with an effective date of 2020, will the training be retroactive for those providers who completed it in 2018? Since this is an annual requirement, we would also like to know if it can be counted towards a provider's continuing education requirement.

- **COMAR 13A.18.07.02 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 COMMENT:**

Volunteers who do not care for and supervise children, or have unsupervised access to children are not mandated to report child abuse and neglect. The two additions of volunteers to this section should be deleted.

- ***Comprehensive Criminal Background Checks to Comply with 2016 CCDF Final Rule***

In the CCDF Rule published in September 2016, comprehensive criminal background checks for child care programs were mandated. The pertinent section of the Rule follows:

45 CFR § 98.43 Criminal background checks.

(a)(1) States, Territories, and Tribes, through coordination of the Lead agency with other State, territorial, and tribal agencies, shall have in effect:

(i) Requirements, policies, and procedures to require and conduct *criminal background checks for child care staff members (including prospective child care staff members) of all*



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*licensed, regulated, or registered child care providers and all child care providers eligible to deliver services for which assistance is provided under this part as described in paragraph (a)(2) of this section;*

(ii) Licensing, regulation, and registration requirements, as applicable, that prohibit the employment of child care staff members as described in paragraph (c) of this section; and  
(iii) Requirements, policies, and procedures in place to respond as expeditiously as possible to other States', Territories', and Tribes' requests for background check results to accommodate the 45-day timeframe required in paragraph (e)(1) of this section.

(2) In this section:

(i) *Child care provider means a center based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that:*

(A) *Is not an individual who is related to all children for whom child care services are provided; and*

(B) *Is licensed, regulated, or registered under State law or eligible to receive assistance provided under this subchapter; and*

(ii) *Child care staff member means an individual (other than an individual who is related to all children for whom child care services are provided):*

(A) *Who is employed by a child care provider for compensation, including contract employees or self-employed individuals;*

(B) *Whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or*

(C) *Any individual residing in a family child care home who is age 18 and older.*

"Child care staff members," as defined by the federal rule, must have comprehensive background checks. The proposed Maryland child care regulations add new categories of individuals to the current background check requirements, but the proposed Maryland regulation does not cleanly follow the federal requirement. If the regulations become effective, comprehensive criminal background checks will now be mandated for providers, additional adults, employees, staff members, substitutes (who could all be included in the definition of child care staff members), residents of the home, and volunteers, and if required by the office, any other individual with regular access to the child care area during operating hours. This clearly goes beyond the scope of the federal rule.



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March 12, 2019

Child care staff members, whatever their job title is, are all engaged in activities that involve the care or supervision of children or have unsupervised access to children, and therefore, fall within the federal mandate. Volunteers in child care programs, however, should be defined as individuals who neither supervise children nor have unsupervised access to children. Only staff members should supervise children in the family child care program or have unsupervised access to them. Parents of children in care often volunteer in child care programs, reading a story, sharing a family tradition, pitching in the whiffle ball game, and helping with a holiday party. High school students can volunteer in a child care program to earn community service hours. None of these volunteers would have unsupervised access to children, and requiring them to have expensive comprehensive background checks would almost certainly eliminate programs' use of volunteers.

A better way to comply with the federal comprehensive background check mandate would be to amend the definitions of either (or both) employee and staff member to mirror the federal staff member definition, and include substitutes in those definitions. Then volunteers can be defined as individuals with no supervisory responsibilities and no unsupervised access to children in care, and they can be exempted from background checks.

### **Additional technical corrections in Large Family Child Care Regulations**

- **COMAR 13A.18.02.01I**

“Operator” is not a defined term in 13A.18. It should be replaced with “provider.” And Large Family Child Care Homes do not have “additional adults.”

- **COMAR 13A.18.02.03A(3)(c) and 12A.18.03.05F(3)**

The first section requires medicals for each volunteer for a continuing registration. The second section only requires medicals for volunteers who are present more than once a week. The latter is more reasonable than the former.

- **COMAR 13A.18.14.07A(12)**

The word “resident” should be replaced with the word “residence.”





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March 12, 2019

- **COMAR13A.18.15.01A and 13A.18.15.03A(1)(c)**

The word “on” is deleted after “impact” in .01A. It is not deleted in a similar sentence in .03A(1)(c).

These comments are being submitted on behalf of the MSFCCA membership and the following local associations:

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

Karin L. Walsh  
8425 Blue Stone Court  
Columbia, MD 21046  
(410) 381-1875 • [karintalks@verizon.net](mailto:karintalks@verizon.net)



February 23, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

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 concerns to you about a proposed regulation change.

The language proposed in **13A.15.08.01.D(1)(a) "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**". 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, 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.

Current regulations require providers to:

1. Remain no more than one (1) level away from a napping child,
2. 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.


Page Two  
February 23, 2019

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 look forward to hearing from you as to my thoughts.

Very truly yours,



Karin L. Walsh  
Childcare Registration No. 25130

cc: Jody Lamberti, HCFCCA

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD, 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

I provide licensed child care in my home and wish to express my **opposition** to a proposed change to the current requirements governing sleeping children in my care.

The language proposed in 13A.15.08.01.01(a) "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*". 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, 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.

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Napping children need a quiet, dimly-lit space to gain adequate rest. Children who do not nap need space to play and be active and exuberant. These scenarios grow our 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.

Very truly yours,

Nancy Coon



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**Proposed regulations**

1 message

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**Sheri Brown** <sheri@tikvatisrael.org>

Mon, Feb 25, 2019 at 11:54 AM

To: jennifer.nizer@maryland.gov

I'm relatively new to Maryland, so I can't claim to totally understand all of our new regulations, yet. But it does seem to me when I read the proposed regulations that two could have a big cost for our schools/staff. The need for a physician to sign a medical form every two years has a direct cost to underpaid teachers. Most physicians charge to fill out forms even if the visit is paid for by insurance. Also, getting fingerprints every two years will have a cost in staff time, even if MD pays for the fingerprinting itself.

Are these cost issues being addressed? Thanks for any insights you have.

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

I provide licensed child care in my home and wish to express my **opposition** to a proposed change to the current requirements governing sleeping children in my care.

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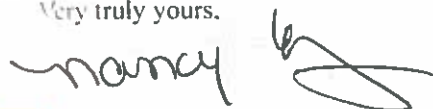
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Napping children need a quiet, dimly-lit space to gain adequate rest. Children who do not nap need space to play and be noisy and exuberant. These scenarios produce well-developed, healthy and happy children.

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.

Very truly yours,



Ms Nancy Cunningham  
8250 Stone Trail Ct  
Laurel, MD 20723-1181

301-317-8518

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

Dear Ms. Nizer:

I provide licensed child care in my home and wish to express my **opposition** to a proposed change to the current requirements governing sleeping children in my care.

The language proposed in **13A.15.08.01.D(1)(a) "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"**. 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, 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.

Current regulations require providers to:

1. Remain no more than one (1) level away from a napping child,
2. 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.

Very truly yours,

  
Lesley Wood  
6582 River Run  
Columbia, MD - 21044  
License # 155756

March 15, 2019

Ms. Jennifer A. Nizer  
Director, Office of Child Care  
Division of Early Childhood  
Maryland State Dept. of Education  
200 West Baltimore Street  
Baltimore, MD. 21202

RE: Proposed OCC Regulation Changes

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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.

Very truly yours,

Debra Halper

Debra Halper  
7099 Copperwood Way  
Columbia, md. 21046  
(301) 596-2808 - home  
dhalper1004@gmail.com

P.S. Please feel free to  
contact me with  
any questions!  
thanks







Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## MSFCCA- Reg Changes

1 message

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Lauren Huntt <notjustadaycare@hotmail.com>

Fri, Mar 15, 2019 at 9:32 AM

To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

Good Morning:

My name is Lauren Huntt, I live in Waldorf, MD. I have been a licensed child care provider for 15 years. I support the Comments submitted on my behalf by the Maryland State Family Childcare Association and I thank you for the opportunity to give feedback.

Sincerely,

Lauren Huntt

Sent from my LhboogiePhone





Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

**Proposed regs**

2 messages

Madie Green &lt;emani214@icloud.com&gt;

Fri, Mar 8, 2019 at 8:41 AM

To: jennifer.nizer@maryland.gov

I have an issue with the child support reg. They have their own agency and punishment for those people. It is a private matter between family services and family court to decide.  
This is over stepping the bounds of allowing someone to work.  
Not a MSDE ISSUE

Sent from my iPhone

Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

Fri, Mar 8, 2019 at 2:22 PM

To: Madie Green &lt;emani214@icloud.com&gt;

Thank you for your comments. We will be reviewing all comments at the end of the comment period.

**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

If you need to speak with someone immediately, please contact Levette Trusty-Woodrum at 410-767-0583 or email to [levette.trusty-woodrum1@maryland.gov](mailto:levette.trusty-woodrum1@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



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposed Family Child Care Regulations

1 message

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RONALD <wendynron@comcast.net>  
To: jennifer.nizer@maryland.gov

Thu, Mar 14, 2019 at 7:17 PM

Sent from Xfinity Connect App

I am a family childcare provider in Anne Arundel County. My name is Wendy Farley. License #134792. I am writing this email to show my support for the Maryland State Family Child Care Association's comments they have submitted to you regarding the proposed regulation changes.



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Support MSFCCA

1 message

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KLM <kathykare@usa.net>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 7:10 AM

I support the commits of MSFCCA.

Thank you,

Kathryn L. Mikulski

Pay with PayPal, go to [www.paypal.com](http://www.paypal.com), select "Send & Request", select "Pay for goods or services", enter my email "kathykare@usa.net", enter the payment amount.

Creative Memories Independent Advisor  
<http://www.creativememories.com/user/kathrynmikulski>  
443-994-3878

Heritage Makers/Our Memories For Life Independent Consultant  
443-994-3878

Private Child Care Provider  
Annapolis, MD 21409-5303  
Child Care License #02-50962  
443-994-3878  
<http://www.nova.edu/~mikulski/kathryn/>



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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**(no subject)**

1 message

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**Donna Neal** <islandmom1025@gmail.com>  
To: jennifer.nizer@maryland.gov

Sun, Mar 17, 2019 at 9:25 PM

My name is Donna Neal  
I live in Smithsburg Md  
I have been a registered provider for 18 years.  
I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.







Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**New rags**

1 message

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**Karolyn Martin** <kjmartin\_7@msn.com>

Mon, Mar 18, 2019 at 12:54 PM

To: "jennifer.nizer@maryland.gov" &lt;jennifer.nizer@maryland.gov&gt;, Kathy Embly &lt;stayplayandlearn@live.com&gt;, "Dawn Mowell" &lt;dawnsdaycare@verizon.net&gt;

I, Karolyn Martin has been a child care provider for over 30 years, live in Hagerstown Md. I agree with the information forward to be by MSFCCAA. Please on my behalf accept this email, I agree with MSFCC AA subjections.

Karolyn Martin



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

## Proposed Regulations

1 message

**Kathy Embly** <kathyembly.ke@gmail.com>

Mon, Mar 18, 2019 at 4:23 PM

To: Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

Cc: cheryl.kagan@senate.state.md.us, samuel.rosenberg@house.state.md.us, "Shaun M. Rose" <shaun@rockspringcc.com>, Linda Church <lindaschildcare@gmail.com>

To: Jenn Nizer

From: Kathy Embly

Date: March 15, 2019

Subject: Concerns on the New Proposed Regulations

Dear Mrs. Nizer

I am writing to you as a concern Family Child Care Provider, President of Professional Child Care Association of Washington County, Board member of Maryland State Family Child Care Association, Past VP of Public Policy for Maryland State Family Child Care Association, Past member of National Association of Family Child Care, Past member of Early Childhood Advocates in Action, prior t member Family Child Care Association of Frederick County, Director Previously for Allegany Child Care Professional Association,.

I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and in addition I agree with the letters from Shulman Rogers, Gandal, Porody, & Ecker, P.A.

Thank you for the opportunity to give feedback and to take are comments into consideration.

Thank you

Kathy Embly

10656 Bower Ave

Williamsport, MD 21795

kathyemblyke@gmail.com



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Msfcca

1 message

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**Leslie Anderson** <leslieaca@att.net>  
To: jennifer.nizer@maryland.gov

Mon, Mar 18, 2019 at 4:33 PM

My name is Leslie Anderson.  
I live in Hagerstown, MD.  
I have been a registered provider for 19 years.  
I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

Thank you,

Leslie Anderson



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposed regulation changes

1 message

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Susan Milstead <sybil207@aol.com>

To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 7:17 PM

Dear Ms. Nizer-My name is Susan Milstead. I live in Huntingtown, Maryland. I have been a registered family daycare provider for almost 30 years. I support the comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

Sent from my iPhone





Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Regulations

1 message

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yes <christianmaria@aol.com>

Fri, Mar 15, 2019 at 11:35 PM

To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

My name is \_Maria Smith\_\_\_\_\_

I live in \_\_Hagerstown, Maryland\_\_\_\_\_

I have been a registered provider for \_33\_\_\_ years.

I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.





Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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**(MSFCCA )**

2 messages

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**Leticia Shelton** <frostburgbridge@gmail.com>

Sat, Mar 16, 2019 at 1:04 AM

To: jennifer.nizer@maryland.gov

Cc: Leticia Shelton <frostburgbridge@gmail.com>

My Name is Leticia Shelton.

I Live in Frostburg, Maryland

I have been a registered provider for over 29 years

I Support the Concerns Submitted on my behalf , By Maryland State Family Child Care Association ( MSFFCCA ), and I

Thank You for the opportunity to give feed back.

Leticia shelton

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**Leticia Shelton** <frostburgbridge@gmail.com>

Sat, Mar 16, 2019 at 1:16 AM

To: jennifer.nizer@maryland.gov

Cc: Leticia Shelton <frostburgbridge@gmail.com>

To whom this may concern, my center just received today that you needed feed back we were out of town, and so I hope this is not to late to still send you a email this is for Leticia Shelton and Tausha Smith her computer was down, and had to use mine, hope that was ok, please let me know if our statement will be excepted, we belong to a Association , and this was never brought up to those in attendance, I find that concerning, due to the sensitivity of this matter, i hope you will still count our submission statement even if it was pass the deadline which we just found out today.

Thank you Leticia Shelton..





Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**MSFCCA Proposed Regulations Changes**

1 message

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**Linda's Family Child Care** <lindaschildcare@gmail.com>

Sat, Mar 16, 2019 at 11:45 AM

To: Jennifer Nizer &lt;jennifer.nizer@maryland.gov&gt;

Good afternoon,

My name is Linda Church and I have been a registered family child care provider in Anne Arundel County since 1994, and have worked with MSFCCA on behalf of providers since 1999. My goal in writing this letter is to encourage your office to take a second look at some of the proposed regulations that were released in the February 15, 2019 Maryland Register.

I am on the Public Policy Committee that took part in composing the comments submitted on behalf of MSFCCA. During the process we polled providers as well as had frequent discussions on the proposed changes. As a result I believe many important points were made in the document that deserve a second look. Therefore I support the comments submitted by MSFCCA and hope that more discussion can take place before the regulations are finalized and can adversely affect providers.

I appreciate your openness in this process and thank you for this opportunity.

Sincerely,

Linda Church



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

## Comments on proposed regulations

1 message

Lynn Griffiths &lt;lynngriiffithslg@gmail.com&gt;

Sat, Mar 16, 2019 at 10:47 AM

To: jennifer.nizer@maryland.gov

Hello,

I am a registered family child care provider in Anne Arundel County. I am a member of AAFCCA and MSFCCA and been a licensed provider for twelve years.

There are many regulations I find beneficial for the safety of one of our most vulnerable generations.

I also believe that children should be brought up in a loving environment that is stable; which is the reason I am so compassionate and dedicated to family child care. Research has proven a child grows and builds healthy foundations while in the care of a consistent caregiver. A child enrolled in a child care center or shuffled from family member to family member may have difficulty bonding and have delayed development due to the fluctuating environments.

I learned in an early education class, that a child can be exposed to up to 3500 adults, before the age of five due to high turn-over of caregivers and moving from class to class until age five. This statistic was shocking to me. But a family child care is the perfect fix for this! We start children as early as 12 weeks and they grow alongside the same eight children, much like a family. They are with the provider, in some cases until middle school if they live in the same school district as the provider. Our family becomes the children's family, in my case, my child care children call my father Grandpop and ask that my husband pick up yogurt if we run out.

I completely understand when someone questions the benefits of family child care when they have never had the wonderful opportunity of bringing eight littles of all ages, stages, and ethnicity up in a loving family environment. Our past children invite us to their graduations, weddings and we receive yearly updates and Christmas cards. I have a fellow provider who was just on a destination (all paid for by the child) wedding for one of their childcare children they raised.

I have seven children, aged 1 to 4 in my child care as of this time, one of which has special needs and today was observed by Childfind while in my home. I am very proud to say that the two women who have degrees shared with me that my four older three-year olds are already ready for kindergarten in many developmental areas. I shared with them that we focus on using the same language and approaches here and at home.

I am asking that you please consider the comments on the proposed regulations that the Maryland State Family Childcare has submitted. We are a group of professional women that have many years invested in our programs and still volunteer on behalf of our profession. We are in the trenches daily, many times we miss our own children's special events to care for other children. We know what it takes to offer the best in our programs and still take care of all the facets of running a small business. Quality is always our goal and that shows because most of our clients are by word of mouth. This is our career choice, to care for littlest human beings and we do more than care, we love



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

## Proposed Regulations for Child Care

1 message

Kim Hayas &lt;littledragonfly48@gmail.com&gt;

Sat, Mar 16, 2019 at 7:48 PM

To: jennifer.nizer@maryland.gov

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

Dear Ms. Nizer:

I am writing to you today as a concerned Family Child Care Provider and the proposed regulations in COMAR 13A.15.

The proposed regulation for Inspections, Complaints, and Enforcement. 07 Revocation - the words "regardless of intent" are truly disturbing. To revoke a registration because of a non-intentional error or typo, is absurd. Where has this proposal come from? Has no one that works in your department or any other state agency ever made a mistake or a typo? There are a lot of forms that have to be submitted to the Office of Child Care and though I try to carefully review what I write before I send it, there may come a time I misspell something, write a date wrong, etc.. I respectfully request that the wording be substituted with perhaps "intentionally misrepresents" or "intentionally gives false information."

**COMAR 13A.15.06 Provider Requirements B. Continued Training.** A provider shall successfully complete: (1) During each 12-month period of registration, the approved health and safety training information supplied by the office

I took this training in March 2017 because I was told it would become a regulation by December 2017. In January 2018, I began contacting my specialist as to when/how I would be notified that the renewal training was available. She informed me that as of March 2018 there was no renewal training available. I asked about how this would affect me since I'd already taken the training as "required" and it was going to expire in March 2018. She said that I would *not* have to retake the original training and I would *not* be cited as out of compliance.

Since this will not become a regulation until 2020, how will this effect me? How will the renewal training be given? A short online form to be filled out and printed or sent to my specialist? Will I take it each calendar year (Jan-Dec) or when I take the training (Mar-Mar)? How will I be notified it's available for me?

I am also concerned about the additional proposed regulations. As I stated in a previous email, I support the comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) in the letter they sent to you on March 12, 2019.

In closing, I'd like to say that I have been a provider for 26 years and each year it becomes more difficult to keep up with the mandates being handed down by OCC. I feel like my business and the vision I have for how it should be run is slowly being taken from me. I feel that OCC ultimately wants to take over the field of child care and model it after the public schools. I do not have any fancy degrees or letters after my name, but I know that what children need most to thrive in our world today isn't knowing their letters/numbers, how to sit still, or how to take a standardized test, it's love, acceptance, learning to get along with peers, and having an opportunity to be and enjoy the years of childhood before they're thrust into classrooms and expected to conform. I personally strive to provide a loving, safe environment for my children. Do I help prepare them for kindergarten? Yes. Is that my main focus? No. At one time, I was credentialed at a Level 4 (for nine (9) years), but due to an issue with my personal information not being safeguarded by OCC staff/vendor and OCC not accepting one certificate, that came to an end. Does this mean I am no longer a quality provider? In the eyes of OCC, yes. Yet I continue to provide quality, loving care for my children all without this certification. I know that health and safety is important, but I have to say that so many of these proposed and current regulation truly don't have anything to do with either of these. How is a child in care that hasn't been lead tested at 12 months and again at 24 months of age a hazard to other children in care enough to exclude them? If a pediatrician doesn't feel that this test is necessary, who am I to override his decision? Perhaps OCC should work with the pediatricians directly.

I thank you for the opportunity to comment on the proposed regulations.

Sincerely,  
Kimberley Hayas



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**Proposed Regulations**

1 message

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**Kim Hayas** <littledragonfly48@gmail.com>

Fri, Mar 15, 2019 at 3:10 PM

To: jennifer.nizer@maryland.gov

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

Dear Ms. Nizer:

My name is Kimberley Hayas and I live in Hagerstown, Maryland. I have been a registered child care provider for 26 years. I support the comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA). I have attached a copy of the letter they sent as a reference.

*Kimberley Hayas*

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 **FinalRegulationComments.pdf**  
219K



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

**MSFCCA Proposed Regulations Changes**

1 message

Rebecca Hancock <kaysplayhouse1@yahoo.com>  
To: Jennifer Nizer <jennifer.nizer@maryland.gov>

Sat, Mar 16, 2019 at 8:11 PM



March 16, 2019

Dear Ms. Nizer,

My name is Rebecca Hancock, I am the Vice-President of Public Policy for Maryland State Family Childcare Association (MSFCCA). I have been a registered family child care provider since 1995. I live in Charles County Maryland. I am writing you today to ask that your office take another look at some of the proposed regulations that were in the Maryland Register, February 15, 2019.

The MSFCCA Public Policy Committee composed comments that were submitted on behalf of MSFCCA. MSFCCA comments were submitted to by myself after the Maryland Family Network Public Policy Meeting, emailed and mailed to your office. MSFCCA's Public Policy Committee held several conference calls regarding the proposed regulations. The results of these discussions were included in our comments to your office. Many important points were made in the document that deserve a second look.

Therefore, I support the comments submitted by MSFCCA and hope that more discussion can take place before the regulations are finalized and can adversely affect providers.

I appreciate your openness in this process and the discussion that I have had with you after the MFN Public Policy Meetings.

Thank you for the opportunity to help in this process.

Sincerely,

Rebecca K. Hancock





Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposed Revision to Child Care Regulations

1 message

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Sonya Johnson <sojhnsn@comcast.net>

Fri, Mar 15, 2019 at 5:39 PM

To: jennifer.nizer@maryland.gov

I have read and support what MSFCCA has submitted on my behalf.

My name is Sonya Johnson.

I live in Charles County, Maryland.

I have been a registered provider for 10 years. I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.





Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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**(no subject)**

1 message

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Patricia Ward <pattyward79@gmail.com>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 1:26 PM

My name is Patricia Ward  
I live in Huntingtown Md  
I have been a registered provider for 20 years.  
I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I  
thank you for the opportunity to give feedback.

--  
Patty







Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposed regulation changes

1 message

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**Dawn Quade** <dawnquade@yahoo.com>

Fri, Mar 15, 2019 at 2:02 PM

To: jennifer.nizer@maryland.gov

My name is Dawn Quade and I live in St.Marys County, MD. I have been a registered provider since 2008. I support the comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

Have a great day  
Dawn Quade

Sent from my iPhone



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Child care

1 message

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Logan walter <amwalter09@hotmail.com>

Fri, Mar 15, 2019 at 2:21 PM

To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

My name is Ashley Walter

I live in Mechanicsville Maryland

I have been a registered provider for 8 years.

I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.







Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposed Regulation Changes

1 message

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Kim Browne <brownebear52@msn.com>

Fri, Mar 15, 2019 at 2:59 PM

To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

My name is Kimberley Browne.

I reside in St. Mary's County.

I have been a registered Child Care Provider for over 36 years.

I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Child care feedback

1 message

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**Nissi Grimes** <nissigrimes@gmail.com>

Fri, Mar 15, 2019 at 4:01 PM

To: jennifer.nizer@maryland.gov

Hello Ms Nizer!

My name is Denise Grimes aka Nissi Grimes.

I am wearing two hats. One as a provider and one as a parent.

In regard to my child care business:

I live in Anne Arundel County and have been a registered provider for 15 years.

I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

As a parent:

I would also like to add that we could use regulation about publishing children's photos without permission.

Thank you for your help and hard work!

Sincerely,  
Nissi









Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposed Regulation Changes

1 message

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**Susie Dembrow** <slkp@comcast.net>  
Reply-To: Susie Dembrow <slkp@comcast.net>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 1:08 PM

My name is Susan Dembrow.  
I live in St. Leonard, MD.  
I have been a registered provider for 4+ years.  
I support the comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

Susie Dembrow

License #162641

St. Leonard Kids' Place

5545 St. Leonard Road

St. Leonard, MD 20685

443-975-1054







Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

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**Supporting feedback option**

1 message

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**yolanderlarsen** <yolanderlarsen@gmail.com>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 1:21 PM

Hello!

My name is Yolande Chandler.

I live in St Mary's County, Mechanicsville Maryland.

I have been a registered provider for 7years.

I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

Sent on my Boost Mobile Samsung Galaxy S7.



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Final Regulations Proposal

1 message

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**Cynthia McCallam** <mccallam4@verizon.net>

Fri, Mar 15, 2019 at 10:28 AM

To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

Hello Ms. Nizer,

My name is Cynthia McCallam and I have been a licensed family child care provider in Charles County for 14 years. Thank you for sending the Final Regulation comments that will be proposed to MSDE by the MSFCCA. I have read through the comments and agree with what is proposed.

Thank you,  
Cynthia McCallam









Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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**New refs.**

1 message

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**Lillian Serio** <nonachildcare@gmail.com>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 8:40 AM

My name is Lillian C. Serio I live in Severna Park,I have been a registered provider for 40 years,I support the comments submitted by the MFCCA and thank you for the opportunity to give feedback.



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## regulations

1 message

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Wendy Dingus <wonderland9195@gmail.com>

Fri, Mar 15, 2019 at 8:42 AM

To: Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

Good morning Jennifer Nizer,

I am a family child care provider in Charles County. I have been a family provider for 29 years. I am a member of the Charles County Family Day Care Association, Inc. and the Maryland State Family Child Care Association. Recently the MSFCCA submitted comments on the up coming regulations changes and I fully support the comments that were sent to your office. I also thank you for the opportunity for providers to give their feedback.

Sincerely,

Wendy Dingus

Wonderland Child Care of Bel Alton, MD (Charles County)

President - Charles County Family Day Care Association, Inc.

Secretary - Maryland State Family Child Care Association



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

Hi

1 message

Debera Jones <dmdecsj8@yahoo.com>

Fri, Mar 15, 2019 at 8:50 AM

To: jennifer.nizer@maryland.gov

My name is \_Debra Jones\_\_\_\_\_  
I live in \_\_\_Hagerstown, Maryland \_\_\_\_  
I have been a registered provider for \_\_\_19\_\_ years.  
I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

Sent from Yahoo Mail for iPhone



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Changes to childcare regulations

1 message

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**Sue Weiss** <kusue8@hotmail.com>

Fri, Mar 15, 2019 at 9:18 AM

To: "jennifer.nizer@maryland.gov" <jennifer.nizer@maryland.gov>

My name is Katheryn S Weiss

I have been a family daycare provider for 26 years.

I support the changes submitted on my behalf by the Maryland State Family Child Care Association. (MSFCCA).

Thank you for this opportunity to give feed back.

Katheryn Weiss

Get Outlook for Android







Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Support MSFCCA

1 message

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**Celeste Bulter** <godbles0003@yahoo.com>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 10:11 AM

Good Morning,  
My name is Celeste Butler and I live in Brandywine Md. Been registered provider for 9yr. Have read and support what MSFCCA has submitted on my behalf.

Thank You  
Celeste Butler

Sent from my iPhone



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Regulations

1 message

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**schaney259@aol.com** <schaney259@aol.com>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 7:57 AM

My name is Sharon Chaney

I live in AAC

I have been a registered provider for 48 years.

I support the comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback

Sincerely,  
Sharon Chaney

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schaney259@aol.com







Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Regulation changes

1 message

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**Terry Stevenson** <terry1stevenson@gmail.com>

To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 7:51 AM

Good morning, Jen

My name is Lenora (Terry) Stevenson. I have been a registered home childcare provider in Arnold since 1991. I support the comments of the MSFCCA regarding the regulation proposals.

Thank you,  
Lenora Stevenson  
410-703-1154



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Proposdd Regulations

1 message

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Millie's Child Care <millieschildcare@gmail.com>

Fri, Mar 15, 2019 at 7:32 AM

To: jennifer.nizer@maryland.gov

My name is Milagros Arias

I live in Millersville

I have been a registered provider for 5 years.

I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

The new proposed regulations would significantly impact my ability to obtain a substitute, care for children and make a living.

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://www.millieschildcare.com)]

<https://www.facebook.com/millieschildcare/> [[facebook.com](https://www.facebook.com/millieschildcare/)]



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Comments to proposed Regulations

1 message

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Michele Denson <elect1lady@aol.com>

Fri, Mar 15, 2019 at 2:04 AM

To: jennifer.nizer@maryland.gov

I support the comments to the proposed regulations submitted by MSFCCA  
Kind Regards  
Michele Denson

Sent from my iPhone



Jennifer Nizer -MSDE- &lt;jennifer.nizer@maryland.gov&gt;

## Comments on the Proposed Child Care Regulatory Changes

2 messages

Mary Young <youngcare@verizon.net>  
To: jennifer.nizer@maryland.gov

Sun, Mar 10, 2019 at 11:12 PM

Dear Mrs. Nizer,

After reviewing the proposed changes to the child care regulations in COMAR 13A.16, I appreciate the opportunity to comment and express my concerns. As a Maryland family child care provider/sole proprietor of 25+ years who received a BA in ECE and Special Education through the MSDE CCCPDF, I support MSDE's efforts to increase quality, affordable and safe child care for all Maryland families. However, I am concerned that the proposal, as written, will create a relevant financial impact on providers, contains language which will create confusion between providers and licensing specialists, and also places the due process rights of providers at risk. I have also reviewed the comments in the March 7, 2019 Shulman Rogers letter(attached) to you and agree with all of the recommended modifications. The proposed additional requirement that all staff must take the newly required Health and Safety Training prior to being employed is especially unrealistic to me. Allowing this training within the first 6 months is a more reasonable requirement. Also, the proposed lead testing regulation is extremely confusing and seems to place unreasonable responsibility on the provider. Finally, I strongly support providers having 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. I strongly recommend serious consideration of the suggested revisions to the proposed regulations and hope you will address and support the concerns of Maryland's providers.

Sincerely,

Mary Ellen Young  
Family Child Care Provider/Registration #91434  
12900 Clearfield Drive Bowie, MD 20715  
301 352-3247

 ShulmanRogersMarch7.2019LettertoJ.Nizer.pdf  
706K

Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>  
To: Mary Young <youngcare@verizon.net>

Mon, Mar 11, 2019 at 6:39 PM

Thank you for your feedback. We will be reading all public comments after the public comment period is over.

Thank you!

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

If you need to speak with someone immediately, please contact Levette Trusty-Woodrum at 410-767-0583 or email to [levette.trusty-woodrum1@maryland.gov](mailto:levette.trusty-woodrum1@maryland.gov). You will receive a reply within 24 hours.



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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## Supporting comments

1 message

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Lisa Poe <littlebugsfamilydaycare@yahoo.com>  
To: jennifer.nizer@maryland.gov

Fri, Mar 15, 2019 at 8:37 PM

My name is Lisa Poe  
I live in Prince Frederick, Calvert County, Maryland.  
I have been a registered provider for 5 years.  
I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.

Lisa Poe

Sent from my iPhone



Jennifer Nizer -MSDE- <jennifer.nizer@maryland.gov>

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**(no subject)**

1 message

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**LaTevea Richardson-Carson** <lrcarson13@gmail.com>

Fri, Mar 15, 2019 at 10:06 AM

To: jennifer.nizer@maryland.gov

My name is Richardson  
I live in Charles Co  
I have been a registered provider for 4 years.  
I support the Comments submitted on my behalf by the Maryland State Family Child Care Association (MSFCCA) and I thank you for the opportunity to give feedback.







March 18, 2019

VIA ELECTRONIC DELIVERY  
[jennifer.nizer@maryland.gov](mailto:jennifer.nizer@maryland.gov)

Jennifer A. Nizer  
Director  
Office of Early Childhood Education  
Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, MD 21201

Re: Comments from Montessori Schools of Maryland  
Proposed Changes to Code of Maryland Regulations (Title 13A. State Board of Education)

Dear Ms. Nizer:

On behalf of the Montessori Schools of Maryland (MSM), this letter requests changes to Title 13A, subtitles 16 and 17, of the Code of Maryland Regulations ("COMAR") in addition to those being proposed in the February 15, 2019 Maryland Register. Our changes would codify established regulatory interpretation policies regarding COMAR's application to Maryland schools that subscribe to the vision and methodology formulated by Dr. Maria Montessori "(Montessori Schools)". In particular, the referenced policies, which have been in effect almost ten years, confirm that certain Montessori requirements supersede COMAR requirements in areas related to teacher and director certifications, as well as student-teacher ratios. MSM is seeking to implement these changes into COMAR to address periodic enforcement questions regarding how/if the policies apply.

I. Who is MSM

MSM is an organization founded in October 2009 to support non-profit, for profit, independent and religious, public and non-public schools in advancing the Montessori educational process and methodology. MSM currently has over 60 member schools and validated over 36 Montessori schools in the recent year. Our schools are diverse, inclusive and provide need-based financial aid. ALL offer early childhood programs, which serve as few as 20 students and as many as 150 students. Some even extend beyond early childhood, serving students up until twelfth grade. As a condition of membership and as discussed below, all of these schools must be validated by, or in the process of seeking validation from, a national Montessori validating organization such as Association Montessori Internationale (“AMI”) and the American Montessori Society (AMS).

II. Early Childhood Montessori Programs are Subject to Rigorous Oversight and Quality Control through Well-Established Validation Processes

Importantly, each MSM school is validated by, and accountable to, an official validation body, and some even have more than one validation. The validation process through any of these organizations is rigorous and comprehensive to ensure safe and effective educational environments. The scope of evaluation includes facility health and safety, teacher and director certifications, incorporation of critical Montessori materials and curricula, and appropriate student-teacher ratios consistent with the Montessori philosophy.

Regarding teacher certifications, AMI requires teachers to have between twenty to thirty-two college credits and a full year of Montessori training (in most cases it is a Master degree). AMS requires its teachers to accumulate over 1,000 hours in school work, assignments, observations, practical training and more. Directors of early childhood Montessori schools are required to obtain an Early Childhood Montessori credential that requires nearly 100 hours in school administration training.

III. Implementation of Montessori Policies

Because AMI and AMS have requirements that overlap or conflict with COMAR regulations, MSM engaged the Office of the Chief of Licensing Branch of the Maryland State Department of Education (“Chief Licensing Branch”) for guidance. As a result of this effort, the Chief Licensing Branch issued the attached “Montessori Program” policy in or around 2010. Notably, the policy clarifies that Montessori student-teacher ratios, teacher certifications, and director credentialing all supersede COMAR requirements. To address lingering questions about teacher and director credentials, the Chief Licensing Branch, provided additional email clarifications of the policy between 2010 and 2016. These emails are attached.

Notwithstanding the Chief Licensing Branch's established Montessori policy, the Office of Childcare ("OCC"), which is empowered to enforce COMAR provisions, is often unaware of the policy or asserts that it does not apply in certain situations. The latest area of confusion is whether the policy (1) exempts Montessori teachers from COMAR requirements concerning continuing professional training and (2) applies to MSM schools that are renewing or obtaining new licenses. This enforcement disconnect costs MSM schools significant time, energy and resources to address OCC citations. As such, MSM is seeking a codification of the Montessori policy into COMAR to clarify unequivocally the circumstances in which Montessori requirements supplant COMAR requirements. In particular, we request that COMAR state Montessori requirements supersede COMAR requirements in student-teacher ratios, teacher and director credentialing and continuing professional training.

We look forward to working with the State Department of Education, as warranted, to implement the COMAR changes. MSM otherwise appreciates the opportunity to comment on the pending COMAR changes on behalf of our member schools.

Sincerely,



Nancy Anselm

President of the Board

[nancypanselm@gmail.com](mailto:nancypanselm@gmail.com)



Ellie Lichtash

Board Member

[ellie@alefbetmontessori.org](mailto:ellie@alefbetmontessori.org)

(301) 556-5010

Alef Bet Montessori

6125 Tuckerman Lane

North Bethesda, MD 20817

Enclosures: As stated

cc: Steven R. Hicks, Assistant State Superintendent  
Association Montessori Internationale  
American Montessori Society