

Maryland Regulations Currentness \_Title 13A State Board of Education \_Subtitle 17 Child Care -Letters of Compliance \_Chapter 01 Scope and Definitions

Regulations for Tax-Exempt Religious Organization Child Care Programs  
COMAR T. 13A, Subt. 17, Ch. 01, Refs & Annos

COMAR 13A.17.01.01

**.01 Scope.**

**A. Applicability of Subtitle. Except as specified under §B of this regulation, this subtitle governs:**

(1) Nonparental care of children for part of a 24-hour day in nursery schools operated by tax-exempt religious organizations; and

(2) Child care programs operated by tax-exempt religious organizations in school buildings used exclusively for children who are enrolled in those schools, by whatever name known.

**B. Exemptions. This subtitle does not apply to:**

(1) A nonpublic kindergarten for children 5 years old or older during the hours in which an instructional program is offered;

(2) A nonpublic elementary school during the hours in which an instructional program is offered;

(3) A program that operates for 6 weeks or less in any calendar year;

(4) The physical plant, including sanitary facilities, of a child care facility used exclusively for school age children, located in a currently operating nonpublic school building, if the application of a regulation would require modification of the physical plant; and

(5) The instructional program, curriculum, and teacher, principal, and administrator qualifications of a:

(a) Nursery school operated by a tax-exempt religious organization which does not have a certificate of approval from the State Board of Education; or

(b) Child care program operated by a tax-exempt religious organization in a school building used exclusively for children who are enrolled in that school.

COMAR 13A.17.01.02

**.02 Definitions.**

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

Complete through Maryland Register Vol. 41, Issue 8, dated April 18, 2014.

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**B. Terms Defined.**

(1) Abuse.

(a) “Abuse” means the physical or mental injury of a child, under circumstances that indicate that the child’s health or welfare is significantly harmed or at risk of being significantly harmed, by:

(i) A parent;

(ii) An individual who has permanent or temporary care or custody or responsibility for supervision of a child; or

(iii) A household or family member.

(b) “Abuse” includes sexual abuse of a child, whether physical injuries are sustained or not.

(2) “Acute illness” means an abnormal condition of the body with rapid onset accompanied by abnormal symptoms and signs, that has a short course of duration, as opposed to a chronic illness of long duration.

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

(4) “Agency” means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.

(5) “Agency representative” means an individual designated by the Agency to determine compliance with this subtitle.

(6) “Applicant” means a person who has submitted to the office all of the required forms and documentation to request approval to obtain a letter of compliance, either for an initial letter or for a continuing letter of compliance.

(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) “Child” means an individual:

(a) 6 weeks old or older and younger than 16 years old; or

(b) Younger than 21 years old who has a disabling condition or other emotional, developmental, physical, educational, or medical need necessitating child care beyond 16 years old.

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(9) Child Care.

(a) "Child care" means the care or supervision of a child when the child's parent has given the child's care over to another for some portion of a 24-hour day as a supplement to the parent's primary care of the child.

(b) "Child care" does not mean:

(i) Group lessons or classes providing specialized training in a specific subject, unless provided in a pattern indicating that a child care facility is being operated or that custodial supervision of children is being provided in addition to the specialized training;

(ii) Scouting, sports, or youth club activities;

(iii) School-age recreational or supplementary education programs operated by a nonpublic school, if custodial supervision is not the primary purpose of the program;

(iv) Supervisory services to children provided by a church, health club, health provider, or similar sponsor in support of an occasional or intermittent parental activity or service offered by the sponsor while parents are on the same premises as the services to children and are immediately available to the children; or

(v) Programs primarily designed for the religious training of children, provided on a weekly basis or for a short period in the summer, commonly known as Sunday schools or Bible schools.

(10) Child Care Facility.

(a) "Child care facility" means a nursery school or a child care program operated by a tax-exempt religious organization.

(b) "Child care facility" may offer more than one type of program or care.

(11) "Child care program" means child care provided by a tax-exempt religious organization in a school building used exclusively for children who are enrolled in that school.

(12) "Combined preschool and school age facility" means a child care facility that serves both preschool children and school age children, whether in separate groups or mixed age groups.

(13) "Continuing letter of compliance" means a letter of compliance that does not expire.

(14) Custodial Supervision.

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(a) “Custodial supervision” means parentally authorized oversight of a child by an individual other than the child’s parent or guardian.

(b) “Custodial supervision” includes responsibility for:

(i) The well-being and the whereabouts of the child for a given period of time; and

(ii) Direct transfer of the custody of the child from and to an authorized person.

(c) “Custodial supervision” does not include the oversight of a child who is participating in a specific activity, such as scouting, sports, or youth clubs.

**(15) “Department” means the Maryland State Department of Education**

(16) “Educational program” means a program of instruction as defined by the State Board of Education.

(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) Whose work assignment involves the care or supervision of children in the facility or access to children who are cared for or supervised in the facility.

(b) “Employee” does not include an individual who:

(i) Is an independent contractor; or

(ii) Provides a consultative health service pursuant to COMAR 13A.17.06.06C.

(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;

(ii) Has access to children in care; and

(iii) Does not clearly meet, or is not excluded from, the definition of independent contractor set forth in §B(21) of this regulation.

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(18) “Group” means a unit of children together with the staff assigned to them.

(19) “Health officer” means the health officer in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer, or both, and refers to the health officer in the jurisdiction where the child care facility is located.

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

(21) Independent Contractor.

(a) “Independent contractor” means an individual or other entity:

(i) That is hired by the child care facility operator or by another party, on the basis of a service contract or agreement, to perform a specialized service at the facility, including but not limited to food catering, child transportation, facility maintenance or repair, or supplemental recreational programming, for a specified period of time or in order to achieve a specified result;

(ii) That determines how the specialized service shall be performed; and

(iii) Whose specialized service is not restricted to the facility, but is available for hire by other customers.

(b) “Independent contractor” does not include an individual who:

(i) Provides a consultative health service pursuant to COMAR 13A.17.06.06C;

(ii) Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, educational, or other service only to that child or those children; or

(iii) Is employed for compensation by a public school or by a private or nonpublic school required to report annually to the State Board of Education.

(22) “Injurious treatment” means:

(a) Deliberate infliction in any manner of any type of physical pain, 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) Failure to attend to a child’s physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;

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

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ridiculing; and

(d) Using discipline methods which create undue discomfort, such as washing a child's mouth with soap, putting pepper or other spicy or distasteful items in a child's mouth, requiring a child to stand on one foot as punishment, or tying a child to a cot or other equipment.

(23) "Kindergarten" means an educational program for children who are 5 years old, or who will be 5 years old by September 1 of the year they enter the program, provided in a:

(a) Public school or a nonpublic school approved by the State Department of Education; or

(b) Nonpublic school operated by a tax-exempt religious organization that holds a letter of exemption from approval by the State Board of Education under Education Article, §2-206, Annotated Code of Maryland.

(24) "Letter holder" means the tax-exempt religious organization that has been issued a letter of compliance.

(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, Annotated Code of Maryland.

(26) "Local department" means the local department of social services, by whatever name known, in any of Maryland's 24 local jurisdictions.

(27) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.

(28) Neglect.

(a) "Neglect" means leaving a child unattended or otherwise failing to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm.

(b) "Neglect" does not include, for that reason alone, providing a child with nonmedical religious remedial care and treatment recognized by State law in place of medical treatment for a child's injuries or illnesses.

(29) "Nursery school" means an educational program:

(a) For children who are 2 years old, 3 years old, 4 years old, or any sequence of these ages; and

(b) That, unless exempted or approved by the Department before July 1, 2007, to operate for more than 6 hours per day, may not operate in excess of 6 hours per day.

(30) "Office" means the central office or a regional office of the Agency.

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(31) "Operated by a tax-exempt religious organization" means that a letter holder 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) "Operator" means a letter holder or an agent of a letter holder.

(33) "Parent" means the biological or adoptive parent or the legal guardian or custodian of a child who enrolls the child in child care.

(34) 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.

(35) "Preschooler" means a child who:

(a) Is 2 years old or older; and

(b) Does not attend kindergarten or a higher grade.

(36) "Preschool facility" means a child care facility that offers programs for children younger than 5 years old.

(37) "Sanction" means an enforcement action under COMAR 13A.17.15.

(38) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for a sufficient period of time to destroy vegetative cells of pathogenic bacteria and to reduce substantially the number of other microorganisms.

(39) "School-age child" means a child younger than 16 years old who attends a public or nonpublic school in grades kindergarten or above.

(40) "School-age facility" means a child care facility that offers programs to children who attend a public or nonpublic school in kindergarten or grades 1-12.

(41) School Building.

(a) "School building" means a facility that houses an instructional program for kindergarten, a higher grade or grades, or any combination of grades.

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(b) "School building" may include a facility that houses a nursery school as well as higher grades.

(c) "School building" does not include a church or other facility which houses only:

(i) A program for preschoolers; or

(ii) A before- and after-school program.

(42) "Small facility" means a child care facility that is:

(a) Located in a private residence; and

(b) Licensed for 12 or fewer children.

(43) "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 center and whose assignment helps to maintain the staff/child ratios required by COMAR 13A.17.08.03.

(44) "Successfully passed" means, when used in connection with:

(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.17.06.03A; 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.17.06.03A, has been assessed by the office as suitable for employment pursuant to COMAR 13A.17.06.03B; 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, a child care facility, the individual has been assessed by the office as being suitable for employment, pursuant to COMAR 13A.17.06.03B; or

(ii) An independent contractor, the individual has not been identified as responsible for the abuse or neglect of a child.

(45) "Superintendent" means the State Superintendent of Schools or the Superintendent's designee.

(46) "Volunteer" means an individual who:



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- (a) Is 13 years old or older;
- (b) Works in or for a child care facility but is not a compensated employee of the facility;
- (c) Is not counted by the child care facility toward maintenance of the staff/child ratios required by COMAR 13A.17.08.03; and
- (d) Is not enrolled as a child in care at the child care facility.

**COMAR T. 13A, Subt. 17, Ch. 01, Administrative History**

**COMAR T. 13A, Subt. 17, Ch. 02, Refs & Annos**

**COMAR 13A.17.02.01**

**.01 Letter of Compliance -General Requirements.**

A. Requirement to be Licensed or Hold a Letter of Compliance. A tax-exempt religious organization that operates a nursery school or child care program in a school building used exclusively for children who are enrolled in that school, is required to be licensed under COMAR 13A.16 or to hold a letter of compliance in accordance with the requirements of this subtitle.

B. General Requirements.

(1) A letter of compliance:

- (a) Is nontransferable; and
- (b) Remains the property of the office.

(2) The operator shall surrender the letter of compliance to the office immediately if any of the following occurs or becomes effective:

- (a) The operator closes the facility permanently;
- (b) The letter of compliance is suspended;
- (c) The letter of compliance is revoked;
- (d) The operator has not applied for a continuing letter of compliance before the expiration date of the initial letter of compliance; or

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(e) The letter of compliance expires and an application for a continuing letter of compliance is denied.

COMAR 13A.17.02.02

.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) File a notice of intent with the office before applying for permits in connection with construction or operation of a facility; and

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

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) Documentation of application for criminal background checks for:

(a) The applicant, if the applicant is an individual who will have frequent contact with children who are cared for in the facility;

(b) The director;

(c) Each employee, including paid substitutes; and

(d) Each individual 14 years old or older living on the same premises as the child care facility;

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

(a) The director;

(b) Each employee;

(c) Each individual 18 years old or older living on the same premises as the child care facility;

(d) The applicant, if the applicant is an individual who will have frequent contact with children who are cared

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for in the facility; and

(e) Trustees, managers, or board members who may have frequent contact with children in care, if the applicant is a corporation, agency, association, or other organizational entity;

(3) Evidence of compliance with all applicable zoning and building codes;

(4) Site plans;

(5) Floor plans with architectural details;

(6) A written plan of operation;

(7) Workers' Compensation insurance information;

(8) Fire evacuation plan;

(9) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;

(10) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;

(11) Menu for 4 weeks;

(12) A written child discipline policy; and

(13) 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) Building use and occupancy permits.

**COMAR 13A.17.02.03**

**.03 Continuing Letter of Compliance.**

A. Obtaining a Continuing Letter of Compliance. An operator shall submit to the office, before expiration of the initial letter of compliance:

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- (1) A request for a continuing letter of compliance, on a form supplied by the office;
- (2) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about all individuals, as applicable, specified at Regulation .02B(2) of this chapter; and
- (3) Any other documentation required by law or regulation.

**B. The office may not approve a continuing letter of compliance until:**

- (1) All items specified in §A of this regulation have been received and approved by the office; and
- (2) The facility has passed a fire safety inspection conducted by the local fire authority having jurisdiction.

**C. Maintaining a Continuing Letter of Compliance.**

- (1) The operator shall comply with all applicable requirements under this subtitle.
- (2) By the end of each 24-month period after the date of issuance of a continuing letter of compliance, the operator shall provide to the office:
  - (a) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about all individuals, as applicable, specified in Regulation .02B(2) of this chapter; and
  - (b) Any other documentation required by law or regulation.
- (3) The child care facility shall maintain documentation of having passed the most recent fire inspection required by the local fire authority having jurisdiction.

**COMAR 13A.17.02.04**

**.04 Provisional and Conditional Status.**

**A. Provisional Status.**

- (1) Except as provided in §A(2) of this regulation, to allow an applicant for an initial or a continuing letter of compliance additional time to meet all applicable requirements, the office may approve an initial or a continuing letter of compliance on a provisional basis for a period of up to 120 days after determining that the health and safety of the children in care are not in imminent danger.
- (2) An initial letter of compliance may not be approved if the office has not yet received evidence that the applicant and each individual, as applicable, specified at Regulation .02B(1) and (2) of this chapter has

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successfully passed a federal and State criminal background check and a review of child abuse and neglect records.

(3) At the end of the provisional period, if all requirements for the initial or continuing letter of compliance are not met due to:

(a) Failure by the applicant to take an action necessary to achieve compliance, the office shall deny the application for the letter of compliance; or

(b) Circumstances beyond the control of the applicant, the office may continue the provisional status for one or more additional periods of up to 120 days per period, except that provisional status may not be continued for more than 24 months after the start of the first provisional period.

(4) If the office denies a letter of compliance at the end of the provisional period, the applicant or operator does not have a valid letter of compliance and shall cease operating.

**B. Conditional Status.**

(1) If an operator who holds a continuing letter of compliance fails to remedy a violation as required, the office may place the letter of compliance on conditional status for:

(a) A period of up to 120 days; and

(b) Upon approval by the Agency's central office, an additional period of up to 120 days.

(2) Upon placing a continuing letter of compliance on conditional status, the office shall issue to the operator a revised letter of compliance that states the:

(a) Placement of the letter of compliance on conditional status;

(b) Period of time of the conditional status; and

(c) Requirements for lifting the conditional status.

(3) If the operator satisfies all requirements for lifting the conditional status within the specified period of time, the office shall promptly:

(a) Discontinue the conditional status; and

(b) Reinstate the continuing letter of compliance.

(4) If the operator fails to satisfy all requirements for lifting the conditional status within the specified period of

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time, the office may suspend or revoke the continuing letter of compliance.

COMAR 13A.17.02.05

.05 Response of the Office to Application.

A. Upon receiving a completed application for an initial letter of compliance or a continuing letter of compliance, and all documentation required by law or regulation, the office promptly shall determine compliance with the requirements of this subtitle by:

(1) Evaluating the application and required documentation; and

(2) Inspecting the:

(a) Facility proposed for use as a nursery school or child care program, if the application is for an initial letter of compliance; or

(b) Nursery school or child care program, if the application is for a continuing letter of compliance.

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) For an initial letter of compliance application:

(a) Issue an initial letter of compliance;

(b) Issue an initial letter of compliance on a provisional basis; or

(c) Deny an initial letter of compliance; or

(2) For a continuing license application, issue or deny a continuing license.

C. The office may not issue an initial letter of compliance until child care staff, sufficient in number to meet the staff/child ratio and group size requirements of COMAR 13A.17.08.03 as they apply to the requested child capacity, have successfully passed federal and State criminal background checks and a review of child and adult abuse and neglect records.

COMAR 13A.17.02.06

.06 Denial of Letter of Compliance.

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A. An office may deny an application for an initial letter of compliance or a continuing letter of compliance if:

- (1) The applicant or the building in which child care is provided fails to meet the requirements of this subtitle;
- (2) An evaluation of the application form by the office reveals that the applicant reported false information;
- (3) The applicant has a history of regulatory violations that demonstrates an inability to provide for the health or safety of children;
- (4) The applicant has previously had a family day care registration, child care center license, or letter of compliance denied or revoked by the office, unless the office is satisfied that the condition that was the basis for the denial or revocation has been corrected;
- (5) The applicant prevents the office from completing its responsibilities for issuing a letter of compliance;
- (6) An evaluation of criminal records or records of abuse or neglect of children and adults indicates, for those identified in Regulation .02B(1) and (2) of this chapter, behavior harmful to children; or
- (7) The office concludes that the applicant cannot provide for the health, safety, or welfare of the children in care on the basis of:
  - (a) Substantial, credible evidence of the applicant's abuse of alcohol or a controlled dangerous substance, mental instability, or other condition; or
  - (b) Other pertinent information received by the office that creates reasonable doubt as to the applicant's ability to provide child care in accordance with this subtitle.

B. If the office denies an application, the office shall notify the applicant in writing by certified mail of the denial, stating the:

- (1) Reason for denial;
- (2) Specific regulation with which the applicant has failed to comply that is the basis for the denial;
- (3) Applicant's right to request a hearing; and
- (4) Procedure to be used if the applicant wishes to request a hearing to appeal the decision of the office.

C. Denial Before Complete Application.

- (1) The office may deny an application for an initial or a continuing letter of compliance at any point during the application process if, following evaluation of information received to that point, the office determines that a

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basis for denial exists as set forth in §A of this regulation.

(2) If the office decides to deny the application before the application process is complete, the office shall send written notice of that decision to the applicant within 30 calendar days after making the decision.

**COMAR T. 13A, Subt. 17, Ch. 02, Administrative History**

**COMAR T. 13A, Subt. 17, Ch. 03, Refs & Annos**

**COMAR 13A.17.03.01**

**.01 Multi-Site Facilities.**

A nursery school or child care program may have more than one location and may be treated as one facility for purposes of this subtitle only if:

**A. The buildings:**

(1) Function as one integrated center, are in close proximity such as across the street or on the same campus, and are connected by an intercom system; and

(2) Are under the supervision of one director; and

**B. Two or more locations:**

(1) Are administered by one central administration with one ownership; and

(2) Share common administrative policies and procedures and contracts.

**COMAR 13A.17.03.02**

**.02 Admission to Care.**

**A. An operator may not admit a child for care unless the operator has:**

(1) Met the applicable requirements of this regulation; and

(2) Received the written records required by Regulation .04C-H of this chapter.

**B. At or before the child's admission to care, the operator shall obtain:**



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(1) Written information from the parent about the child's individual needs; and

(2) If the child is enrolled in school, parental permission for the school to release the child's health information to the child care facility.

C. As part of the admission process, the operator shall:

(1) Give the parent, or advise the parent how to obtain, a consumer education pamphlet on child care that is supplied by the office; and

(2) Provide written evidence that the requirements of §C(1) of this regulation have been met.

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 in accordance with applicable State or local requirements.

**COMAR 13A.17.03.03**

**.03 Program Records.**

**The operator shall:**

A. Create and maintain, for at least 2 years after their creation, records of program:

(1) Enrollment, with each child's name, address, telephone number, date of birth, and dates and time periods for that enrolled; and

(2) Attendance, by groups of children, which indicate:

(a) The dates of attendance of each child in the facility; and

(b) Verification by each child's parent of that child's recorded daily attendance in care.

**B. Maintain:**

(1) Procedures to ensure that the whereabouts of each child in attendance is known at all times;

(2) A written child discipline policy as required in COMAR 13A.17.07.03C;

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

(4) A written record of the dates and times at which emergency and disaster plan drills were conducted pursuant to COMAR 13A.17.10.01A(3)(c); and

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

COMAR 13A.17.03.04

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.04 Child Records.

A. For each child admitted to, or continuing in care, the operator shall maintain written records, on forms provided or approved by the office, that meet the requirements of this regulation.

B. Each child's written records shall be:

(1) Readily accessible to all staff members providing care to the child; and

(2) Kept on file at the facility during the period of a child's enrollment and for 2 years after the child's disenrollment.

C. The operator shall obtain and maintain emergency information from the child's parent that:

(1) Includes the child's name and date of birth;

(2) Includes the parent's full name, current address, and home and work telephone numbers;

(3) Includes the name and telephone number of the individual, if different from the child's parent, who is authorized to pick up the child each day;

(4) Includes the name and telephone number of at least one individual who is authorized to pick up the child in an emergency;

(5) Includes the name, address, and telephone number of the child's physician or other health care provider;

(6) If the child has a special health condition, includes emergency medical instructions for that condition;

(7) Is signed and dated by the child's parent;

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(8) Is updated as needed, but at least annually; and

(9) Is readily accessible to each staff member supervising the child, including during an off-site activity.

D. Unless a parent objects to a child's medical examination because of bona fide religious beliefs and practices, a health assessment of the child shall be provided by the child's parent that:

(1) Includes a parental statement of the child's health status;

(2) If applicable, includes a statement of allergies; and

(3) Includes a medical evaluation, signed and dated by a physician, that states the child is medically cleared to attend child care and is based on an examination completed by the physician within the last:

(a) 2 months before admission for a child younger than 9 months old;

(b) 3 months before admission for a child between 9 and 24 months old; or

(c) 12 months before admission for a child 2 years old or older.

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.

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening 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. There shall be 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) The child has had at least one dose of each vaccine appropriate for the child's age before entry and is scheduled to complete the required immunizations;

(3) A licensed physician or a health officer has determined that immunization is medically contraindicated according to accepted medical standards; or

(4) The parent objects to the child's immunization because it conflicts with the parent's bona fide religious beliefs and practices.

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H. If a parent objects to a child's immunization or medical examination, or both, because of the parent's bona fide religious beliefs and practices, an operator shall require the parent to provide a health history of the child and sign a statement indicating that to the best of the parent's knowledge and belief, the child is in satisfactory health and free from any communicable disease.

**I. The operator shall record or maintain on file:**

(1) Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.17.11.01;

(2) Each injury or accident required by Regulation .06B and C of this chapter to be reported;

(3) Child medication records required by COMAR 13A.17.11.04;

(4) If the child requires a modified diet, the prescription from the child's health practitioner or the written instructions from the child's parent, pursuant to COMAR 13A.17.12.02;

(5) If program activities away from the center are provided, prior written permission from the child's parent to take the child to those activities; and

(6) Documentation that the child's parent has received, or has been advised how to obtain, the consumer education pamphlet on child care supplied by the office.

J. Written information about the child's individual needs that is supplied by the parent by the time of the child's admission to care shall be reviewed by the operator and the parent at least every 12 months after the child's admission to care.

**COMAR 13A.17.03.05**

**.05 Staff Records.**

The operator shall:

A. Maintain for review by the office a current and complete:

(1) List of personnel, on a form supplied or approved by the office, that includes each individual, whether paid or unpaid, who works at the facility on a routine basis; and

(2) Staffing pattern, on a form supplied or approved by the office, that specifies:

(a) The number and ages of children enrolled;

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(b) The staff/child ratio in relation to the daily schedule; and

(c) By staff name, all child care assignments;

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) Verification that an individual's age complies with the minimum required for the position held;

(2) Employment medical evaluation;

(3) Criminal background check; and

(4) Date on which the staff member received the information required by COMAR 13A.17.06.02;

C. Maintain documentation required for:

(1) Substitutes, pursuant to COMAR 13A.17.06.05; and

(2) The adult available for emergencies, pursuant to COMAR 13A.17.08.02; and

D. Maintain a calendar or other written record of the:

(1) Days on which a substitute provides care; and

(2) Staff member in whose place the substitute worked.

**COMAR 13A.17.03.06**

**.06 Notifications.**

The operator shall:

A. Upon adding a new employee or staff member:

(1) Provide to the office, within 5 working days after the date of hire, a signed and, if required by the office, notarized permission to examine records of abuse and neglect of children and adults for information about the individual; and

(2) Have on file in the nursery school or child care program the following information:

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(a) The individual's assignment;

(b) Documentation that the individual meets the requirements of this subtitle for the assignment unless the documentation is already on file in the office; and

(c) If the individual is paid, proof of compliance with laws and regulations pertaining to criminal background checks;

B. Notify or require that a staff member notify the office within 24 hours of:

(1) The death of a child if the child died while at the facility;

(2) The death of a child enrolled at the facility if the child died of a contagious disease; and

(3) Any injury to a child that occurs while the child is at the child care facility or on a field trip which results in the child's being:

(a) Treated by a medical professional; or

(b) Admitted to a hospital;

C. If a child has an injury or accident while in attendance, notify the child's parent:

(1) Immediately, if the child's injury is serious; or

(2) Within the same day, about all other injuries and each accident which may result in injury;

D. Immediately notify the office of an employee's criminal background check result received on or after October 1, 2005, that reports 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 12.15.02.07B;

E. Immediately notify the office of:

(1) An employee who is under investigation for:

(a) A criminal charge; or

(b) An allegation of child abuse or neglect; or

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(2) A change at the child care facility which may affect the status of the letter of compliance, including but not limited to:

(a) Individuals living on the premises;

(b) Operation of the facility; or

(c) Telephone number; and

F. Within 5 working days after there is a new resident on the 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; and

(2) Ensure that the resident applies for a federal and State criminal background check.

**COMAR 13A.17.03.07**

**.07 Change of Operation.**

A. Except when converting the facility to a summer camp, if an operator wishes to make any changes from the current letter of compliance, such as rooms not previously approved for child care, capacity, hours of operation, age groups served, or the introduction of food service, the operator shall request and obtain written approval of the change from the office before implementing the change.

B. After determining whether the proposed change meets the requirements of this subtitle, the office shall approve or disapprove the proposed change. If the change is approved, the office shall issue a revised letter of compliance indicating the change.

C. If an operator wishes to convert to a summer youth camp, the operator shall:

(1) Notify the office before implementing the change to a summer youth camp;

(2) Upon request by the office, provide proof to the office of the facility's certification as a summer youth camp under Health-General Article, Title 14, Subtitle 4, Annotated Code of Maryland;

(3) If applicable, remove the letter of compliance from display on the premises used for operating a summer youth camp during the period of summer youth camp operation; and

(4) Notify parents of children in care and those applying for care that:

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- (a) A child care facility is not being operated during summer months; and
- (b) State regulations for camps differ from those for child care facilities.

COMAR 13A.17.03.08

.08 Variances.

A. An office may grant a variance to a regulation under this subtitle:

- (1) If the safeguards to a child's health, safety, or well-being are not diminished;
- (2) When the operator presents clear and convincing evidence that the regulation is met by an alternative which complies with the intent of the regulation; and
- (3) For a limited period of time as specified by the office, or for as long as the letter of compliance remains in effect and the operator continues to comply with the terms of the variance.

B. Within 30 calendar days of receiving a completed request for a variance, the office shall notify the operator that the variance has been granted or denied.

C. If a variance request is denied by a regional office of the Agency:

- (1) The operator may appeal the denial to the Agency's central office; and
- (2) The Agency's central office has the final determination of whether or not a variance is granted.

D. A variance to sanitary facility requirements that is granted pursuant to COMAR 13A.17.05.08B does not apply to any subsequent additions or enlargements to the child care facility.

COMAR T. 13A, Subt. 17, Ch. 03, Administrative History

COMAR T. 13A, Subt. 17, Ch. 04, Refs & Annos

COMAR 13A.17.04.01

.01 Capacity.

A. An office shall determine the capacity of the nursery school or child care program according to criteria established in:



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(1) This subtitle affecting floor space, outdoor play space, staffing, equipment, ages of the children to be enrolled, and sanitary facilities; and

(2) Applicable codes, including zoning, building, and fire codes.

B. An operator shall limit the total number of children in care at one time to the capacity approved by the office.

**COMAR 13A.17.04.02**

**.02 Enrollment and Attendance.**

A. All children in care at any one time are counted as being in attendance for purposes of complying with the regulations governing capacity, group size, and staff/child ratios.

B. An operator may not enroll a child for more than 14 hours in a 24-hour period unless approved in advance by the office.

C. An operator shall maintain written records of:

(1) Enrollment with the child's name, address, telephone number, date of birth, and dates and time periods for which enrolled; and

(2) Attendance by groups of children which indicate the dates of attendance of each child in the child care facility.

D. An operator may enroll a child only if the office has given written approval for the facility to care for children of that child's age.

**COMAR T. 13A, Subt. 17, Ch. 04, Administrative History**

**COMAR T. 13A, Subt. 17, Ch. 05, Refs & Annos**

**COMAR 13A.17.05.01**

**.01 Building Safety.**

A. An operator shall provide a building for a child care facility that is:

(1) Maintained in good repair;

(2) Free from health and safety hazards as identified by the office; and

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(3) Clean and free from infestation of insects and rodents.

B. Except as set forth in §C of this regulation, the operator shall ensure that the child care facility complies with all applicable State and local codes, including but not limited to zoning, building, plumbing, gas, electrical, sewage disposal, drinking water, environment, health, and fire.

C. A child care facility for school age children that is located in a school building and operates before and after school hours is not required to comply with any regulation under this subtitle that relates to the physical plant of the facility if it exceeds requirements imposed by the county or the local board of education with respect to the school building.

COMAR 13A.17.05.02

.02 Accessibility.

An operator shall ensure that an access road on facility property permits passage by emergency vehicles during times when children are in care.

COMAR 13A.17.05.03

.03 Indoor Space.

A. In a nursery school that holds a certificate of approval to operate, or a letter of exemption from approval, that was issued by the State Board of Education before December 1, 1971, and is still in effect, a minimum of 30 square feet of floor space shall be provided for each child.

B. In a nursery school or child care program granted a letter of compliance after December 1, 1971, a minimum of 35 square feet of floor space shall be provided for each child.

C. The office may not approve a capacity increase for a child care program or a nursery school currently approved, and wishing to maintain approval, to operate with less than 35 square feet per child.

D. In calculating the square footage of floor space provided for each child, the following may not be included:

(1) Any floor space, rooms, or areas that are not suitable or available for the daily program activities of the children, such as but not limited to columns, vestibules, and corridors, food preparation areas, kitchens, bathrooms, adult work areas, permanently equipped isolation areas or sleeping rooms, storage units, and storage space; and

(2) Furniture, except for:

(a) Children's chairs and tables which are nonfixed and multipurpose;

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- (b) An adult-size rocking chair or other adult-size comfortable chair;
- (c) Moveable play equipment;
- (d) An adult-size couch; and
- (e) Open shelves for children's daily activities.

COMAR 13A.17.05.04

.04 Building Repair and Maintenance.

Building maintenance, repair, or renovation activity may not occur while a child in care is on the premises if the activity may present a significant risk to child safety or health.

COMAR 13A.17.05.05

.05 Lead-Safe Environment.

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

- (1) Exterior or interior surface of the facility; or
- (2) Material or equipment used for child care purposes.

B. If the child care facility is a pre-1950 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. If the facility was constructed before 1978 and not certified lead free pursuant to Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, the operator shall:

- (1) Ensure there is no chipping, peeling, flaking, chalking, or deteriorated paint on any surface of an interior or exterior area of the facility that is used for child care;
- (2) If deterioration of a surface in an area used for child care is noted, or if renovation of the premises occurs that disturbs a painted surface, arrange to have a lead dust test:
  - (a) Conducted by an accredited visual inspector pursuant to COMAR 26.16.02.03B to meet the risk reduction standard, if the facility is an affected property; or

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(b) Conducted in areas used for child care by an accredited risk assessor pursuant to COMAR 26.16.05.11, if the facility is not an affected property; and

(3) If a lead dust test is required pursuant to §C(2) of this regulation, obtain:

(a) A passing score on that test; and

(b) Verification from the lead inspector performing the test that the requirements of §C(2) and (3)(a) of this regulation have been met.

D. In a facility constructed before 1978 and not certified lead free pursuant to Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, when performing renovation which disturbs the painted surface of an interior or exterior area used for child care or exterior areas the operator shall ensure that the work is performed by an individual accredited to perform the lead paint abatement services using safe work practices as required by Environment Article, Title 6, Subtitle 10, Annotated Code of Maryland, and corresponding regulations.

COMAR 13A.17.05.06

.06 Ventilation and Temperature.

A room may be used for child care only if it:

A. Has natural or mechanical ventilation that provides adequate exchange of air to protect a child's health and comfort;

B. Is free of moisture and dampness; and

C. Has a temperature at floor level of not less than 65°F.

COMAR 13A.17.05.07

.07 Water Supply.

A. The facility shall have hot and cold running water, with hot water temperature not exceeding 120°F.

B. For each 40 children in care, or fraction thereof, there shall be at least one drinking water source that is:

(1) Safely accessible to children 2 years old or older without assistance from an adult; and

(2) Not located in a toilet room or in a sink used for handwashing

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C. Drinking water shall be supplied by:

- (1) An angle-jet drinking fountain with mouthguard;
- (2) Licensed bottled water in the original container;
- (3) Running water supply with individual single service drinking cups; or
- (4) Another method or source approved by the office.

D. During meals and snacks, water may be served family-style from a pitcher if the water is poured into the pitcher directly from one of the supply sources listed at §C of this regulation.

COMAR 13A.17.05.08

.08 Sanitary Facilities and Supplies.

A. For every 15 children in care, an operator shall provide one toilet and one sink that are:

- (1) Maintained in good operating condition and in a sanitary manner;
- (2) Easily accessible to the children; and
- (3) Equipped with water-resistant, nonabsorbent platforms which are safely constructed at a height that allows children to use the toilet and sink unassisted.

B. An operator which holds a certificate of approval to operate, or a letter of exemption from approval, that was issued by the State Board of Education before July 1, 1991, and is still in effect may receive a variance from the requirements of §A of this regulation if the office determines that:

- (1) The requirements can be met only with substantial physical modifications to the child care facility; and
- (2) Sanitary facilities are accessible to every child in the child care facility.

C. In each toilet facility accessible to a school age child, the operator shall provide at least one toilet in an enclosed stall or other space affording privacy to the child.

D. In a small facility approved for mixed age groups, only one toilet and sink are required.

E. A facility licensed for the first time shall provide at least one toilet facility restricted to use by adults that is

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equipped with a toilet, sink, and toilet supplies, except that this requirement does not apply to:

- (1) Small centers; or
- (2) Programs that operate 2-1/2 hours or less per session per day.

F. Each toilet room shall have:

- (1) A floor with a water-resistant, nonabsorbent finish;
- (2) Smoothly finished walls with a hard surface; and
- (3) Approved and functioning natural or mechanical ventilation.

G. Portable toilets, also known as potty-chairs, may not be used in a child care facility.

H. Each toilet room shall contain individual paper towels, a trash receptacle, soap, and toilet paper.

I. All sanitary supplies in a toilet room shall be available within reach of a child capable of using the toilet unassisted.

J. Toiletry and grooming articles, drinking cups, towels, face cloths, brushes, and combs may not be shared.

**COMAR 13A.17.05.09**

**.09 Lighting.**

A. There shall be sufficient natural and artificial lighting in all approved areas of the facility to allow proper child supervision and help ensure the safety of each child, employee, and visitor to the facility.

B. An operator shall use light fixtures with bulbs, lamps, and tubes that are shatter-proof or protected by shields to prevent shattering.

C. In a room approved for child care that does not have windows, an operator shall provide an approved source of lighting that will operate in case of a power failure.

D. An operator shall provide adequate outdoor lighting to ensure the safety of individuals entering and leaving the facility when it is dark outside.

**COMAR 13A.17.05.10**

**.10 Telephone and Communication.**

Complete through Maryland Register Vol. 41, Issue 8, dated April 18, 2014.

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A. There shall be at least one operable telephone in the facility that is freely and readily available to all facility staff during the approved hours of operation.

B. In a facility with more than two rooms approved for child care, a staff member supervising a group of children in one room shall be able to communicate a request for assistance to a staff member in another room while maintaining continuous supervision of the group.

C. The operator shall provide additional telephones or extensions in the facility as may be required to:

(1) Summon emergency fire and rescue services promptly; and

(2) Transmit and receive other emergency communications.

**COMAR 13A.17.05.11**

**.11 General Cleanliness and Disposal of Refuse.**

A. The entire child care facility, including floors, walls, ceilings, fixtures, furnishings, materials, and equipment, shall be kept clean and free of infestation.

B. Cleaning may not be conducted while children are present except in emergencies or as clean up activities that are part of the daily activity program.

C. Disposal of Refuse.

(1) Each room used for child care shall have a trash container with a disposable liner.

(2) All trash containers in child care areas shall be emptied when full but at least daily.

(3) Refuse that is placed outdoors to await collection shall be stored in receptacles that are:

(a) Made of tight, nonabsorbent, easily washable materials;

(b) Covered with tightly fitting lids; and

(c) Washed and treated with disinfectant when necessary to combat odors and prevent infestation.

**COMAR 13A.17.05.12**

**.12 Outdoor Activity Area**

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A. A child care facility shall have an outdoor activity area on the premises of, adjacent to, or near and safely accessible to the facility that provides adequate usable activity space for the approved capacity of the facility.

B. A facility for which a notice of intent, filed pursuant to COMAR 13A.17.02.02A(1), is received by the office on or after January 1, 2009, shall have an outdoor activity area that provides at least 75 square feet of usable play space for:

(1) One half of the approved capacity of the facility; or

(2) Each child, if the facility has an approved capacity of 20 or fewer children.

C. Usable activity space may include only the area and the activity equipment approved for use by children in care.

D. The activity area shall be free from potential hazards to child health or safety.

E. All outdoor activity equipment shall be safe, in good repair, clean, and nontoxic.

COMAR 13A.17.05.13

.13 Swimming Facilities.

A. Only swimming facilities meeting applicable local standards of health, sanitation, and safety may be used.

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

COMAR T. 13A, Subt. 17, Ch. 05, Administrative History

COMAR T. 13A, Subt. 17, Ch. 06, Refs & Annos

COMAR 13A.17.06.01

.01 Minimum Staff Age.

In a nursery school or child care program:

A. Except as provided in §B of this regulation, staff members or substitutes shall be at least 18 years old; and

B. An aide and a substitute aide shall be 16 years old or older and shall work under the direct supervision of the staff member in charge of the group to whom the aide is assigned.

Complete through Maryland Register Vol. 41, Issue 8, dated April 18, 2014.



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COMAR 13A.17.06.02

.02 Staff Orientation.

On or before assignment, an operator shall ensure and 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. The location of the telephone and emergency telephone numbers;
- B. The location of each child's emergency form;
- C. Emergency evacuation procedures;
- D. The identity of the staff members who have first aid and CPR training;
- E. The identity of the adult who is required to be available to provide emergency coverage pursuant to COMAR 13A.17.08.02;
- F. Handwashing procedures;
- G. The facility's discipline procedures;
- H. The requirements and procedures for reporting suspected child abuse and neglect, according to Family Law Article, §§5-704-5-705, Annotated Code of Maryland;
- I. Signs and symptoms of abuse and neglect in children; and
- J. The content of the most current regulations in this subtitle.

COMAR 13A.17.06.03

.03 Suitability for Employment.

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

- (1) A crime involving:

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- (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;
- (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) Pornography;
- (10) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or
- (11) Reckless endangerment.

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) Shall assess, on the basis of the following factors, the individual's suitability for employment:
  - (a) The job position at the child care facility for which the individual is applying or in which the individual is currently employed;
  - (b) The nature and seriousness of the incident, crime, or offense;

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- (c) How long ago the incident, crime, or offense occurred;
  - (d) The age of the individual at the time the incident, crime, or offense occurred;
  - (e) The individual's probation or parole status, if applicable; and
  - (f) Any other information the office considers pertinent; and
- (2) Depending on the results of the assessment, shall permit or prohibit employment of the individual.

**C. Request for Reassessment.**

- (1) An individual who is prohibited from employment by the office pursuant to §B of this regulation may request the office to conduct a reassessment with respect to the incident, crime, or offense.
- (2) For a reassessment request to be eligible for consideration:
  - (a) The request shall be in writing and shall include documentation, such as but not limited to letters of support or evaluation reports, pertinent to the incident, crime, or offense; and
  - (b) The individual may not have submitted a reassessment request, whether for the same or a different job position, within the previous 12 months.
- (3) In order to reach a decision on the request, the office may request additional information from the individual, the child care facility operator, or any agency or entity cited by the individual or the operator in connection with the reassessment request.
- (4) Upon reaching a decision on the request, the office shall promptly notify the individual of that decision.
- (5) The operator may not permit the individual to begin or to resume employment until the office has notified the operator that the individual may be employed.

**D. Notification of Employment Prohibition.**

- (1) If the office, pursuant to this regulation, determines that an individual may not be employed at a child care facility, the office shall notify the individual and the facility operator in writing of that decision and its basis.
- (2) The written notification to the individual shall also:
  - (a) State that the individual may appeal the decision to the Office of Administrative Hearings (OAH); and

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(b) Specify the requirements for submitting an appeal to the OAH.

E. Upon notification that an individual may not be employed, the facility operator:

(1) Shall promptly terminate the individual from employment or from consideration for employment, as applicable; and

(2) Unless the individual appeals the decision to the OAH and the appeal is concluded in favor of the individual, may not:

(a) Reconsider the individual for employment;

(b) Permit the individual to have any contact with an unrelated child in care; or

(c) Allow the individual on the premises of the facility except to exercise parental responsibilities with respect to a related child in care.

**COMAR 13A.17.06.04**

**.04 Staff Health.**

A. Medical Evaluation.

(1) An operator 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 facility, from each prospective:

(a) Staff member; and

(b) Except for a health care professional serving as a consultant pursuant to Regulation .06C of this chapter, support staff who will be present at the facility while children are in care.

(2) 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.

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 to work at a nursery school or child care program during the period of exclusion from child care shown on the chart for that infection or disease.

**COMAR 13A.17.06.05**

**.05 Substitutes.**

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A. When a staff member is absent, the operator shall provide a substitute as needed to maintain the staff/child ratios required by COMAR 13A.17.08.03.

B. A substitute shall be 18 years old or older, except that a substitute aide may be 16 years old or older.

**COMAR 13A.17.06.06**

**.06 Support Personnel.**

A. The operator or the director shall provide additional personnel for all duties not involving direct supervision of children, such as personnel for food preparation and service, housekeeping, transportation, clerical, and other duties, if necessary to maintain the correct staff/child ratios at all times.

B. In a small facility, the operator need not provide additional staff if children are involved in appropriate activities and supervised at all times while necessary duties, such as food preparation, are performed.

C. The operator of a facility that provides a service involving the regular use of specialized health care procedures or equipment shall use as a consultant to the facility in providing the service a registered nurse, nurse practitioner, physician's assistant, physician, or other licensed or certified service professional as appropriate.

**COMAR 13A.17.06.07**

**.07 Volunteers.**

A. A child care facility volunteer shall be under the close supervision of a staff member whenever the volunteer is in contact with an unrelated child in care at the facility.

B. The operator may not use as a volunteer an individual who has been prohibited, or automatically would be prohibited, from employment at the facility pursuant to Regulation .03A or B of this chapter.

**COMAR T. 13A, Subt. 17, Ch. 06, Administrative History**

**COMAR T. 13A, Subt. 17, Ch. 07, Refs & Annos**

**COMAR 13A.17.07.01**

**.01 Prohibition of Abuse, Neglect, and Injurious Treatment.**

An operator, a staff member, substitute, volunteer, person residing on the premises of the facility, or anyone connected with the facility may not subject a child to child abuse, neglect, mental injury, or injurious treatment.

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COMAR 13A.17.07.02

.02 Abuse/Neglect Reporting.

A. An operator or staff member who has reason to believe that a child has been:

(1) Abused, in a facility or outside of the facility, shall report that belief directly to the Child Protective Services unit of the local department or to a law enforcement agency, as required under Maryland law;

(2) Neglected, in a facility or outside of the facility, shall report that belief directly to the Child Protective Services unit of the local department as required under Maryland law.

B. When a child has been subjected to injurious treatment, it shall be reported to the office.

C. An operator shall:

(1) Instruct the staff to monitor all children daily for signs and symptoms of child abuse and neglect;

(2) Instruct staff about their legal obligations to report suspected child abuse or neglect directly to the local department or the appropriate law enforcement agency; and

(3) Post, near each telephone in the facility, the telephone numbers of the Child Protective Services unit of the local department and the appropriate law enforcement agency.

D. An operator may not require a staff member 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.

COMAR 13A.17.07.03

**.03 Child Discipline**

A. Child discipline shall be:

(1) Appropriate to the age, maturity, and physical condition of the child; and

(2) Consistent with the requirements of this subtitle.

**B. The operator may not:**

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(1) Force a child to eat or drink;

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

(3) Withhold food or beverage as punishment.

C. The operator shall:

(1) Prepare a written child discipline policy that states the:

(a) Discipline methods used at the facility; and

(b) The circumstances under which the child discipline methods may be applied;

(2) Make the child discipline policy available to:

(a) The parent of each child in care;

(b) Parents who are considering whether to enroll their children; and

(c) The office; and

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

**COMAR 13A.17.07.04**

**.04 Parental Access.**

An operator shall permit the parent of a child in care to:

A. Freely observe all areas of the facility used for child care during operating hours; and

B. Have access, without appointment, to the parent's child at any time during the nursery school's or child care program's hours of operation.

**COMAR 13A.17.07.05**

**.05 Authorized Release.**

Complete through Maryland Register Vol. 41, Issue 8, dated April 18, 2014.

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An operator shall ensure that a staff member releases a child only to the child's parent or to another individual, if directed by the parent, whose identity is verified. If the parent or identified individual is not available due to death, illness, emergency, or any other cause, or if requested by a Child Protective Services worker, the child may be released to Child Protective Services.

COMAR 13A.17.07.06

.06 Child Security.

A. An operator shall ensure the safety and security of each child at all times.

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) Accompany a child whenever the child is in the presence of another individual, unless the individual is:

(a) Another child in care;

(b) A health service consultant used by the facility operator pursuant to COMAR 13A.17.06.06C;

(c) The child's parent, guardian, or other individual to whom the child may be released pursuant to Regulation .05 of this chapter;

(d) An individual who is authorized by the child's parent or guardian, and whose identity is verified, to provide a health care, educational, or other service to the child;

(e) During an off-site activity, another child's parent or guardian, who is designated in writing by the facility operator to assist in transporting children to or from the facility; or

(f) If the facility is located at a school, an individual who for compensation is employed to work at the school; and

(2) Unless documentation is on file at the facility that an independent contractor performing a service at the facility has successfully passed federal and State criminal background checks and a review of child abuse and neglect records, remain within sight and sound of the contractor whenever the contractor is in an area of the facility where children are present.



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COMAR T. 13A, Subt. 17, Ch. 07, Administrative History