NOTE: *This document includes amendments, effective July 20, 2015, to Chapters 01, 02, 03, 05, 06, 08, 09, 12, and 16 under COMAR 13A.16***.**

Title 13A STATE BOARD OF EDUCATION
Subtitle 16 CHILD CARE CENTERS

Authority: Family Law Article, §§5-502, 5-560, 5-564, and 5-570—5-585; Human Services Article, §1-202; State Government Article, §10-617; Education Article, §§2-206 and 2-303; 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.)

Table of Contents

COMAR 13A.16.01 SCOPE AND DEFINITIONS
.01 Scope.
.02 Definitions.
COMAR 13A.16.02 LICENSE APPLICATION AND MAINTENANCE
.01 License – General Requirements
.02 Initial License.
.03 Continuing License.
.04 Provisional and Conditional Status.
.05 Response of the Office to Application.
.06 Denial of License Application.
COMAR 13A.16.03 MANAGEMENT AND ADMINISTRATION
.01 Multi-Site Centers.
.02 Admission to Care.
.03 Program Records.
.04 Child Records.
.05 Staff Records.
.06 Notifications.
.07 Change of Operation.
.08 Variances.
COMAR 13A.16.04 OPERATIONAL REQUIREMENTS
.01 Capacity.
.02 Enrollment and Attendance.
COMAR 13A.16.05 PHYSICAL PLANT AND EQUIPMENT
.01 Building Safety
.02 Accessibility.
.03 Indoor Space.
.04 Building Repair and Maintenance.
.05 Lead-Safe Environment.
.06 Ventilation and Temperature.
.07 Water Supply.
.08 Sanitary Facilities and Supplies.
.09 Lighting.
.10 Telephone and Communication.
.11 General Cleanliness and Disposal of Refuse.
.12 Outdoor Activity Area.
.13 Swimming Facilities.
COMAR 13A.16.06 STAFF REQUIREMENTS
.01 Minimum Staff Age.
.02 Staff Orientation.
.03 Suitability for Employment.
.04 Staff Health.

.05 Directors of All Child Care Centers – General Requirements.
.06 Directors of Preschool Centers – Specific Requirements.
.07 Directors of School Age Centers – Specific Requirements.
.08 Specific Requirements for Directors in Combined Preschool and School Age Centers.
.09 Child Care Teachers in Preschool Centers.
.10 Child Care Teachers in School Age Centers.
.11 Assistant Child Care Teacher.
.12 Aides.
.13 Substitutes.
.14 Support Personnel.
.15 Volunteers.

COMAR 13A.16.07 CHILD PROTECTION

.01 Prohibition of Abuse, Neglect, and Injurious Treatment.
.02 Abuse/Neglect Reporting.
.03 Child Discipline
.04 Parental Access.
.05 Authorized Release
.06 Child Security.

COMAR 13A.16.08 CHILD SUPERVISION

.01 Individualized Attention and Care.
.02 Supervision by Qualified Staff.
.03 Group Size and Staffing.
.04 Variations in Group Size.
.05 Supervision During Water Activities.
.06 Supervision During Transportation.
.07 Playground Supervision.
.08 Rest Time Supervision.

COMAR 13A.16.09 PROGRAM REQUIREMENTS

.01 Schedule of Daily Activities for All Children.
.02 Activity Plans for Infants and Toddlers.
.03 Activity Materials, Equipment, and Furnishings.
.04 Rest Furnishings.
.05 Infant-Toddler Equipment.
.06 Storage.

COMAR 13A.16.10 SAFETY.

.01 Emergency Safety Requirements.
.02 First Aid and CPR.
.03 Safe Use of Materials and Equipment.
.04 Potentially Hazardous Items.
.05 Rest Time Safety.
.06 Transportation.

COMAR 13A.16.11 HEALTH

.01 Exclusion for Acute Illness.
.02 Infectious and Communicable Diseases.
.03 Preventing Spread of Disease.
.04 Medication Administration and Storage.
.05 Smoking.
.06 Alcohol and Drugs.

COMAR 13A.16.12 NUTRITION

.01 Food Service.
.02 Modified Diet.
.03 Food Sources.
.04 Food Storage and Preparation.
.05 Food Preparation Area and Equipment.
.06 Infant Feeding.

COMAR 13A.16.13 CENTERS FOR CHILDREN WITH ACUTE ILLNESS

.01 Location of Center.
.02 Applicability of Chapter.
.03 Plan of Operation.
.04 Director Requirements.
.05 Use of Health Consultant.

COMAR 13A.16.14 ADOLESCENT CENTERS

.01 Requirements for Approval.
.02 Plan of Operation.
COMAR 13A.16.15 DROP-IN CENTERS
.01 License Permitted.
.02 Scope of Care.
.03 Applicability of Chapter.
.04 Plan of Operation.
.05 Special Variances.
.06 Admission Requirements.
COMAR 13A.16.16 EDUCATIONAL PROGRAMS IN NONPUBLIC NURSERY SCHOOLS
.01 Purpose and Scope.
.02 Definitions.
.03 Approval to Operate an Educational Program — General Requirements.
.04 Approval to Operate an Educational Program — Specific Requirements.
.05 Compliance and Inspections.
.06 Personnel Qualifications.
.07 Educational Program.
.08 Child Records.
.09 Health, Fire Safety, and Zoning.
.10 Procedures and Sanctions for Noncompliance — Educational Programs.
COMAR 13A.16.17 INSPECTIONS, COMPLAINTS, AND ENFORCEMENT
.01 Complaints.
.02 Inspections.
.03 Intermediate Sanctions.
.04 Suspension.
.05 Emergency Suspension.
.06 Revocation.
.07 Penalties.
COMAR 13A.16.18 ADMINISTRATIVE HEARINGS
.01 Scope.
.02 Definitions.
.03 Hearing Requests.
.04 Preliminary Conference.
.05 Denial or Dismissal of a Hearing Request.
.06 Hearing and Appeal Procedures.
.07 Conduct of Hearing.
.08 Decision.
COMAR 13A.16.19 PUBLIC ACCESS TO LICENSING RECORDS
.01 Definitions.
.02 Request for Information from Licensing Records.
.03 Disclosure of Information from Licensing Records.
.04 Compelling Public Purpose.

COMAR 13A.16.01 Scope and Definitions

.01 Scope.

A. Applicability of Subtitle. Except as specified at §B of this regulation, this subtitle governs nonparental care of children for part of a 24-hour day not in the child's own home, in a group setting such as a child care center, preschool, child development center, nursery school, before-school and after-school program, school age child care, or early learning center, by whatever name known, under private nonprofit, proprietary, public, and religious auspices.

B. Exemptions. This subtitle does not apply to:

(1) A family child care home registered under COMAR 13A.15;

(2) A facility that offers or provides a residential placement for a child under Family Law Article, Title 5, Subtitle 5, or Health-General Article, Title 6 or 10, Annotated Code of Maryland;

(3) A youth camp, as defined by Health-General Article, §14-401(j), Annotated Code of Maryland;

(4) A child care service operated by the federal government or on federal property;

(5) A public school during the hours in which an instructional program is offered;

(6) A nonpublic kindergarten for children at least 5 years old during the hours in which an instructional program is offered;

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

(8) Child care services provided in connection with a shelter housing individuals temporarily without residences, exclusively for the children of those individuals;

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

(10) Programs that operate for 6 weeks or less in any calendar year; or

(11) 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.

.02 Definitions.

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

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) "Acute illness center" means a child care center which is exclusively for the temporary care of children who are ill and cannot attend their usual child care or school.

(4) "Adolescent center" means a child care center that offers programs exclusively to children in middle school and junior high school.

(5) "Agency" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.

(6) "Agency representative" means an individual designated by the Agency to determine compliance with this subtitle.

(7) "Applicant" means a person who has submitted to the office all of the required forms and documentation to request approval for licensure either for an initial license or for a continuing license.

(8) "Approved continued training" means training, including but not limited to workshops, seminars, and conferences, that is:

(a) Approved by the office; and

(b) Used by child care center staff members to maintain the employment qualifications required by COMAR 13A.16.06.

(9) “Approved Montessori school” means an educational program in a nonpublic nursery school that has been validated by a Montessori validating organization as meeting, at a minimum, Montessori school standards regarding teacher qualifications, written curriculum, instructional methods, and materials and equipment.

(10) "Approved preservice training" means training that is:

(a) Approved by the office; and

(b) Used to meet initial employment qualifications required by COMAR 13A.16.06 for child care center staff members.

(11) Assistant Child Care Teacher.

(a) "Assistant child care teacher" means a staff member who:

(i) Is responsible for helping a child care teacher in a school age child care program; and

(ii) Meets the requirements of COMAR 13A.16. 06.11.

(b) "Assistant child care teacher" includes a staff member known before December 17, 2008, as an assistant group leader.

(12) "Capacity" means the total number of children specified by the license of the center who may be in care at any one time.

(13) "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.

(14) 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) A before-school or after-school activity conducted or sponsored by a public or nonpublic school that is approved or exempt from approval by the Maryland State Department of Education;

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

(iii) School-age recreational or supplementary education programs operated by a local department of recreation and parks, law enforcement agency, or a public or 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.

(15) Child Care Center.

(a) "Child care center" means an agency, institution, or establishment that, on a regular schedule for at least 2 days per week and for at least 2 hours per day, or on a 24-hour basis, offers or provides child care to children who do not have the same parentage, except as otherwise provided for in law or regulation.

(b) "Child care center" includes:

(i) A nonpublic nursery school approved under Education Article, §2-206, Annotated Code of Maryland, in which an educational program is offered or provided for children who are 2 years old or older but younger than 5 years old;

(ii) A facility providing specialized training in a specific discipline or subject that also offers a child-related service such as, but not limited to, transportation, free play, meals or snacks, tutoring, or homework sessions; and

(iii) Child care operated by a State or local government agency.

(c) "Child care center" may offer more than one type of program or care.

(16) Child Care Teacher.

(a) "Child care teacher" means a staff member who:

(i) Is responsible for supervising a child care activity or a group of children in care; and

(ii) Meets the requirements of COMAR 13A.16.06.09 or .10, as applicable.

(b) "Child care teacher" includes a staff member known before December 17, 2007, as:

(i) Senior staff, if working with infants, toddlers, or preschoolers; or

(ii) Group leader, if working with school age children.

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

(18) "Continuing license" means a child care center license that does not expire.

(19) "Core of knowledge training" means training in any of the following topics that has been approved by the Office as meeting Maryland Child Care Credential Program requirements:

(a) Child development;

(b) Curriculum;

(c) Health, safety, and nutrition;

(d) Special needs;

(e) Professionalism; and

(f) Community.

(20) Custodial Supervision.

(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.

(21) "Department" means the Maryland State Department of Education.

(22) "Drop-in center" means a child care center which only provides care to children on an intermittent and occasional basis for less than 4 hours a day.

(23) "Educational program" means a program of instruction as defined by the State Board of Education.

(24) "Elective training" means training taken from an approved source such as a national conference or seminar that is not necessarily core of knowledge training.

(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) 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.16.06.14C.

(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;

(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(29) 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, Annotated Code of Maryland.

(27) "Group" means a unit of children together with the staff assigned to them.

(28) "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 center is or will be located.

(29) "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.

(30) Independent Contractor.

(a) "Independent contractor" means an individual or entity:

(i) That is hired by the center operator or by another party, on the basis of a service contract or agreement, to perform a specialized service at the center, 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 center, 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.16.06.14C;

(ii) Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, academic, 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.

(31) "Infant" means a child 6 weeks old or older but younger than 18 months old.

(32) "Infant-toddler center" means a child care center which offers programs only for children younger than 2 years old.

(33) "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 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.

(34) "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 which holds a letter of exemption from approval by the State Board of Education under Education Article, §2-206, Annotated Code of Maryland.

(35) "License" means the document issued to a licensee by the Department, which gives permission to operate a child care center in accordance with this subtitle.

(36) "Licensee" means an individual or a partnership, group, association, cooperative, or corporation which has the legal authority and responsibility for governing and operating a center and for compliance with this subtitle.

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

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

(39) “Montessori validating organization” means an entity that is constituted to determine if an educational program meets Montessori school standards and is recognized by the Department as qualified for that purpose.

(40) 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.

(41) "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 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.

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

(43) "Operated by a tax-exempt religious organization" means that the operator 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) "Operator" means a licensee or an agent of a licensee.

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

(46) 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.

(47) "Preschool center" means a child care center which offers programs for children younger than 5 years old.

(48) "Preschooler" means a child who:

(a) Is 2 years old or older; and

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

(49) "Professional development plan" means the written instrument for tracking continued training that is:

(a) Distributed by the office; and

(b) To be completed annually by each staff member in a child care center.

(50) "Sanction" means an enforcement action under this subtitle.

(51) "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.

(52) "School age center" means a child care center which offers programs to children who attend a public or nonpublic school in kindergarten or grades 1—12.

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

(54) School Building.

(a) "School building" means a facility that houses:

(i) A nursery school;

(ii) An instructional program for kindergarten, a higher grade or grades, or any combination of grades; or

(iii) A combination of the entities specified in §B(54)(a)(i) and (ii) of this regulation.

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

(i) A program for preschoolers; or

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

(55) "Small center" means a child care center which is:

(a) Located in a private residence; and

(b) Licensed for 12 or fewer children.

(56) "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.16.08.03.

(57) "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.16.06.03A; 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.16.06.03A, has been assessed by the office as suitable for employment pursuant to COMAR 13A.16.06.03B; 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 center, the individual has been assessed by the office as being suitable for employment, pursuant to COMAR 13A.16.06.03B; or

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

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

(59) "Toddler" means a child 18 months old or older but younger than 2 years old.

(60) "Volunteer" means an individual who:

(a) Is 13 years old or older;

(b) Works in or for a child care center but is not a compensated employee of the center;

(c) Is not counted by the child care center toward maintenance of the staff/child ratios required by this chapter; and

(d) Is not enrolled as a child in care at the child care center.

COMAR 13A.16.02 License Application and Maintenance

.01 License—General Requirements.

A. Requirement to be Licensed. A person, organization, agency, corporation, or other entity which operates a child care center, as defined in this chapter, is required to be licensed or to hold a letter of compliance in accordance with this subtitle or with COMAR 13A.17, as applicable.

B. Nursery School or Child Care Center Operated by a Tax-Exempt Religious Organization.

(1) Except as provided by §B(2) or (3), as applicable, of this regulation, a tax-exempt religious organization that wishes to operate a nursery school or a child care center shall apply to become licensed, and shall meet all applicable requirements, under this subtitle.

(2) If the tax-exempt religious organization plans to operate a nursery school or a child care center in a school building that exclusively serves children who are enrolled in that school, the organization may apply for a:

(a) Child care center license under this subtitle; or

(b) Letter of compliance under COMAR 13A.17.

(3) In a nursery school or child care center located in a school building exclusively for children enrolled in that school and operated by a tax-exempt religious organization, the following regulations of this subtitle do not apply:

(a) COMAR 13A.16.03.05C(1) and (2) concerning staff records;

(b) COMAR 13A.16.06.05—.12 concerning professional qualifications and training requirements for child care staff and the director, principal, or administrator of the program; and

(c) COMAR 13A.16.09.01, .03B(1) and (2), and .03C concerning the program.

C. Approved Montessori School.

(1) Except as set forth at §C(2) of this regulation, an approved Montessori school shall meet all applicable requirements of this subtitle regarding:

(a) Child health and safety;

(b) The provision of child care; and

(c) An educational program in a nonpublic nursery school.

(2) The following regulations under this subtitle do not apply to an approved Montessori school:

(a) COMAR 13A.16.02.03(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) concerning the preservice training requirement for directors;

(c) COMAR 13A.16.06.09.A(1)(b) concerning qualification requirements for a child care teacher in a preschool center;

(d) COMAR 13A.16.06.09.B(1)(a) concerning the core of knowledge completion requirement for continued training;

(e) COMAR 13A.16.06.10.B(1)(a) concerning the requirement for preservice training; and

(f) COMAR 13A.16.09.01A(4) concerning the requirements for a balanced schedule of daily activities.

D. A license is nontransferable and remains the property of the office.

E. The operator shall post the license at a location in the center where it can easily be seen and read whenever parents or others visit the center.

F. The operator shall surrender the license to the office immediately if any of the following occurs or becomes effective:

(1) The operator closes the center permanently;

(2) The license is revoked;

(3) The license is suspended; or

(4) The license expires, and the:
(a) Application for a continuing license is denied; or
(b) Operator has not applied for a continuing license.

G. A center approved by the office before July 1, 2008, for the concurrent operation of more than one type of child care program may continue to be used to operate those programs, except that, while concurrent approvals are in effect, the office may not approve a request by the operator for:
(1) An increase in child capacity;
(2) A change in the hours of operation;
(3) A change in the ages of children served;
(4) A change in the approved child care area; or
(5) A variance to a regulation under this subtitle.

H. Effective January 1, 2012, the office may not:
(1) Accept an application for an initial license as a small center; or
(2) Issue a license to operate a small center, except that a license may be issued to:
(a) An applicant for a license from whom the office received the license application before January 1, 2012; or
(b) An operator already licensed to operate a small center before January 1, 2012.

.02 Initial License.

A. An individual or organization not currently licensed and wanting to operate a child care center shall:
(1) Complete an orientation to child care center licensing regulations that is offered or approved by the office;
(2) File a notice of intent with the office before applying for permits in connection with construction or operation of a center;
(3) Submit to the office at least 60 days before the proposed opening date a completed and signed application form, supplied by the office, that contains a statement of truthfulness and commitment to comply with this subtitle; and
(4) Ensure that an application for a federal and State criminal background check is submitted 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 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) The director;
(b) Each employee;
(c) Each individual 18 years old or older living on the same premises as the child care center;
(d) The applicant, if the applicant is an individual who will have frequent contact with children who are cared 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;
(2) Evidence of compliance with all applicable zoning and building codes;
(3) Site plans;
(4) Floor plans with architectural details;
(5) A written plan of operation;
(6) Workers' Compensation insurance information;
(7) Fire evacuation plan;
(8) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;
(9) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;
(10) Menu for 4 weeks;
(11) A written child discipline policy; and
(12) 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.

.03 Continuing License.

A. Obtaining a Continuing License. An operator shall submit to the office, before expiration of the initial license:
(1) A request for a continuing license, 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(1) of this chapter; and

(3) Any other documentation required by law or regulation.

B. The office may not approve a continuing license until:

(1) All items specified in §A of this regulation have been received and approved by the office; and

(2) The center has passed a fire safety inspection conducted by the local fire authority having jurisdiction.

C. Maintaining a Continuing License.

(1) The operator shall comply with all applicable requirements under this chapter.

(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.

(3) By the end of each 24-month period after the date of issuance of a continuing license, 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 at Regulation .02B(1) of this chapter; and

(b) Any other documentation required by law or regulation.

(4) The child care center shall maintain documentation of having passed the most recent fire inspection required by the local fire authority having jurisdiction.

.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 license additional time to meet all applicable requirements, the Office may approve an initial or a continuing license 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 license may not be approved if the Office has not yet received evidence that the applicant and each individual, as applicable, specified at Regulation .02A(4) and B(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) At the end of the provisional period, if all requirements for the initial or continuing license 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 license; 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 license at the end of the provisional period, the applicant or operator does not have a valid license and shall cease operating.

B. Conditional Status.

(1) If an operator who holds a continuing license fails to remedy a violation as required, the Office may place the license 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 license on conditional status, the Office shall issue to the operator a revised license that states the:

(a) Placement of the license on conditional status;

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

(c) Requirements for lifting the conditional status.

(3) Immediately upon receipt of the revised license, the operator shall:

(a) Remove from display in the center the continuing license that was originally issued; and

(b) Display the revised license as required by Regulation .01D of this chapter.

(4) 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) Notify the operator to redisplay the original continuing license.

(5) If the operator fails to satisfy all requirements for lifting the conditional status within the specified period of time, the Office may suspend or revoke the continuing license.

.05 Response of the Office to Application.

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

(1) Evaluating the application and required documentation; and

(2) Inspecting the:
(a) Facility proposed for use as a child care center, if the application is for an initial license; or
(b) Child care center, if the application is for a continuing license.

B. Except as specified at §C of this regulation, the office shall, within 30 days after completing the procedures in §A of this regulation:
(1) For an initial license application:
(a) Issue an initial license;
(b) Issue an initial license with provisional status; or
(c) Deny an initial license; or
(2) For a continuing license application, issue or deny a continuing license.

C. The office may not issue an initial license until child care staff, sufficient in number to meet the staff/child ratio and group size requirements of COMAR 13A.16.08.03 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.

.06 Denial of License.

A. An office may deny an application for an initial license or a continuing license if:
(1) The applicant or the building in which child care is provided fails to meet the requirements of this chapter;
(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 which 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 licensing;
(6) An evaluation of criminal records or records of abuse or neglect of children and adults indicates, for those identified in Regulation .02A(4) and .02B(1) 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 controlled dangerous substances, mental instability, or other condition; or
(b) Other pertinent information received by the office which 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 license 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 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 13A.16.03 Management and Administration

.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 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.

.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, unless the child is temporarily admitted or retained in care on a temporary basis pursuant to §F of this regulation.

B. At or before the child's admission to care, the operator shall obtain written information from the parent about the child's individual needs.

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

(1) Give the parent, or advise the parent how to obtain information that is supplied by the office concerning:

(a) Consumer education on child care;

(b) How to file a complaint against the child care center; and

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

D. Upon admission of an infant or toddler, an operator shall determine with the parent:

(1) A schedule for feeding the child that includes:

(a) The amounts and kinds of food consumed daily;

(b) The sequence for introducing solid food when appropriate; and

(c) Any recommendations about feeding from the infant's physician;

(2) A written individual activity plan for the child; and

(3) If the child is a toddler or an infant who is 12 months old or older, the need for the child to use a crib for rest purposes.

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 in accordance with applicable State or local requirements.

F. Temporary Admission to Care.

(1) An operator may temporarily admit or retain a child in care if:

(a) The child is homeless; or

(b) The child's parent is unable to provide the health-related records specified in Regulation .04D, E, G, or H of this chapter.

(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;

(b) Receive a required immunization;

(c) Acquire evidence of age-appropriate immunizations on a form approved by the office; or

(d) Reconstruct a lost health record.

(3) The date of the appointment required by §F(2) of this regulation may not be later than 20 calendar days after the date the child was temporarily admitted or retained.

(4) An operator shall exclude from care a child who has been temporarily admitted or retained in care if the parent fails to provide evidence of the required health-related information within 3 business days after the date of the appointment made pursuant to §F(2) of this regulation.

.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 which enrolled; and

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

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

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

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.16.07.03C;

(3) Records of food actually served by the center for the most recent 4 weeks as required by COMAR 13A.16.12.01G;

(4) A written record of the dates and times at which emergency and disaster plan drills were conducted pursuant to COMAR 13A.16.10.01A(3)(c); and

(5) A current copy of this subtitle at the center so that it is displayed and freely available for reference by parents and center staff;

C. Display a copy of the consumer education pamphlet on child care supplied by the office so that it is freely available for reference to parents; and

D. Negotiate and maintain a written agreement with the child's parent that specifies:

(1) The fees for and provision of care;

(2) The center's child discipline policy;

(3) The presence at the center of any pet animals;

(4) If applicable, the use of volunteers in the child care center; and
(5) If overnight care is to be provided to the child, the sleeping arrangements approved by the parent.

.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 center 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 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;

(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, unless the child is a school-age child who attends a school-age program located in the child's school.

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening 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) 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.

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.16.11.01;

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

(3) Child medication records required by COMAR 13A.16.11.04A(1) and D;

(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.16.12.02;

(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) If applicable, documentation that the parent of a toddler or an infant who is 12 months old or older has requested a crib for the child's rest periods.

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.

K. An operator shall maintain daily records of the amounts and kinds of liquids and solid food consumed by each infant and toddler. These records shall be:

(1) Dated and kept on file for at least 4 weeks;

(2) Available in the infant or toddler feeding area; and

(3) Made available to the child's parent.

.05 Staff Records.

The operator shall:

A. Maintain and, upon request by the office, submit a current and complete list of personnel, on a form supplied or approved by the office, that includes each individual, whether paid or unpaid, who works at the center on a routine basis;

B. For review by the office and by parents who have enrolled their children or are considering enrolling their children, post in a conspicuous location a current and complete staffing pattern, on a form supplied or approved by the office, that specifies:

(1) The number and ages of children enrolled;

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

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

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, if required under this chapter;

(b) Experience, if required under this chapter; and

(c) Function or position;

(2) Verification that the staff member's age complies with the minimum required for the position held;

(3) An employment medical evaluation;

(4) Criminal background check results, except that the operator shall destroy the record of those results immediately after the last day of the individual’s employment; and

(5) The date on which the staff member received the written information required by COMAR 13A.16.06.02;

D. Maintain documentation required for:

(1) Substitutes, pursuant to COMAR 13A.16.06.13; and

(2) The adult available for emergencies, pursuant to COMAR 13A.16.08.02D(3); and

E. 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.

.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) The individual’s full name, date of birth, and date of hire;

(b) Information about the individual's work assignment; and

(c) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about the individual; and

(2) Ending of employment, for whatever reason, of an individual that includes the:

(a) Individual’s full name; and

(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. 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 center;

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

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

(a) Treated by a medical professional; or

(b) Admitted to a hospital;

D. 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 any other injury and each accident which may result in injury;
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
(2) A change at the center which may affect the status of the license, including but not limited to:
(a) Individuals living on the premises;
(b) Operation of the center; or
(c) Telephone number;
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) Direct the resident to apply for a federal and State criminal background check; and
G. Within 10 business days of receiving notice from the center's supplier of water that the drinking water is contaminated, send a written notice of the contamination to the parent of each child enrolled that:
(1) Identifies the contaminants and their levels; and
(2) Describes the plan for dealing with the water contamination problem until the water is determined by the appropriate authority to be safe for consumption.

.07 Change of Operation.

A. Except when converting the child care center to a summer youth camp, if an operator wishes to make any changes from the current license, such as use of 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 receive 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 license 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 center's certification as a summer youth camp under Health-General Article, Title 14, Subtitle 4, Annotated Code of Maryland;
(3) Remove the child care center license 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:
(a) A child care center is not being operated during summer months; and
(b) State regulations for camps differ from those for child care centers.

.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 license 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.16.05.08C does not apply to any subsequent additions or enlargements to the center.

COMAR 13A.16.04 Operational Requirements

.01 Capacity.

A. An office shall determine the capacity of the center according to criteria established in:
(1) This subtitle affecting floor space, outdoor activity 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.

.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 may not admit an infant who is younger than 6 weeks old.

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 13A.16.05 Physical Plant and Equipment

.01 Building Safety.

A. An operator shall provide a building for a center that is:

(1) Maintained in good repair;

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

(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 center 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 center for school age children which 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 center if the regulation exceeds requirements imposed by the county or the local board of education with respect to the school building.

.02 Accessibility.

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

.03 Indoor Space.

A. A minimum of 35 square feet of floor space shall be provided for each child in care, except that:

(1) A minimum of 30 square feet of floor space shall be provided for each child in a:

(a) Child care center licensed before December 1, 1971; or

(b) Nursery school holding 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; and

(2) A child care program currently approved by the office to operate with less square footage per child than required by §A of this regulation may continue to operate with that reduced square footage as long as the:

(a) Operator demonstrates to the satisfaction of the office the impossibility of complying with the minimum square footage required by §A of this regulation while maintaining the economic viability of the program; and

(b) Office determines that the reduced square footage does not threaten the health, safety, or welfare of any child in care.

B. 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;

(b) Moveable equipment used for infant care, such as high chairs and swings;

(c) Moveable play equipment;

(d) An adult-size rocking chair or other adult-size comfortable chair;

(e) An adult-size couch; and

(f) Open shelves for children's daily activities.

C. In centers that care for infants or toddlers:

(1) Diapering stations shall be included in calculating the square footage of floor space provided for each child; and

(2) The operator shall designate space for mothers to breastfeed or express breast milk that:

(a) Is not located in a bathroom;

(b) Has access to an electrical outlet;

(c) Has appropriate seating; and

(d) Has access to running water.

D. In a center located in a residence, the space for children may include space within the family living area.

.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.

.05 Lead-Safe Environment.

A. A center 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 center is a residential rental property constructed before 1950, 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. If the facility was constructed before 1978 and is 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

(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 under §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 under 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, 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.

.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.

.07 Water Supply.

A. The center 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.

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.

.08 Sanitary Facilities and Supplies.

A. For each group of infants or toddlers in a room, there shall be an approved diapering area with a sink that:

(1) Is used only for diapering and toileting purposes; and

(2) Permits continuous observation of, and immediate response to, each child in the group.

B. For every 15 children who are 2 years old or older, 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.

C. 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 §B of this regulation if the office determines that:

(1) The requirements can be met only with substantial physical modifications to the center; and

(2) Sanitary facilities are accessible to every child in the center.

D. 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.

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

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

G. 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.

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

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

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

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

.09 Lighting.

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

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 persons entering and leaving the center when it is dark outside.

.10 Telephone and Communication.

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

B. In a center 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. In each room where care is provided to infants or toddlers, there shall be an operable telephone.

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

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

(2) Transmit and receive other emergency communications.

.11 General Cleanliness and Disposal of Refuse.

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

B. In a center for fewer than 12 children located in a residence, the requirements of §A of this regulation apply only to space approved for child care.

C. 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.

D. Disposal of Refuse.

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

(2) In each area used for changing diapers, there shall be a separate trash container reserved for diaper discards that:

(a) Has a disposable liner and tightly fitting lid;

(b) Makes the contents of the container inaccessible to children in care.

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

(4) 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.

.12 Outdoor Activity Area.

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

B. A center for which a notice of intent, filed pursuant to COMAR 13A.16.02.02A(2), 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 center; or

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

C. Usable play 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.

.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 13A.16.06 Staff Requirements

.01 Minimum Staff Age.

A staff member in a child care center may not be younger than 16 years old.

.02 Staff Orientation.

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. The location of the telephone and emergency telephone numbers;

B. The location of each child's emergency form;

C. Emergency evacuation procedures;

D. Identity of the staff members who have first aid and CPR training;

E. Identity of the staff members and other adults who are required to be available to provide emergency coverage pursuant to COMAR 13A.16.08.02D(3);

F. Handwashing procedures;

G. The center's child discipline policy;

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;

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.

.03 Suitability for Employment.

A. A child care center 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:

(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 §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 center 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;

(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 center 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 center 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 chapter, determines that an individual may not be employed at a center, the office shall notify the individual and the center 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

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

E. Upon notification that an individual may not be employed, the center 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.

F. An operator may not allow an individual to serve, or to continue to serve, in a child care position for which the individual does not meet the employment qualification or training requirements set forth at Regulations .05—.12, as applicable, of this chapter, unless the individual is a substitute functioning in accordance with Regulation .13 of this chapter.

.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 center, from each prospective:

(a) Staff member; and

(b) Except for a health care professional serving as a consultant pursuant to Regulation .14C of this chapter, support staff who will be present at the center while children are in care.

(2) The medical evaluation may transfer directly from one center 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 center during the period of exclusion from child care recommended on the chart for that infection or disease.

.05 Directors of All Child Care Centers—General Requirements.

A. Except when engaged in occasional center-related activities or away on leave, a director shall be present in a center during at least 1/2 of the operating hours of the center each week to:

(1) Plan and supervise all aspects of the program for children;

(2) Supervise the staff; and
(3) Be available to staff, parents, and children.
B. To qualify as a director of a center, an individual shall:
(1) Be at least 21 years old;
(2) Hold a high school diploma or a certificate of high school equivalence, or have successfully completed at least two courses for credit from an accredited college or university;
(3) Have successfully completed:
(a) 9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit;
(b) 3 semester hours or their equivalent of approved administrative training, unless approved as a school-age center director in a center authorized to serve only school-age children; and
(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) Within 6 months after date of hire, complete a regulation training to the requirements of this subtitle that is conducted by the office, if hired on or after January 1, 2009.
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) Minimum of 6 clock hours of core of knowledge training; and
(b) Maximum of 6 clock hours of elective training; and
(2) Document completion of the continued training on the professional development plan.

.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 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 training in supporting breastfeeding practices.
B. In a preschool center with 20 or fewer children, a director shall have completed 1 year of experience:
(1) Working primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or
(2) Caring for preschoolers as a registered family child care provider.
C. In a preschool center with 21 to 40 children, a director shall have completed:
(1) Either:
(a) 30 semester hours of college coursework that has not less than 20 semester hours specifically in early childhood education; or
(b) 60 semester hours from an accredited institution of higher learning; and
(2) 2 years of experience:
(a) Working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or
(b) Caring for preschoolers as a registered family child care provider.
D. In a preschool center with more than 40 children, a director shall have:
(1) Attained:
(a) An associate's degree with a minimum of 15 semester hours of approved course work in early childhood education; or
(b) A bachelor's degree in any field; and
(2) Completed 2 years of experience:
(a) Working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or
(b) Caring for preschoolers as a registered family child care provider.
E. An individual is considered qualified as a director of any size preschool center when that individual:
(1) Has completed 1 year of experience:
(a) Working primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or
(b) Caring for preschoolers as a registered family child care provider; and
(2) Has received either:
(a) Approval by the Department as a teacher for early childhood education, including nursery school through third grade, and has 6 semester hours in early childhood education; or

(b) Certification by the Department or by any other state for early childhood education, including nursery school through third grade.

F. If, as of July 1, 2008, an individual was currently employed at a preschool center for 20 or fewer, 21 to 40, or more than 40 children and qualified as the director of that center, the individual continues to be qualified as the director if continuously employed at the same or another center with the same or greater capacity limitations.

.07 Directors of School Age Centers—Specific Requirements.

A. In a school age center with a capacity of 60 or fewer children, the director shall have completed at least:

(1) 400 hours of experience working under supervision primarily with school age children in a licensed child care center, public or private school, or a similar setting; or

(2) 1 year of experience caring for school age children as a registered family child care provider.

B. In a school age center with a capacity of 61 or more children, the director shall have completed at least:

(1) 800 hours of experience working under supervision primarily with school age children in a licensed child care center, public or private school, or similar setting; or

(2) 2 years of experience caring for school age children as a registered family child care provider.

C. An individual is considered qualified as a director of a school age center if the individual is certified for kindergarten, nursery school through third grade, or grades 1 through 8 by the Department or by the state board of any other state.

D. If, as of July 1, 2008, an individual was currently employed at a center serving only school age children and qualified as the director of that center, the individual continues to be qualified as the director if continuously employed at the same or at another school age center.

.08 Specific Requirements for Directors in Combined Preschool and School Age Centers.

A. A preschool center director may have responsibility for the entire center if the center enrolls both preschoolers and school age children.

B. A school age center director may have responsibility for the entire center if the center:

(1) Does not enroll any infants or toddlers; and

(2) Enrolls five or fewer children younger than kindergarten age.

C. If a school age center located in a public or nonpublic school enrolls more than five children younger than kindergarten age who are not enrolled in that school, the operator shall provide a director who meets the requirements, based on the total capacity of the center, for both a preschool center director and a school age center director.

.09 Child Care Teachers in Preschool Centers.

A. 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 pre-service 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.

B. 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) Minimum of 6 clock hours of core of knowledge training; and

(b) Maximum of 6 clock hours of elective training; and
(2) Document completion of the continued training on the professional development plan.
C. 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) 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 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) Be 19 years old or older;
(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) 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) 6 semester hours or 90 clock hours or their equivalent of approved preservice training;
(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;
(c) Effective January 1, 2016, 3 clock hours of training in ADA compliance; and
(d) One of the following:
(i) 400 hours of experience working under supervision primarily with school age children in a licensed child care center, public or private school, or similar setting, or 400 hours of experience caring for school age children as a registered family child care provider;
(ii) 1 year of college; or
(iii) A combination of experience and college that together are equivalent to 1 year;
(2) The individual holds a bachelor's degree in:
(a) Early childhood education, elementary education, special education, or child development; or
(b) Any academic subject and has 1,800 hours of experience working with school-age children in an approved setting.
(3) The individual qualified before July 1, 2008, as a child care teacher in a school age center and has been continuously employed since that time as a child care teacher at the same or another school age center; or
(4) The individual:
(a) Has been approved as a teacher by the State Department of Education under COMAR 13A.09.09 for kindergarten or grades 1 through 8; or
(b) Is certified by the Department or by the state board of any other state for kindergarten or grades 1 through 8.
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) Minimum of 6 clock hours of core of knowledge training; and
(b) Maximum of 6 clock hours of elective training; and
(2) Document completion of the continued training on the professional development plan.

.11 Assistant Child Care Teacher.

A. To qualify as an assistant child care teacher in a school age center, an individual shall:
(1) Be 18 years old or older;
(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;
(3) Have completed 9 clock hours of approved pre-service training in communicating with staff, parents, and the public, or have completed at least one academic college course for credit; and
(4) Have at least one of the following:
(a) 800 hours of recent paid or documented volunteer experience supervising groups of school-age children in educational, recreational, social, or guidance contexts;
(b) 600 hours of approved experience and 15 clock hours of approved college coursework; or
(c) 400 hours of approved experience and 3 semester hours or 45 clock hours, or their equivalent, of approved college coursework.
B. An individual may substitute completion of 1 full year of undergraduate education at an accredited college or university for up to 400 hours of approved experience.
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) Minimum of 3 clock hours of core of knowledge training; and

(b) Maximum of 3 clock hours of elective training; and

(2) Document completion of the continued training on the professional development plan.

D. An assistant child care teacher may lead the activities of a group of school-age children if:

(1) The director, a child care teacher, or an approved director or child care teacher substitute is available to render immediate assistance to the assistant child care teacher; and

(2) The staff/child ratio required by this chapter is maintained at all times.

E. An individual who qualified before July 1, 2008, as an assistant child care teacher in a school age center and has been continuously employed since that time as an assistant child care teacher at the same or another school age center meets the requirements of this regulation.

.12 Aides.

A. An aide shall:

(1) Be 16 years old or older;

(2) Work under the direct supervision of the staff person in charge of the group of children to whom the aide is assigned;

(3) 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) Minimum of 3 clock hours of core of knowledge training; and

(b) Maximum of 3 clock hours of elective training; and

(4) Document completion of the continued training on the professional development plan.

B. Unless an individual, hired on or after January 1, 2009, to work as an aide, has completed 90 clock hours of the equivalent in early childhood education preservice training, the individual shall complete, within 6 months after the date of hire, an orientation session that follows guidelines established by the office and includes, but is not limited to:

(1) Proper child supervision;

(2) Workplace professionalism; and

(3) Interacting with parents.

.13 Substitutes.

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

B. When a staff member is absent, the operator shall provide a substitute as needed to maintain the staff/child ratios required by COMAR 13A.16.08.03.

C. If a substitute is needed for longer than a continuous 2-week period, the operator shall provide a substitute who meets the qualifications required in this chapter for the absent staff member, or demonstrate that reasonable efforts have been made, with no success, to obtain a qualified substitute.

D. If a staff member is absent for more than a continuous 2-week period due to family or medical leave, the operator may receive permission from the office to employ a substitute for that absent staff member who does not meet the education, training, and experience qualifications for the absent staff member's position.

E. In a center where staff/child ratio and group size requirements set forth in COMAR 13A.16.0803 require the presence of only one staff member, the substitute shall be qualified as a director or a teacher.

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

.15 Volunteers.

A. A child care center 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 center.

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

COMAR 13A.16.07 Child Protection

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

An operator, employee, substitute, volunteer, individual residing on the premises of the center, or other individual connected with the center may not subject a child to abuse, neglect, mental injury, or injurious treatment.

.02 Abuse/Neglect Reporting.

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

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

(2) Neglected, in the center or outside of the center, shall report that belief directly to the protective services unit of the local department as required under Maryland law.

B. If 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 an employee 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. Child discipline shall be:

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

(2) Consistent with the requirements of this chapter.

B. The operator 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.

C. The operator shall:

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

(a) Discipline methods used at the center; 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) A parent who is 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 center.

.04 Parental Access.

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

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

B. Have access to the parent's child at any time during the center's hours of operation, without appointment.

.05 Authorized Release.

An operator shall ensure that a staff member release 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.

.06 Child Security.

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

B. Whenever an area of the center is being used for a child care activity and children are present, the operator may not permit the area to be used at the same time for any other purpose without prior approval of the office.

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 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 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.16.06.14C;
(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, academic, 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 center; or
(f) If the center 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 center that an independent contractor performing a service at the center 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 where children are present.
E. Activity Not Conducted by a Staff Member.
(1) An activity involving the participation of children that is not conducted or led by a staff member is not permitted unless:
(a) An appropriately qualified staff member is present throughout the activity to supervise the children; or
(b) The center is located on the premises of a school and the activity is conducted under school auspices by an individual who for compensation is employed to work at the school.
(2) A child may not participate in the activity unless the center has received prior written permission from the child's parent or guardian for the child's participation.

COMAR 13A.16.08 Child Supervision

.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; and
(b) Allowing an adult who provides specialized services to a child with special needs access to provide those service on the facility premises as specified in the child's individualized education plan, individualized family service play, or written behavioral plan; and
(2) Adequate supervision and care at all times which is:
(a) Provided only by individuals who are designated by the operator to provide supervision and care; and
(b) Appropriate to the individual age, needs, and capabilities of the child;
B. Each staff member providing care to a child is:
(1) Oriented to the child's individual care needs; and
(2) Prepared to provide the appropriate individual care;
C. Written information about the child's individual needs that was supplied by the parent by the time of the child's admission to care is used by the operator to meet the child's individual care needs;
D. A child is under close and continuous supervision whenever using potentially dangerous activity materials or equipment such as scissors, sharp tools, or knives; and
E. A child is allowed to travel to or from school or a school transportation site without adult supervision only if:
(1) The child is in the first or a higher grade; and
(2) The child's parent and the operator agree in writing that the child can travel safely without adult supervision.

.02 Supervision by Qualified Staff.

A. At all times while in care, each child shall be assigned to a group of children that is supervised by an individual who:
(1) Meets the requirements of COMAR 13A.16.06.09 or .10, depending on the age composition of the group; or
(2) Has received a variance, issued by the Office, from the requirements of COMAR 13A.16.06.09 or .10 in order to serve as a teacher for the purpose of providing instruction to the group in a specific discipline such as, but not limited to, karate, dance, or music.
B. The operator shall assign qualified 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. An infant or toddler may be handled or fed only by an individual designated to do so by the center operator.
D. Staff Availability.

(1) An operator shall designate a child care teacher to be present and in charge of the center in case of the director's temporary absence from the center.

(2) If a preschool child care teacher or a school age child care teacher, as applicable, is not available for assignment to a group of children, the center director may supervise the group until a child care teacher becomes available for assignment.

(3) If the only children in attendance at the center are:

(a) Younger than 2 years old and only one staff member is needed to meet staff/child ratio requirements, the operator shall ensure that an additional staff member or another adult, who has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records, is available in the center; or

(b) 2 years old or older and only one staff member is needed to meet staff/child ratio requirements, the operator shall have a written, signed, and dated agreement from an adult who has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records and is willing and able to be at the center within 15 minutes of notification.

.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 of this regulation.

B. Age of a Child. For purposes of determining group size and staff required under this chapter, the age of a child is determined solely according to the date of the child's most recent birthday.

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

D. Mixed-Age Groups.

(1) A mixed age group with infants or toddlers, the following minimum staffing levels apply:

Group Composition	Maximum Group Size	Minimum Staffing Level
Group includes 1 or 2 infants	9	2 staff members
Group includes 3 or more infants	6	2 staff members
Group includes 1 or 2 toddlers	12	2 staff members
Group includes 3 toddlers	9	2 staff members
Group includes 4 or more toddlers	9	3 staff members
Group includes no infants, 1 or 2 toddlers, and 6 or more 2 year olds	12	3 staff members

(2) In a mixed-age group with preschool children:

(a) The group size may not exceed 20 children;

(b) If the group contains preschool children 3 years old or older, the staff-to-child ratio is 1 to 10;

(c) If the group size is 13 to 20 children, the group may not contain more than six 2-year-olds; and

(d) If the group contains children who are 2 years old and the group size varies, the following minimum staffing levels apply:

Group Composition	Group Size	Minimum Staffing Level
Group includes one to three 2 year old children	7 to 10	1 staff member
Group includes four or more 2 year old children	7 to 10	2 staff members
Group includes one to three 2 year old children	13 to 20	2 staff members
Group includes four to six 2 year old children	13 to 20	3 staff members

(3) School-Age Groups. In a group where 3-year-old and 4-year-old children, enrolled in a public or nonpublic school, are mixed with school-age children, the following minimum staffing levels and maximum group size requirements apply:

Group Composition	Maximum Group Size	Minimum Staffing Level
Group includes up to five children 3 or 4 years old	30	1 school-age teacher and 1 assistant or aide
Group includes 6 to 9 children 3 or 4	30	1 school-age teacher and 2

years old		assistants or 1 school-age teacher, 1 assistant and 1 aide
Group includes 6 to 9 children 3 or 4 years old	25	1 school-age teacher and 1 assistant or aide
Group includes 10 or more children 3 or 4 years old	20	1 preschool teacher and 1 assistant or aide

E. Group Size and Staffing in Approved Educational Programs.

(1) During a school day approved by the Department, a teacher shall be assigned to each class and the following requirements apply:

Child Age Group	Staff/Child Ratio	Maximum Group Size
2 years old	1 to 6	12
3 or 4 years old	1 to 12	24
5 years old or older	1 to 15	30

(2) A nursery school may not exceed a staff/child ratio or group size requirement set forth at §G(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) When children who are 2 years old, 3 years old, 4 years old, and 5 years old are grouped together, the average age of all the children in the group as of September 1 of that school year is used to determine the group's maximum size and staff/child ratio.

.04 Variations in Group Size.

A. Group sizes for all ages may vary during outdoor play and special activities such as field trips and assemblies, only if the operator maintains the staff/child ratios required by this chapter.

B. Groups containing only school age children may be of any size, pursuant to a plan approved by the office, if the staff/child ratios required by this chapter are maintained.

.05 Supervision During Water Activities.

A. An operator shall have prior written approval from a child's parent for the child's participation in a water activity.

B. If a wading or swimming area is 4 feet or less in depth, each child engaged in a water activity shall receive continuous supervision by a staff member.

C. If the water exceeds 4 feet in depth, there shall be a lifeguard present who:

(1) Holds a current certificate of approval for lifeguarding from the American Red Cross, YMCA, or other organization acceptable to the office or the local health department;

(2) Is present at waterside during the swimming activity; and

(3) Is not included in the required staff/child ratio.

D. Except during a swimming lesson conducted by a certified water safety organization, such as the American Red Cross, that is acceptable to the office or the local health department, whenever water is over the chest of a child who cannot swim, the child shall receive one-to-one supervision by a staff member who is in the water with the child.

.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 other than the driver present in the vehicle if:

(1) More than eight preschoolers are being transported as a group; or

(2) At least one child is being transported and the driver of the vehicle is not:

(a) A center employee; or

(b) The parent of a child in care who is authorized by the operator to assist in transporting children in care; or

B. An off-site activity by an independent contractor or a local school district and at least one child in care is being transported, the center operator shall ensure that there is at least one adult other than the driver present in the vehicle.

.07 Playground Supervision.

When a group of children is engaged in a playground or outdoor activity, staff members assigned to the group shall:

A. Station themselves among the children so that immediate intervention can occur if necessary; and

B. If a child expresses or shows signs of discomfort due to over-activity, temperature or weather conditions, or other physical or environmental factors, take immediate and appropriate steps to alleviate the discomfort.

.08 Rest Time Supervision.

A. During a rest period for a group of children who are younger than 2 years old:

(1) The required staff/child ratio applicable to that group shall be maintained; and

(2) Each staff member assigned to the group shall remain with the children.

B. During a rest period for a group of children who are 2 years old or older:

(1) The required staff/child ratio applicable to that group shall be maintained until all the children are resting quietly; and

(2) Once all the children in the group are resting quietly:

(a) At least one child care teacher or aide assigned to the group shall continue to remain in the room with the children; and

(b) Other staff members, if any, assigned to the group may leave the room but shall remain on the premises and within hearing range.

COMAR 13A.16.09 Program Requirements

.01 Schedule of Daily Activities for All Children.

A. The operator shall prepare, post, and follow a written schedule of daily activities and offer activities that:

(1) Promote the sound emotional, social, intellectual, and physical growth of each child;

(2) Are appropriate to the age, needs, and capabilities of the individual child;

(3) Include opportunities for individual and group participation;

(4) Include a balance between self-selected and staff-directed activities;

(5) Include a balance between active and quiet periods;

(6) Include periods of rest appropriate to the age, needs, and activities of the child; and

(7) Include outdoor play in the morning and afternoon except that outdoor play need not be included:

(a) When the weather is inclement; or

(b) In a before-school program.

B. A before-school and after-school program schedule of activities shall take into consideration that the child has attended an instructional program during regular school hours.

C. Screen Time Activities.

(1) Definitions. In this section, the following terms have the meanings indicated:

(a) "Interactive technology" means educational and age-appropriate technology, including programs, applications (apps), noncommercial television programming, videos, streaming media, and ebooks that is designed to:

(i) Facilitate active and creative use of technology; and

(ii) Encourage social engagement with other children and adults.

(b) "Passive technology" means noninteractive television, videos, and streaming media.

(2) Limited use of appropriate interactive technology may support, but may not replace, creative play, physical activity, hands-on exploration, outdoor experiences, social interactions, and other developmentally appropriate learning activities for children 2 years old or older.

(3) Viewing Restrictions. Except as set forth in §C(4) of this regulation, a child in attendance who is:

(a) Younger than 2 years old may not be permitted to view any passive technology; and

(b) 2 years old or older may not be permitted to view more than 30 minutes of age-appropriate, educational passive technology per week.

(4) Exceptions.

(a) An occasional exception to the weekly passive technology viewing limit set forth in §C(3) of this regulation may be made for a special event or project, including a holiday or birthday celebration, or for educational content that is related to the child care home's curriculum.

(b) If an exception to the weekly passive technology viewing limit is made, a written record of the exception shall be made and retained on file that documents the:

(i) Nature and duration of the programming viewed; and

(ii) Reason for the exception.

(5) No child may be permitted to view any:

(a) Passive or interactive technology during a meal or a snack; or

(b) Media with brand placement or advertising for unhealthy or sugary food or beverages.

(6) The provider shall give the parent of each enrolled child a written screen time policy that addresses the use of passive and interactive technology during child care hours.

.02 Activity Plans for Infants and Toddlers.

A. An operator shall assign one staff member primary responsibility for each infant or toddler in care during each staff shift.

B. Upon enrollment of an infant or toddler, the operator shall arrange for the director or senior staff, in consultation with the parent of the child, to prepare a written individualized activity plan for the child that:

(1) Addresses the child's normal pattern of activities, sleeping, and eating;

(2) Is consistent with the child's needs and capabilities;

(3) Identifies the staff member who is assigned primary responsibility for the care of the child during each staff shift;

(4) Ensures that the child is:

(a) Held, played with, and talked to;

(b) Except when sleeping, given opportunities to sit, crawl, toddle, or walk outside the infant's crib or playpen;

(c) Except in inclement weather, taken outdoors daily; and

(d) Diapered as needed and in accordance with the approved diapering procedure.

C. For an infant or toddler, the written activity plan required at the time of the child's admission to care shall be:

(1) Posted for reference in the space used by the child's group;

(2) Implemented by each staff member having responsibility for care of the child;

(3) Modified in consultation with the child's parent as necessitated by the child's developmental needs; and

(4) Reevaluated at least every 3 months.

.03 Activity Materials, Equipment, and Furnishings.

A. For indoor and outdoor activities, an operator shall provide to each group of children in care a sufficient quantity and variety of activity materials, equipment, and furnishings according to the numbers, ages, and developmental needs of the children.

B. Activity materials and equipment shall be:

(1) Provided for:

(a) Vigorous play;

(b) Creative and dramatic play;

(c) Socialization;

(d) Manipulation, including construction materials;

(e) Exploration of art, music, language arts, and science; and

(f) Individual pursuits;

(2) Appropriate to each child's individual development of cognitive, social, emotional, and fine and gross motor skills;

(3) Easily accessible to each child for whose use they are intended; and

(4) In good repair, clean, nontoxic, and free from hazards including lead paint.

C. In reviewing materials and equipment in before-school and after-school programs, the office shall take into consideration that the child has attended an instructional program during regular school hours.

D. Furnishings used by a child shall be scaled in proportion to the child's size.

E. The operator shall provide multipurpose tables and chairs for children who are 2 years old or older.

.04 Rest Furnishings.

A. There shall be:

(1) A suitable cot or mat for each child 12 months old to 5 years old present in the center for more than 4 hours, and for children 5 years old or older who regularly take rest periods in the center;

(2) A suitable bed for each child who is 12 months old or older and who is present in the center during those hours which are usual nighttime sleep hours for that child;

(3) An adequate supply of clean bedding provided for each child who takes rest periods at the center; and

(4) A crib with a snugly fitting mattress, moisture-proof mattress covering, and tight fitting sheet for each child in the center who is:

(a) Younger than 12 months old; or

(b) An infant 12 months old or older or a toddler, if the child's parent requests a crib.

B. When in use, all cots, mats, and beds shall be appropriately spaced to facilitate safe movement and evacuation of staff and children.

C. Each crib shall meet the standards of the U.S. Consumer Product Safety Commission.

D. Stackable cribs may not be used.

E. Each crib in use shall be placed so that:

(1) It presents at least one long side without a wall, plexiglass panel, or other solid barrier;

(2) Unless separated from an adjacent crib by a solid barrier, it does not rest against the other crib; and

(3) There is a space of at least 3 feet if placed side-to-side and 18 inches if placed end-to-end between two adjacent cribs that are not separated by a solid barrier.

F. Soft bedding items, including but not limited to pillows, quilts, comforters, and crib bumpers, may not be used as rest furnishings for a child using a crib.

.05 Infant-Toddler Equipment.

A. A sufficient number of strollers or carriages with appropriate restraints shall be available to accommodate all non-walking infants present in care.

B. The use of walkers is prohibited.

C. The center shall have furnishings that allow the safe and easy feeding of children younger than 2 years old, including but not limited to high chairs, toddler tables, and chairs for staff members to use while holding infants for feeding.

D. If high chairs are used, each high chair shall be equipped with age-appropriate restraints.

.06 Storage.

There shall be appropriate storage for:

A. Materials and equipment;

B. Mats, cots, beds, and bedding;

C. Portable equipment intended for outdoor use;

D. Each child's clothing and possessions in an individual space; and

E. Materials, equipment, furnishings, and supplies being held in reserve.

COMAR 13A.16.10 Safety

.01 Emergency Safety Requirements.

A. Emergency and Disaster Plan.

(1) At least one center employee shall:

(a) Complete emergency preparedness training that is approved by the office; and

(b) As part of the approved emergency preparedness training, prepare a written emergency and disaster plan for the center.

(2) The operator shall maintain the emergency and disaster plan prepared in accordance with § A(1)(b) of this regulation.

(3) The emergency and disaster plan shall:

(a) Establish procedures for:

(i) Evacuating the center, including an evacuation route;

(ii) Relocating staff and children to a designated safe site;

(iii) Sheltering in place in the event that evacuation is not feasible;

(iv) Notifying parents of children in care; and

(v) Addressing the individual needs of children, including children with special needs;

(b) Contain:

(i) The name of, and contact information for the local emergency operations center;

(ii) Assignment of staff responsibilities during an emergency or disaster;

(iii) A list of local emergency services numbers; and

(iv) The radio station call sign and frequency for the local Emergency Alert System;

(c) Be practiced by staff and children at least:

(i) Once per month for fire evacuation; and

(ii) Twice per year for other emergency and disaster situations; and

(d) Be updated at least annually.

(4) A copy of the emergency escape route floor plan shall be posted in each area and room in the center.

(5) Each employee shall be oriented to the contents of the written emergency and disaster plan required at §A(2) of this regulation.

(6) In the event of a declared emergency, the operator shall be prepared to respond as directed by the local emergency management agency through sources of public information.

(7) During an emergency evacuation or practice, a staff member shall take attendance records out of the center and determine the presence of each child currently in attendance.

B. If the child care center is included within a comprehensive emergency and disaster plan, the center operator shall ensure that:

(1) The comprehensive plan contents meet all emergency and disaster plan requirements set forth at §A(2)(a) and (b) of this regulation; and

(2) A copy of the comprehensive plan is available to all staff.

C. An operator shall post, immediately accessible to each telephone in the center, a notice stating the:

(1) 9-1-1 emergency telephone number to summon fire, police, and rescue services;

(2) Center's name, address, and telephone number;
(3) Telephone number of the protective services unit of the local department of social services;
(4) Telephone number of a poison control center;
(5) Name and telephone number of the local health department or a physician to consult about issues regarding health and illnesses;
(6) Name and telephone number of the available adult as required by COMAR 13A.16.08.02D(3); and
(7) Telephone number of the office.

.02 First Aid and CPR.

A. At all times, including during an off-site activity, at least one child care teacher or the director shall be present who holds a current certificate indicating successful completion of approved:
(1) Basic first aid training through the American Red Cross, or a program with equivalent standards, which is appropriate to all child age groups for which the center is approved; and
(2) Cardiopulmonary resuscitation (CPR) training through the American Heart Association, or a program with equivalent standards, which is appropriate to all child age groups for which the center is approved.
B. A center with an approved capacity of more than 20 children shall have in attendance, in a ratio of at least one staff member for every 20 children present, staff members who are currently certified in approved first aid and CPR as specified at §A of this regulation.
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.
D. Section §C of this regulation shall not apply if the driver of the vehicle is a parent of a child in care who is designated by the center operator to assist in transporting children in care.
E. An operator shall maintain first aid supplies as required by the office, conveniently accessible for each group of children at the center and at an off-site activity.

.03 Safe Use of Materials and Equipment.

The operator shall ensure that furnishings, activity materials, and equipment, whether intended for indoor use or outdoor use, are used:
A. In a safe and appropriate manner by each employee and each child in attendance; and
B. As applicable, in accordance with manufacturer instructions or recommendations.

.04 Potentially Hazardous Items.

A. An operator shall store all potentially harmful items, including but not limited to the items described in §§B—E of this regulation, in locations which are inaccessible to children in care.
B. Petroleum and flammable products shall be stored in an approved manner.
C. Cleaning and sanitizing agents and poisonous products shall be stored apart from food and beverages.
D. Containers of poisonous products may not be kept on the premises unless they are labeled clearly as to nature, content, and approved purposes.
E. A pesticide may be used only if it is:
(1) Approved by the U.S. Environmental Protection Agency;
(2) Used according to the manufacturer's instructions;
(3) Used only when children are not in care; and
(4) Stored apart from food, beverages, and cleaning agents.
F. Each electrical socket that is accessible to children in care shall be plugged or capped as required by the applicable fire code.
G. Except in a small center located in a residence, a firearm may not be kept on the premises.
H. In a small center located in a residence where a firearm is maintained, the firearm shall be kept:
(1) In a location not used by children in care; and
(2) Unloaded and partially disassembled in a locked container with ammunition stored in its own separate locked container.
I. Window Coverings. A window covering installed:
(1) Before October 1, 2010, shall not have unsecured cords, beads, ropes, or strings that are accessible to a child in care; or
(2) On or after October 1, 2010, shall be cordless.

.05 Rest Time Safety.

A. Unless specified otherwise in writing by the child's physician, a child who:
(1) Cannot roll over without assistance shall be placed for sleep on the child's back; or
(2) Is younger than 12 months old but can roll over unassisted shall be placed for sleep on the child's back, but may be allowed to adopt whatever position the child prefers for sleep.

B. Unless the need for a positioning device is specified in writing by a child's physician, a restricting device of any type may not be applied to a resting child.

.06 Transportation.

A. Unless being transported in a licensed school bus or contract motor coach, each child who is transported in a vehicle while in care shall be separately secured in a child car seat or seat belt which is appropriate for the child's age and weight, as specified by Maryland law.

B. A vehicle used to transport a child in care shall comply with all applicable State and federal safety requirements.

COMAR 13A.16.11 Health

.01 Exclusion for Acute Illness.

A. Child care staff shall:

(1) Monitor a child for signs and symptoms of acute illness;

(2) Notify a child's parent or other designated person upon observing a sign or symptom of acute illness; and

(3) Provide temporary isolation for the affected child in a suitably equipped separate area within sight and hearing of an adult.

B. Except in centers for children with acute illness, an operator may not admit a child to care or allow a child to remain in care when the child is exhibiting symptoms of acute illness.

C. A child may not be readmitted to care after an absence of 3 days or more due to illness without a written statement from the parent or physician that the child may return to a regular schedule.

.02 Infectious and Communicable Diseases.

A. An operator shall immediately transmit to the health officer a report of the name and address of a child or a staff member who appears to be infected with a reportable communicable disease or who has been exposed to a reportable communicable disease as indicated in COMAR 10.06.01.03.

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, unless the health officer grants approval for the child to attend child care during that period.

.03 Preventing Spread of Disease.

A. A written handwashing procedure approved by the office shall be posted at each sink used for washing hands.

B. Hands shall be washed according to the posted approved procedure by a center employee, volunteer, or child in care at least:

(1) After toileting or diapering;

(2) Before food preparation or eating; and

(3) After an outdoor activity or handling an animal.

C. Diapering shall be performed in accordance with a written diapering procedure approved by the office.

.04 Medication Administration and Storage.

A. Medication Administration.

(1) Medication, whether prescription or non-prescription, may not be administered to a child in care unless:

(a) Parental permission to administer the medication is documented on a completed, signed, and dated medication authorization form, provided by the office, that is received at the center before the medication is administered; and

(b) A licensed health practitioner has approved the administration of the medication and the medication dosage.

(2) A prescription medication may not be administered to a child unless at least one dose of the medication has been given to the child at home.

(3) If the medication is by prescription, it is labeled by the pharmacy or physician with:

(a) The child's name;

(b) The date of the prescription;

(c) The name of the medication;

(d) The medication dosage;

(e) The administration schedule;

(f) The administration route;

(g) If applicable, special instructions, such as “take with food”;

(h) The duration of the prescription; and

(i) An expiration date that states when the medication is no longer useable.

B. Topical Applications. A diaper rash product, sunscreen, or insect repellent supplied by a child's parent may be applied without prior approval of a licensed health practitioner.

C. Medication shall be administered according to the instructions on the label of the medication container or a licensed health practitioner's written instructions, whichever are more recently dated.

D. Recording Requirements.

(1) Each administration of a prescription or non-prescription medication to a child, including self-administration of a medication by the child, shall be noted in the child's record.

(2) Application of a diaper rash product, sunscreen, or insect repellent supplied by a child's parent shall be recorded in the child's record.

E. Medication Storage.

(1) Each medication shall be:

(a) Labeled with the child's name, the dosage, and the expiration date;

(b) Stored as directed by the manufacturer, the dispensing pharmacy, or the prescribing physician; and

(c) Discarded according to guidelines of the Office of National Drug Control Policy or the U.S. Environmental Protection Agency, or returned to the child's parent upon expiration or discontinuation.

(2) All medications shall be stored to make them inaccessible to children in care but readily accessible to each employee designated by the operator to administer medication.

F. Effective July 1, 2011:

(1) Whenever children in care are present, there shall be at least one center employee present who has completed medication administration training approved by the office.

(2) Medication may be administered to a child in care only by an employee who has completed approved medication training.

G. Section F of this regulation shall not apply if:

(1) The center employs a registered nurse, licensed practical nurse, or medication technician certified by the Maryland Board of Nursing to administer medication to children in care; or

(2) Responsibility for administering medication to children in care is delegated to a center employee by a delegating nurse in accordance with COMAR 10.27.11.

H. Self-Administration of Medication.

(1) Before a child may self-administer medication while in care, the operator shall:

(a) Have a written order from the child's physician and the written request of the child's parent for the child's self-administration of medication;

(b) In consultation with the child's parent, establish a written procedure for self-administration of medication by the child based on the physician's written order; and

(c) Authorize the child to self-administer medication.

(2) Revocation of Authorization to Self-Administer.

(a) An operator may revoke a child's authorization to self-administer medication if the child fails to follow the written procedure required by §H(1)(b) of this regulation.

(b) Immediately upon revoking the child's authorization to self-administer medication, the operator shall notify the child's parent of that revocation.

(c) The operator shall document the revocation of authorization to self-administer and the notification to the child's parent in the child's record.

.05 Smoking.

A. Except as specified in §B of this regulation, smoking is prohibited:

(1) At all times in any indoor area of a child care center; and

(2) During the center's hours of operation, in any outdoor area of the center which is approved for child care use.

B. In a small center located in a private residence, smoking is prohibited during the center's hours of operation in any indoor or outdoor area approved for child care use.

.06 Alcohol and Drugs.

An operator may not allow the consumption of alcoholic beverages or use of illegal or nonprescribed controlled dangerous substances:

A. On the center premises during the center's hours of operation; or

B. By an employee or a volunteer during an off-site program activity.

COMAR 13A.16.12 Nutrition

.01 Food Service.

A. Food and Beverages.

(1) Food and beverages that are furnished by an operator for meals or snacks, or both, shall comply with the guidelines of the Child and Adult Care Food Program of the U.S. Department of Agriculture, as indicated on a chart supplied by the office.

(2) For children in care, the operator shall furnish:

(a) All beverages, including beverages for meals and snacks; and

(b) Milk with all meals.

(3) A beverage furnished by the operator may not contain an added sweetener or caffeine, except for:

(a) Infant formula; or

(b) A beverage prescribed for a child by a health care provider.

(4) If a child is:

(a) Younger than 2 years old, milk furnished to the child shall be supplied or approved by the child's parent; or

(b) 2 years old or older, milk furnished to the child by the operator shall be 1% fat milk or nonfat milk, unless otherwise ordered by a health care provider or requested by the parent.

(5) The operator may arrange with a child's parent to furnish milk of a type that is different from the milk ordinarily furnished by the operator.

(6) The operator shall keep a supply of nutritious food on hand in order to provide food to a child whose parent has not supplied:

(a) Food for meals or snacks; or

(b) Sufficient food to meet the standards of the Child and Adult Care Food Program of the U.S. Department of Agriculture.

B. Hours of Operation. If a center operates:

(1) 4 or more consecutive hours a day, the operator shall furnish either:

(a) All meals and snacks; or

(b) Snacks; or

(2) Less than 4 consecutive hours a day, the operator shall either:

(a) Furnish food and beverages for meals or snacks, or both; or

(b) Make arrangements with the parent of a child to provide food and beverages for meals or snacks, or both.

C. Except during approved hours of overnight care, an operator shall serve meals and snacks at intervals of not more than 3 hours according to the following schedule:

If a child is at a center for:	The child shall receive at least:
Less than 4 consecutive hours	1 snack
4 to 7 consecutive hours	1 meal and 1 snack
7 to 11 consecutive hours	1 meal and 2 snacks or 2 meals and 1 snack
11 to 14 consecutive hours	2 meals and 2 snacks or 3 meals and 1 snack

D. If an operator chooses not to provide meals, the operator shall make arrangements with the parent of each child to provide food for meals.

E. Menus. An operator shall:

(1) Post in a conspicuous place a weekly planned menu of foods and beverages furnished by the center for meals and snacks; and

(2) Keep a dated record of food actually served in the center, and to each child on a modified diet, on file for at least 4 weeks, correcting the planned menu if necessary.

.02 Modified Diet.

If an operator agrees to accept a child who requires a modified diet for:

A. Medical reasons, the operator shall obtain from the child's parent a written prescription for the diet signed and dated by the child's licensed health practitioner within the previous 6 months; or

B. Cultural or religious reasons, the operator shall obtain written, dated instructions for the diet signed by the child's parent.

.03 Food Sources.

A. An operator shall furnish food at the center only if it is wholesome and free from spoilage, filth, or other contamination and obtained from sources that comply with all laws relating to food, food processing, food handling, and food labeling.

B. If an operator contracts to have food furnished from an outside source, such as a catering service, the operator shall ensure that the food:

(1) Has been prepared and processed in a licensed food service facility or in a licensed food processing plant; or

(2) Consists of a snack or party food which is not potentially hazardous and does not present a significant risk of transmitting food-borne disease.

C. An operator may not provide to the children home-canned goods or any other hermetically sealed food prepared in a place other than a licensed food processing establishment.

D. An operator:

(1) Shall provide only fluid milk and fluid milk products that are:

(a) Pasteurized Grade A;

(b) Except as provided by §D(3) of this regulation, served from the original container; and

(c) Not more than 4 days older than the expiration date marked on the original container;

(2) Except as provided at Regulation .06D of this chapter, may use dry milk, dry milk products, or reconstituted dry milk only for cooking purposes; and

(3) For meals and snacks, may serve milk family-style from a pitcher or similar container into which the milk has been poured from the original container.

.04 Food Storage and Preparation.

A. An operator shall:

(1) Protect all food from contamination while it is being stored, transported, or displayed; and

(2) Prepare and serve food, including infant formula, in a safe, sanitary, and healthful manner.

B. There shall be sufficient storage areas for all food brought from home and all food held in reserve for service by the operator.

C. Food shall be stored:

(1) In an area that is dry, cool, well-ventilated, well-lighted, and equipped with easily cleanable shelving; and

(2) At least 6 inches off the floor to facilitate cleaning.

D. In a small center, food may be stored:

(1) Separately from family food; or

(2) With family food if the operator chooses to have the entire family food storage area inspected.

E. If food is transferred for storage from its original container, the operator shall provide a secondary storage container that is:

(1) Easily cleanable;

(2) Nontoxic;

(3) Nonabsorbent;

(4) Tightly closed; and

(5) Clearly labeled as to its contents.

F. The operator:

(1) May not store food below overhead waste lines;

(2) Shall maintain cooked, potentially hazardous hot food at or above a temperature of 140° F;

(3) Shall refrigerate potentially hazardous food at or below a temperature of 40° F;

(4) Shall keep frozen food at or below 0° F; and

(5) Shall restrict the movement of pets and other animals so that food and food contact surfaces are not contaminated.

G. Single service items such as paper and plastic cups, containers, lids, plates, knives, forks, spoons, and placemats shall be:

(1) Used only once; and

(2) Stored, handled, and dispensed to protect them from contamination.

H. During an activity in which the children prepare food, the activity shall be planned and carried out in a manner consistent with the safety and health practices required in this subtitle.

I. The operator shall discard:

(1) All spoiled fruits, vegetables, or other food;

(2) Refrozen food;

(3) Potentially hazardous frozen food that has been thawed and not immediately cooked and served;

(4) Swelled, rusty, or leaky canned foods;

(5) Foods exposed to fire, smoke, or water damage;

(6) After a child finishes eating, any remaining food that has come into contact with:

(a) The child's mouth; or

(b) An eating utensil that has been used by the child; and

(7) After being left out for consumption by children during a meal or snack, any milk remaining in an opened original container, a pitcher or similar container, or a drinking vessel.

J. The operator shall send home or discard at the end of each day all opened containers of food brought from home for a child.

.05 Food Preparation Area and Equipment.

A. Appliances and equipment in the food preparation area shall be:

(1) Cleaned and sanitized;

(2) In good repair;

(3) Capable of normal operation; and
(4) Not conducive to the harboring of insects and rodents.
B. Food contact surfaces shall be nontoxic, smooth, in good repair, and free of breaks, open seams, cracks, pits, and similar imperfections.
C. Refrigeration shall be:
(1) Of sufficient capacity to store all food and beverages that require refrigeration;
(2) Operated at or below 40° F; and
(3) Equipped with an indicating thermometer graduated at 2° F intervals.
D. All frozen food units shall be operated at 0° F or less, and shall be provided with an indicating thermometer.
E. Centers operating more than 4 consecutive hours shall provide refrigeration.
F. Except in a small center or when only snacks are provided by the operator, a separate handwashing sink which is equipped with soap and paper towels shall be provided in or adjacent to each food preparation area. Food preparation and utensil washing sinks may not be used for handwashing.
G. A cooking exhaust hood shall be provided when routine cleaning does not eliminate condensation or greasy film.
H. Utensils and equipment used for the preparation and service of food and beverages shall be cleaned, sanitized, air dried, and stored in a manner approved by the office.

.06 Infant Feeding.

A. The operator shall ensure that the written feeding schedule for an infant or toddler, as required by COMAR 13A.16.03.02D(1), is:
(1) Followed; and
(2) Updated as necessary or at least every 3 months while the child is in care.
B. Infant Self-Feeding.
(1) An infant shall be held for each bottle feeding except when the infant or toddler is developmentally able and insistent upon self-feeding.
(2) When an infant or toddler holds the bottle, the infant or toddler may do so only:
(a) When seated; and
(b) If the bottle is made of unbreakable material.
C. Except as specified by §D of this regulation, an operator may serve an infant or toddler only developmentally appropriate:
(1) Commercially prebottled formula;
(2) Breast milk, formula, juice, or water which has been prebottled for the child and provided by the child's parent;
(3) Commercially processed baby food that is opened and used the same day;
(4) Commercial infant formula, in concentrate, powder, or ready-to-feed form, if the:
(a) Child's parent has provided prior written authorization for the use of the formula; and
(b) Formula is prepared directly from a factory-sealed container and in accordance with the manufacturer's instructions; and
(5) Other foods supplied by the operator or the parent that are consumed the same day.
D. Only whole, pasteurized milk will be served to an infant or toddler who is not receiving formula or breast milk, except that skim milk, reconstituted nonfat dry milk, or 1—2 percent milk may be served upon the written prior approval of the child's parent and health care provider.
E. An operator shall ensure that:
(1) All infant foods and bottles are labeled with the infant's name, dated, and refrigerated at 40° F or below if potentially hazardous;
(2) All nipples on bottles are protected;
(3) Breast milk or formula which has been bottled for the child is:
(a) Placed immediately in a refrigerator when brought to the center;
(b) Warmed to the desired temperature immediately before feeding; and
(c) Served to the child at a temperature that is safe and conducive to the child's comfortable feeding;
(4) Foods that present a high risk of choking for infants and toddlers are not served to them; and
(5) Reusable bottles and nipples are:
(a) Reused only after they have been washed, rinsed, and sanitized; or
(b) If supplied by the child's parent, rinsed after use and returned daily to the parent.

COMAR 13A.16.13 Centers for Children with Acute Illness

.01 Location of Center.

An office may issue a license for a room in a child care center or for an entire center offering care to children with acute illness.

.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. COMAR 13A.16.05.12 concerning outdoor activity areas;

B. COMAR 13A.16.09.01 concerning schedule of daily activities for all children;

C. COMAR 13A.16.09.03B(1) and (2) concerning activity materials and equipment;

D. COMAR 13A.16.09.05A concerning carriages and strollers, if care is provided to children younger than 2 years old;

E. COMAR 13A.16.10.01A(2)(c) concerning emergency evacuation and disaster drills for children; and

F. COMAR 13A.16.11.01 concerning exclusion for acute illness.

.03 Plan of Operation.

A. An applicant for a center offering care under this chapter shall:

(1) Submit to and receive prior approval from the office, in consultation with the Department of Health and Mental Hygiene and the health officer, of a written plan of operation for the center, including provision for health assessment of ill children; and

(2) Operate according to the approved plan.

B. An applicant shall include in the written plan of operation:

(1) Procedures to prevent the spread of disease, including general infection control procedures and methods of preventing the spread of airborne diseases, such as chicken pox and measles;

(2) Staff training requirements in the areas of prevention and control of communicable diseases and care of ill children;

(3) Staff education and experience in the health care field;

(4) Staff orientation in pediatric first aid, infection control, and facility policies;

(5) Staff/child ratios;

(6) The identity of an on-call health consultant;

(7) A definition of the population to be served and the criteria for admission, including exclusion policies;

(8) Procedures for preparing a written plan of care for each child upon admission to include instructions for care in emergencies, medications, and special medical and nonmedical treatments;

(9) Procedures for periodic reassessment of the child;

(10) Methods for establishing an individualized program of daily activities for each child;

(11) Staff information, including a staffing pattern;

(12) A list of materials, equipment, and furnishings; and

(13) Identification of buildings and rooms to be used for the program.

.04 Director Requirements.

The director in a center for children with acute illness shall:

A. Meet the requirements of COMAR 13A.16.06.05, .06, .07, or .08, as applicable; and

B. Have completed at least 40 hours of training in a college level course in prevention and control of communicable diseases and care of ill children.

.05 Use of Health Consultant.

An operator shall use a health consultant who is a registered nurse, a pediatric or family nurse practitioner, or a pediatrician to develop written policies and procedures and to supervise and instruct staff on performing procedures.

COMAR 13A.16.14 Adolescent Centers

.01 Requirements for Approval.

An applicant for a center offering care to children attending a middle school or a junior high school shall:

A. Meet the requirements of this subtitle; or

B. Do both of the following:

(1) Submit to and receive prior approval from the office of a written plan of operation for the center that meets the intent of the requirements of this subtitle; and

(2) Operate according to the approved plan.

.02 Plan of Operation.

A plan of operation submitted pursuant to Regulation .01 of this chapter shall include:

A. A definition of the population to be served and the criteria for admission;

B. Center staffing information and a staffing pattern for the program at the center;

C. The space, materials, equipment, and furnishings to be used at the center;

D. The days and hours of operation;
E. Locations other than the center which will be used for activities;
F. Activities to be held at locations other than the center;
G. A method of accounting for children's whereabouts;
H. A method for assuring parental approval for activities held at locations other than the center;
I. A method for having a consistent staff member available to each child;
J. A transportation plan, if necessary; and
K. A nutritional plan as required.

COMAR 13A.16.15 Drop-In Centers

.01 License Permitted.

An office may issue a license to a drop-in center.

.02 Scope of Care.

A drop-in center shall provide care exclusively to children on an intermittent and occasional basis for less than 4 hours a day while parents are not on the same premises or not immediately available, or both. Drop-in centers include child care centers located in shopping malls or shopping centers for the occasional use of customers, child care centers located in resorts for vacationers, and similar settings.

.03 Applicability of Subtitle.

An applicant for a drop-in center license shall meet the requirements of this subtitle with the exception of:
A. COMAR 13A.16.03.02 concerning admission to care;
B. COMAR 13A.16.05.12 concerning outdoor activity area;
C. COMAR 13A.16.09.01A(7) concerning outdoor play;
D. COMAR 13A.16.09.03B(1) and (2) concerning materials and equipment;
E. COMAR 13A.16.10.01A(2)(c) concerning emergency evacuation and disaster drills for children; and
F. COMAR 13A.16.12.01 concerning food service.

.04 Plan of Operation.

A. An applicant for a drop-in center license shall:
(1) Submit to and receive prior approval from the office of a written plan of operation for the center; and
(2) Operate according to the approved plan.
B. An applicant shall include in the written plan of operation:
(1) The ages, numbers, and groupings of children to be served;
(2) The space, materials, equipment, and furnishings to be used at the center;
(3) The hours, days, and months of operation;
(4) The activity program of the center; and
(5) A method for ensuring that children are released only to their parents or other persons authorized by parents to pick up children who are properly identified to the center.

.05 Special Variances.

An applicant may request variances for COMAR 13A.16.05.03A concerning indoor space requirements, and COMAR 13A.16.08.03 concerning group size and staffing.

.06 Admission Requirements.

A. A child younger than 2 years old may not be admitted to a drop-in center.
B. The operator shall:
(1) Require the parent of each child to complete and sign an emergency card and health history form on the child before the child's admission to the center; and
(2) Ensure that the emergency card and health history form are signed and updated, if necessary, by the parent each time the child is dropped off at the center.

COMAR 13A.16.16 Educational Programs in Nonpublic Nursery Schools

.01 Purpose and Scope.

A. Purpose. This chapter establishes requirements for approval to operate an educational program in a nonpublic nursery school.
B. Scope. This chapter does not apply to an educational program in a nonpublic nursery school operated by:
(1) The federal government or any State, county, or municipal agency or division of these; or

(2) A bona fide church organization that is exempt from holding a certificate of approval by the State Board under Education Article, §2-206, Annotated Code of Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) “AMI” means Association Montessori International.

(2) “AMS” means American Montessori Society.

(3) "Certificate of approval" means the document issued by the State Board to the legal authority responsible for governing and operating a school if the school has met the requirements of this chapter.

(4) "Child care center license" means the document issued by the Department pursuant to COMAR 13A.16 that authorizes the recipient to operate a child care center.

(5) "Class" means a group of students scheduled to report regularly to a teacher at a particular time and place for the implementation of an educational program.

(6) "Department" means the State Department of Education.

(7) "Department representative" means an individual designated by the Department to determine compliance with this chapter.

(8) "Educational program" means an organized program of instruction that:

(a) Is provided by a teacher; and

(b) Meets the requirements of Regulation .07 of this chapter.

(9) "Institution of higher education (IHE)" means a college or university that is accredited by an accrediting commission of one of the regional associations of colleges and schools.

(10) "Letter of compliance" means a document issued by the Department pursuant to COMAR 13A.17 that authorizes the recipient to operate a letter of compliance facility.

(11) “MACTE” means Montessori Accreditation Council for Teacher Education.

(12) “NAMTA” means North American Montessori Teachers’ Association.

(13) "Nursery school" means an educational program for children who are 2 years old, 3 years old, 4 years old, or any consecutive sequence of these ages.

(14) "Office" means the central office or a regional office of the Department's Division of Early Childhood Development, Office of Child Care.

(15) "Operator" means:

(a) The nonpublic entity registered as active with the State Department of Assessments and Taxation that is responsible for governing and operating a school;

(b) The individual or entity to which a child care center license or a letter of compliance has been issued by the Department; or

(c) A bona fide church organization that is approved by the State Board to operate an educational program.

(16) "State Board" means the Maryland State Board of Education.

(17) "Teacher" means an individual who:

(a) Provides instruction to children enrolled in an educational program; and

(b) Meets the requirements of Regulation .06B of this chapter.

.03 Approval to Operate an Educational Program — General Requirements.

A. An individual or entity may operate an educational program in a nonpublic nursery school only if the individual or entity holds a valid child care license or letter of compliance issued by the Department.

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.

C. An entity may operate a Montessori school only if it is certified by a Montessori validating organization.

D. The operator of a licensed small center may not be approved to operate an educational program if:

(1) The small center is located in a private residence; and

(2) The program would be operated in the living space of the residence.

E. Unless an operator chooses to cease operating an educational program, approval to operate the program, once granted, shall continue as long as the:

(1) Operator's child care center license or letter of compliance, as applicable and if required, remains in effect;

(2) Educational program is operated according to the terms under which approval to operate was granted; and

(3) Operator remains in full compliance with all applicable requirements of this chapter.

F. Approval to operate an educational program in a nonpublic nursery school becomes void if the nonpublic nursery school's approval is suspended or revoked, or the child care center license or letter of compliance, as applicable, is suspended or revoked and the operator:

(1) Does not appeal the suspension or revocation action; or

(2) Appeals the suspension or revocation action and the action is upheld through the administrative hearing process or notice of deficiencies hearing before the State Board in accordance with Education Article, §2-206, Annotated Code of Maryland.

G. An operator that has ceased operating an educational program subject to the requirements of this chapter shall promptly return to the office the child care center license, letter of compliance, or other approval document, as applicable, that certifies approval to operate the educational program.

H. Any educational program that is solely educational that is approved prior to the effective date of this regulation shall continue to operate under its current certificate of approval in accordance with this chapter.

.04 Approval to Operate an Educational Program — Specific Requirements.

A. Application for Approval.

(1) Application for approval shall be made in a manner and form and according to timelines established by the office.

(2) The applicant shall submit all information that the office considers necessary in order to ascertain compliance with the requirements of this chapter.

(3) An operator approved to operate an educational program may not apply for approval to operate another educational program if the educational program for which the operator is currently approved is not in full compliance with all applicable requirements of this chapter.

(4) An application for licensure as a Montessori school may not be approved until the applicant has successfully completed the process of validation, as required at COMAR 13A.09.09.03N, by an approved Montessori validating organization.

B. When the office is satisfied that the requirements of this chapter have been met, the office shall issue to the applicant a child care center license, letter of compliance, or other approval document, as applicable, that certifies approval to operate an educational program.

C. The child care center license, letter of compliance, or other approval document, as applicable, shall specify the terms under which approval to operate an educational program has been granted, including the:

(1) Hours, days, and months of approved operation; and

(2) Ages of children who may be enrolled in the program.

D. If the operator intends to change the terms under which approval has been granted, the operator shall:

(1) Notify the office in writing at least 60 days before the occurrence of any change or changes; and

(2) Furnish any information the office considers necessary to approve the change or changes planned by the operator.

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) The educational program demonstrates an area or areas of noncompliance;

(2) The office has received and is investigating a complaint alleging that the educational program is in violation of one or more regulations under this chapter;

(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 or COMAR 13A.16; or

(4) A deficiency hearing is pending before the State Board in accordance with Education Article, §2-206, Annotated Code of Maryland.

F. Notwithstanding the requirement established in §E of this regulation, an operator may seek approval of a change in the terms of the approval if approval of the change is the means for the operator to demonstrate compliance with this chapter.

G. An operator may not implement a change in the terms of approval until the office has issued a revised child care center license, letter of compliance, or other approval document, as applicable, that reflects the change.

H. An operator shall inform the office in writing at least 30 days before the operator ceases operating an educational program.

.05 Compliance and Inspections.

A. Continued approval to operate an educational program is conditioned on the operator's maintaining compliance with this chapter.

B. To evaluate compliance with this chapter, the office may inspect the educational program, with or without prior notice to the operator, at any time during the approved hours of operation of the program.

C. During an inspection, the operator shall permit the Department representative access to any activity, person, material, document, or other information or source of information connected with the educational program that is considered necessary by the Department representative for the purpose of the inspection.

D. Following each inspection of the educational program, the office shall provide the operator with a written report of all findings of the inspection.

E. If the educational program fails to demonstrate compliance with the requirements of this chapter, the office shall notify the operator in writing of the:

(1) Regulation or regulations with which the program does not demonstrate compliance;

(2) Fact or facts that demonstrate the program's noncompliance with each regulation;
(3) Action or actions the operator is required to take to demonstrate compliance with each regulation; and
(4) Date by which the program is required to demonstrate compliance with each regulation.

F. Sanctions.

(1) Failure to maintain compliance with applicable requirements of this chapter may result in a sanction by the office, including restriction, suspension, or revocation of the approval to operate the educational program.

(2) Sanctions may be severable against an educational program located in a licensed child care center or a letter of compliance facility.

.06 Personnel Qualifications.

A. Educational Program Administrator.

(1) The operator shall have an educational program administrator or director who is responsible for the day-to-day administration of the educational program.

(2) An individual hired as the educational program administrator at a minimum shall meet the standards established in §C(3) of this regulation.

(3) The operator shall have a written position description that states the duties and responsibilities of the educational program administrator.

(4) The educational program administrator shall have sufficient time during each educational program day to carry out the duties and responsibilities stated in the written position description of the educational program administrator.

B. Director in an Approved Montessori School.

(1) To qualify as a director in an approved Montessori school, an individual shall hold a Montessori credential that has been awarded by:

(a) AMI, AMS, or NAMTA; or

(b) A Montessori teacher education program that is accredited by MACTE.

(2) To qualify as a director in a Montessori school that has been approved by the Department, an individual shall complete approved continued training, at the rate of at least 12 clock hours per full year of employment, that consists of a minimum of 6 clock hours of Montessori education training.

C. Teachers.

(1) An educational program shall have a teacher to implement the educational program in each class.

(2) A teacher, regardless of whether the employment status of the teacher is full-time, part-time, paid, volunteer, or substitute, shall meet the requirements of §C(3) of this regulation.

(3) A teacher who provides instruction in language and literacy development, mathematical and scientific thinking, or social studies shall hold or have completed:

(a) A bachelor's degree from an IHE;

(b) 120 semester hours of college credit from an IHE; or

(c) A foreign credential that is determined by the Department to be equivalent to a bachelor's degree from an IHE.

(4) A teacher employed in a Montessori program shall hold a Montessori diploma or credential for the level of the individual's assignment that has been awarded by:

(a) AMI, AMS, or NAMTA; or

(b) A Montessori teacher education program that is accredited by MACTE.

(5) If the degree, college credit, or foreign credential required at §C(3) of this regulation does not include at least 6 semester hours of approved early childhood coursework, the teacher shall, in addition:

(a) Hold or have completed:

(i) The Child Development Associate Credential issued by the Child Development Associate National Credentialing Program; or

(ii) 6 semester hours, 90 clock hours or their equivalent of approved pre-service training; or

(b) Be certified by the Department as a teacher for early childhood in nursery through third grade.

(6) An individual approved as a teacher by the Department before July 1, 2010, shall remain qualified for that position as long as the individual is continuously employed as a teacher.

(7) Effective July 1, 2010, a teacher in an educational program shall complete at least 12 clock hours of approved continued training per full year of employment, measured from date of hire, in that position.

(8) A teacher in an approved Montessori school shall complete approved continued training, at the rate of at least 12 clock hours per full year of employment that consists of a minimum of 6 clock hours of Montessori education training.

D. An individual who provides assistance to a teacher in a class is not required to meet the requirements of §C(3) or (7) of this regulation.

E. Written Statement of Teacher Qualifications. An operator shall:

(1) Maintain a written statement of the qualifications of each teacher who implements the educational program; and

(2) On request by a parent or legal guardian of a child enrolled, or being considered for enrollment, in the educational program, give to the parent or legal guardian a written statement of the qualifications of each teacher who implements the educational program.

.07 Educational Program.

A. Program. The operator shall implement and maintain at the nonpublic nursery school a written curriculum of the nonpublic nursery school's educational program for the development of skills for each approved nursery school age in the following areas:

(1) Personal and social development;
(2) Language and literacy development;
(3) Mathematical and scientific thinking;
(4) Social studies;
(5) The arts; and
(6) Physical development and health.

B. Instructional Materials and Equipment. The operator shall own and maintain the nonpublic nursery school instructional materials and equipment required to implement the written curriculum of the educational program specified in §A of this regulation.

.08 Child Records.

A. The operator of an educational program in a nonpublic nursery school shall maintain a cumulative record for each child enrolled in the educational program.

B. Each child's record shall include the:

(1) Nonpublic nursery school's name;
(2) Nonpublic nursery school's address;
(3) Nonpublic nursery school's telephone number;
(4) Child's first, middle, and last names;
(5) Child's month, day, and year of birth;
(6) Child's home address;
(7) Month, day, and year the child initially entered the educational program;
(8) Age on enrollment in the educational program;
(9) Month, day, and year the child withdrew from the educational program, if applicable;
(10) Child's performance information in each curricular area;
(11) Code for the meaning of performance information; and
(12) Number of days the child attended in each school year.

C. In a licensed child care center or a letter of compliance facility, the requirements of §B(1)—(8) of this regulation are met by compliance with child record requirements set forth at COMAR 13A.16.03.04 or COMAR 13A.17.03.04, as applicable.

D. Age of Admission.

(1) Except as provided by §D(2) of this regulation, a child shall be 2 years old, 3 years old, or 4 years old on or before September 1 of a school year to be age-eligible for admission during that school year to a nonpublic nursery school program approved under this chapter.

(2) A nonpublic nursery school may adopt policies and procedures permitting, on request by a child's parent or guardian, and if a nonpublic nursery school determines that a child demonstrates capabilities warranting early admission, a:

(a) 2 year old child to be admitted to a 3 year old nursery school program; or
(b) 3 year old child to be admitted to a 4 year old nursery school program.

.09 Health, Fire Safety, and Zoning.

A. An operator shall obtain and maintain documentation verifying current compliance with health, fire safety, and zoning regulations applicable to a nonpublic nursery school.

B. In a licensed child care center or a letter of compliance facility, the requirements of §A of this regulation are met by complying with pertinent health, fire safety, and zoning requirements set forth under COMAR 13A.16 or COMAR 13A.17, as applicable.

.10 Procedures and Sanctions for Noncompliance—Educational Programs.

If the Department believes that a nonpublic nursery school does not meet the conditions or standards on which the certificate of approval of the school was based, the Department shall implement procedures and sanctions for noncompliance approved by the State Board.

COMAR 13A.16.17 Inspections, Complaints, and Enforcement

.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.

.02 Inspections.

A. An operator shall permit inspection of all areas of the center by an agency representative during the center's hours of operation.

B. An agency representative may make inspections without prior notice to an operator.

C. Upon request, an operator shall make the records required by this subtitle available to an agency representative for inspection and copying.

D. An operator may request satisfactory identification from an agency representative before admitting the agency representative for an inspection.

E. An agency representative shall inspect each center:

(1) On an announced basis before the office issues an initial license or a continuing license; and

(2) On an unannounced basis, at least once within each 12-month period after the date that an initial license or a continuing license was issued.

F. An operator may contest a finding of noncompliance with this subtitle by requesting a review of findings by the regional office or the central office of the Agency.

.03 Intermediate Sanctions.

A. Upon a determination that an operator has violated the regulations in this subtitle, placing the health, safety, or welfare of children in care at risk, the office may:

(1) Restrict the ages or number of new children enrolled;

(2) Reduce the number of children in care;

(3) Require the operator or center staff to participate in training in a specified content area;

(4) Increase the frequency of monitoring of the center during a specified period of time;

(5) Enter into an agreement with the operator detailing requirements for remedying violations and achieving compliance; and

(6) Notify, or require the operator to notify, a parent of a child who may be affected by the situation for which an intermediate sanction has been imposed.

B. If the office determines that an operator has violated a condition or requirement of the sanction, the office may suspend or revoke the operator's license.

.04 Suspension.

A. The office may suspend an operator's license for a period of not more than 60 calendar days:

(1) Upon determining that the:

(a) Regulations in this subtitle have been violated; and

(b) Health, safety, or welfare of children in the center is threatened; or

(2) If the license is a continuing license that was placed on conditional status, and the:

(a) Conditional status has lapsed; and

(b) Operator has failed to meet the requirements for reinstatement of the continuing license.

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) The effective date and period of the suspension;

(2) The reason for suspension;

(3) The regulatory violation which is the basis for the suspension;

(4) That the operator shall stop providing child care on the effective date of the suspension unless the operator requests a hearing in writing within 20 days of the date of the suspension notice;

(5) That the operator may request a hearing;

(6) That the suspension shall be stayed if a hearing is requested within 20 days of the date of the suspension notice;

(7) That, if the suspension is upheld by the Superintendent 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) That the suspension may lead to revocation; and

(9) That the operator is required to surrender the license to the office when the suspension becomes effective.

C. The office shall notify the parents of the children in care of the suspension.

D. By the end of the suspension period, the office shall:

(1) Reinstate the license and return it to the operator; or

(2) Revoke the license.

.05 Emergency Suspension.

A. The office may suspend an operator's license on an emergency basis if it is determined that this action is required to protect the health, safety, or welfare of a child in the center.

B. The office shall hand deliver written notice of the emergency suspension to the operator stating:

(1) The regulatory basis for the suspension; and

(2) That the operator shall immediately stop providing child care;

(3) That the operator is entitled to a hearing before the Superintendent within 7 calendar days of the operator's request for a hearing;

(4) That the Superintendent shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;

(5) That if the emergency suspension order is upheld, stoppage of child care at the center shall continue until it is determined that the health, safety, or welfare of a child in the center is no longer threatened;

(6) That the suspension may lead to revocation; and

(7) That the operator is required to surrender the license to the office when the suspension becomes effective.

C. The office shall notify the parents of the children in care of the emergency suspension.

.06 Revocation.

A. The office may revoke a license if:

(1) An operator or center is in violation of this subtitle and the health, safety, or welfare of children in the center is threatened;

(2) An operator misrepresented or offered false information on the application or on any form or report required by the office;

(3) An operator interferes with the agency representative in the performance of the duties of the office;

(4) The operator fails to comply with the:

(a) Prohibitions on the use of an individual as an employee or a volunteer as set forth in COMAR 13A.16.06.03A and B and .15C; or

(b) Child security requirements set forth in COMAR 13A.16.07.06;

(5) The terms or conditions of an intermediate sanction have been violated;

(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) Conditional status has lapsed; and

(b) Operator has failed to meet the requirements for reinstatement of the continuing license.

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) The effective date of the revocation;

(2) The reason for revocation;

(3) The regulatory violation which is the basis for the revocation;

(4) That the operator shall stop providing child care unless a hearing is requested in writing within 20 days of the date of the revocation notice;

(5) That the operator may request a hearing;

(6) That the revocation shall be stayed if a hearing is requested within 20 days of the date of the revocation notice;

(7) That, if the revocation is upheld by the Superintendent following the hearing, the operator shall cease providing child care; and

(8) That the operator is required to surrender the license to the office when the revocation becomes effective.

C. The office shall notify the parents of the children in care of the revocation.

.07 Penalties.

A. Criminal Penalty. A person who operates a child care center without a license, if convicted, is guilty of a misdemeanor and subject to a fine not exceeding:

(1) $1,500 for the first violation; and

(2) $2,500 for a second or subsequent violation.

B. Civil Penalty.

(1) A person who maintains and operates a child care center 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) Each day a violation occurs or the child care center operates illegally is considered a separate violation.

(3) The total amount of the civil penalties imposed in a civil action may not exceed $5,000.

COMAR 13A.16.18 Administrative Hearings

.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, and employment exclusions pursuant to COMAR 13A.16.06.03A or B.

B. The Superintendent has delegated authority to administrative law judges of the Office of Administrative Hearings to make the final decisions of the Superintendent on the actions listed in §A of this regulation. A decision by an administrative law judge of the Office of Administrative Hearings in a child care center case is the final decision of the highest administrative authority in the case, and thus is directly appealable to the circuit court in the jurisdiction where the child care center is located pursuant to State Government Article, §10-222, Annotated Code of Maryland.

.02 Definitions.

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

B. Terms Defined.

(1) "Administrative law judge" means a hearing officer designated by the Maryland Office of Administrative Hearings to render the final decision of the Superintendent in a hearing.

(2) "Appellant" means the individual requesting the hearing or appealing a decision, or that individual's legal representative.

(3) "Applicant" means an individual applying for a license or letter of compliance to operate a child care center.

(4) "Capacity" means the number of day care children who may be present at a child care center at the same time.

(5) "Days" means calendar days.

(6) "Department" means the State Department of Education.

(7) Emergency Action.

(a) "Emergency action" means an action which is effective immediately because of danger to children's health or safety.

(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, an employment exclusion pursuant to COMAR 13A.16.06.03A or B.

(8) "Filed" is received in writing by the Office of Child Care.

(9) "Filing date" is the date a hearing request is received by the Office of Child Care.

(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) "License" means a document issued to a person by the Department which gives permission to operate a child care center in accordance with State regulations.

(12) "Licensee" means an individual or a partnership group, association, cooperative, or corporation which has the legal authority and responsibility for the governing and operating of a child care center and which has been issued a license by the Department.

(13) "Office" means the central office or a regional office of the Office of Child Care.

(14) "Office of Administrative Hearings" means the administrative unit of Maryland government which is responsible for processing requests for hearings, for scheduling and conducting hearings, and for rendering decisions pursuant to State Government Article, §9-1601 et seq., Annotated Code of Maryland.

(15) "Party" means the appellant and the Office of Child Care.

(16) "Superintendent" means the State Superintendent of Schools.

.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) The denial of an application for a license or letter of compliance;

(2) A revocation or suspension of a license or letter of compliance; or

(3) Any other action that adversely impacts on the licensee or holder of the letter of compliance, including, but not limited to:

(a) The setting of capacity at a number below that requested,

(b) A reduction in capacity, or

(c) A limitation on the ages or numbers of children who may be admitted to the child care center.

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, and the effective date and nature of the action appealed from.

(2) A hearing request shall be filed not later than 20 days after the date of the notice of the action taken by the Office.

(3) The Office shall forward a hearing request to the Office of Administrative Hearings within 10 days of the filing date.

(4) A hearing decision shall be rendered within 90 days of the filing date.
(5) Any non-emergency action is stayed if a hearing request is timely filed, unless the action is:
(a) A revocation that immediately follows an emergency suspension period; or
(b) A denial which follows the expiration of the provisional period of a license that was issued on a provisional basis.

C. Emergency Action Hearing Requests.
(1) All emergency action hearing requests shall be filed with the Office within 30 days of the hand delivery of the notice of the Office's action, and shall state the name and address of the licensee or holder of the letter of compliance, and the effective date and action appealed from.
(2) The Office shall notify the Office of Administrative Hearings at once upon receipt of an emergency action hearing request. Oral notification shall be followed by written notification within 24 hours.
(3) A hearing request shall not stay an emergency action.
(4) A hearing shall be conducted within 7 days of the filing date of the hearing request.
(5) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

.04 Preliminary Conference.

A. The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.
B. The conference is optional and does not replace the hearing process.
C. The conference may be attended by a representative of the Office and the appellant.
D. The conference may lead to an informal resolution of the dispute. However, a hearing shall be held unless one of the parties submits a written withdrawal of the hearing request to the Office of Administrative Hearings.

.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) The date of the request is not within the required time limits.

B. The Office of Administrative Hearings may dismiss an appeal if the appellant:
(1) Withdraws the request in writing; or
(2) Without good cause, does not appear at the hearing.

.06 Hearing and Appeal Procedures.

A. Notice to Appellant.
(1) For non-emergency action hearings, the Office of Administrative Hearings shall, by regular mail, notify the Office and the appellant of the time, date, and place of the hearing at least 20 days in advance. For rescheduled non-emergency action hearings, a 10-day notice is required. For all emergency action hearings, at least 3 days advance notice is required.
(2) The notice to the appellant shall:
(a) Refer to the regulations governing the hearing procedure; and
(b) Advise the appellant of:
(i) The right to be represented by a lawyer;
(ii) The right to present documents and witnesses in support of the appeal;
(iii) Whom to call if the appellant cannot attend the hearing; and
(iv) The fact that failure to attend the hearing without good cause may lead to dismissal.
(3) The Office shall mail the appellant a copy of these administrative hearing regulations when the request for a hearing is filed.

B. Rescheduling of Non-emergency Action Hearings. The appellant, the Office, or the Office of Administrative Hearings may request a change in the hearing date. If the Office of Administrative Hearings finds that good cause for delay exists, another date shall be set. The time limit for rendering a decision established by Regulation .03B(4) is extended by the period of delay due to a postponement requested by the appellant.

C. Rescheduling of Emergency Action Hearings. Emergency action hearings may only be rescheduled by the Office of Administrative Hearings with the consent of both parties or on motion of a party, if substantial prejudice is demonstrated. Only one postponement of an emergency action hearing may be granted.

D. The appellant may examine the appellant's licensing record for the purpose of discovering information pertinent to the appeal before the hearing.

E. By agreement, the appellant and the Office may exchange witness lists and documents before the hearing.

F. The procedures in §§D and E of this regulation do not constitute good cause for delay of a hearing.

.07 Conduct of Hearing.

A. The hearing shall be conducted by an administrative law judge.

B. At the hearing, the appellant and a representative of the Office may present witnesses, documentary evidence, and oral argument and may cross-examine any witness. A document introduced into evidence by a party may be examined by the opposing party.

C. The transcript or tape of the proceedings, together with all documents filed in the hearing proceedings and the final decision of the administrative law judge, constitute the exclusive record of hearing.

.08 Decision.

A. The administrative law judge shall:

(1) Base the decision on the complete record; and

(2) Determine whether the Office correctly applied State regulations in effect at the time the Office reached the Office's decision.

B. The final decision of the administrative law judge shall be accompanied by findings of fact and conclusions of law.

C. The final decision shall be binding upon the Department and shall be implemented immediately unless otherwise specifically indicated in the decision.

D. The decision of the Office of Administrative Hearings in cases under this chapter constitutes the decision of the Department.

E. A copy of the decision shall be delivered or mailed promptly to each party or the attorney of record.

F. A party dissatisfied with the decision of the administrative law judge may appeal that decision directly to the Circuit Court of the appropriate jurisdiction within 30 days from the date notice of the decision is sent to the party, or as otherwise provided in Maryland Rules 7-201—7-211.

COMAR 13A.16.19 Public Access to Licensing Records

.01 Definitions.

In this chapter, the following terms have the meanings indicated:

A. "Confirmed complaint" means a determination by the Department or office after an investigation that the violation of a regulation of this subtitle which was alleged in the complaint has occurred or is occurring.

B. "Custodian of record" means an authorized individual employed by the Department or office who has physical custody and control of licensing records.

C. "Licensing records" means all papers, computerized records, correspondence, forms, books, cards, photographs, photostats, films, microfilms, sound recordings, charts, maps, drawings, or other written documents, regardless of physical form or characteristics, maintained or stored by the Department or the office in connection with the licensing of a child care center to provide child care.

D. "Official custodian of record" means the Superintendent or the Superintendent's designee who is responsible for the maintenance, care, and storage of licensing records.

E. "Requester" means an individual, business, corporation, partnership, association, organization, or governmental agency which requests inspection of, or information from, licensing records.

F. "Sociological information" means any of the following information about a licensee or employee of a licensee:

(1) Social Security number;

(2) Personal address;

(3) Personal phone number;

(4) Information regarding marital status, dependents, or relatives; and

(5) Information regarding employment status, including employment application.

G. "Unsubstantiated complaint" means a complaint of an alleged violation of a regulation of this subtitle that the Department or office, after an investigation, has been unable to confirm as having occurred or to rule out as not having occurred.

.02 Disclosure of Information from Licensing Records.

A. Except as prohibited or restricted by applicable law or regulation, the custodian of record may make the following information from licensing records available to a requester:

(1) Findings of inspections conducted by the office in licensed child care centers;

(2) Record of complaint forms pertaining to confirmed or unsubstantiated complaints;

(3) Copies of child care licenses, including those on provisional or conditional status;

(4) Variances;

(5) Correspondence and documents requiring abatement of instances of noncompliance with the regulations of this subtitle, including compliance agreements;

(6) Correspondence and documents pertaining to enforcement actions taken by the Department or office against a licensee or a child care center, including denial letters, sanctions, emergency suspensions, and revocations; and

(7) Any correspondence regarding requests for inspection of licensing records under this chapter.

B. Except as provided by other law, the custodian of record shall permit the licensee, or an authorized representative of the licensee, to inspect the licensee's own record.

C. The custodian of record may not disclose sociological information to a requester, except that this information may be disclosed:

(1) To public employees in the performance of their public duties;

(2) To parties litigating claims for unemployment insurance to the extent the sociological information would be available to private parties in litigation; or

(3) When required by a duly issued subpoena.

.03 Request for Information from Licensing Records.

A. A written request shall be filed with the custodian of record in order to:

(1) Conduct a physical inspection of licensing records; or

(2) Obtain a written or electronic:

(a) Copy of licensing records; or

(b) Report of information from licensing records that the official custodian of records does not already make available to the general public.

B. The written request shall:

(1) Contain the applicant's name, address, and telephone number;

(2) Be signed by the applicant; and

(3) Reasonably identify by brief description the record sought.

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. The custodian of record may charge a reasonable fee for:

(1) The reproduction of documents sought;

(2) Official or employee time expended searching for requested records; or

(3) Any time expended in preparing records for inspection or copying.

.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), Annotated Code of Maryland.