

# **Family Child Care Registration Manual**

(November 2016)

For use with

## **COMAR 13A.15 - FAMILY CHILD CARE**

(As amended effective 7/20/15)

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## COMAR 13A.15.01 Scope and Definitions

### .01 Purpose.

The purpose of registration of family child care homes is to:

- A. Protect the health, safety, and welfare of children while they are in family child care; and**

*INTENT: When a parent or guardian gives the care and supervision of a child to another person, there may be certain risks for the child. To offset these risks, rules and regulations have been established to protect the health, safety, and welfare of children in out-of-home care. Under Maryland law, family child care registration ensures that providers meet certain minimum standards for child health and safety and the operation of a child care program.*

- B. Identify family child care homes.**

*INTENT: With certain exceptions, Maryland law requires caregivers to become registered as family child care providers before they are permitted to provide care. Persons who meet the requirements of COMAR 13A.15 are issued a certificate of registration. Possession of this certificate identifies a person as someone who is authorized by the State of Maryland to provide family day care.*

*Notes: COMAR 13A.15 regulations are adopted and enforced by the Maryland State Department of Education, Division of Early Childhood Development, Office of Child Care, under the statutory authority of the Education Articles, §9.5-301 through §9.5-312, and the State Government Article, Section 10-617, Annotated Code of Maryland.*

### .02 Definitions.

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

**B. Terms Defined.**

- (1) **"Abuse" means:**
- (a) **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; or**
  - (b) **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 that has a short course of duration, as opposed to a chronic illness of long duration.**
- (3) **"Additional adult" means an individual 18 years old or older who assists a family child care provider in caring for children who are younger than 24 months old.**

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- (4) **"Agency" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.**
- (5) **"Agency representative" means an individual designated by the Agency to determine compliance with this subtitle.**
- (6) **"Applicant" means a person who has submitted to the office all of the required forms and documentation to request approval for initial registration or for continuing registration.**
- (7) **"Approved training" means course work or a workshop provided by:**
  - (a) **A regionally accredited college or university;**
  - (b) **A State-approved private career school;**
  - (c) **The Child Development Associate National Credentialing Program;**
  - (d) **Other organizations or individuals approved by the office; or**
  - (e) **The Agency.**
- (8) **"Child" means an individual who is younger than:**
  - (a) **13 years old; or**
  - (b) **21 years old and has a developmental disability or other emotional, physical, educational, or medical need for child care beyond 13 years old.**
- (9) **"Continuing registration" means a family child care registration that does not expire.**
- (10) **"Core of knowledge" means the competencies identified by the office as essential for all individuals working in the child care delivery system, including:**
  - (a) **Child development;**
  - (b) **Curriculum;**
  - (c) **Special needs;**
  - (d) **Professionalism;**
  - (e) **Community; and**
  - (f) **Health, safety, and nutrition.**
- (11) **"Department" means the Maryland State Department of Education.**
- (12) **"Elective training" means training at a conference, seminar, or other event that is approved by the office but is not in a core of knowledge competency area.**
- (13) **Employee.**
  - (a) **"Employee" means an individual who for compensation is employed to work in a family child care home and who:**
    - (i) **Cares for or supervises children in the facility; or**
    - (ii) **Has access to children who are cared for or supervised in the facility.**
  - (b) **"Employee" includes a paid substitute.**
  - (c) **"Employee" does not include an individual who is:**
    - (i) **An independent contractor; or**
    - (ii) **A licensed or certified health care professional who is compensated by the family child care provider or the parent of a child in care to provide a specified health care service to the child.**

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- (d) **For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, "employee" includes an individual who:**
  - (i) **Is compensated by the provider or a resident to perform a service at the family child care home;**
  - (ii) **Has access to children in care; and**
  - (iii) **Does not clearly meet, or is not excluded from, the definition of independent contractor as set forth in §B (19) of this regulation.**
- (14) **"Family child care" has the same meaning as family day care as defined in Education Article, §9-101(e), Annotated Code of Maryland, and means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.**
- (15) **"Family child care co-provider" means an individual who shares responsibility with the family child care provider for the operation of the family child care home and who meets the requirements of this subtitle.**
- (16) **"Family child care home" means the residence in which child care is given.**
- (17) **"Family child care provider" means the adult who has primary responsibility for the provision of child care in the family child care home and who meets the requirements of this subtitle.**
- (18) **"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.**
- (19) **Independent Contractor.**
  - (a) **"Independent contractor" means an individual or other entity:**
    - (i) **That is hired by the family child care provider, a resident, or the parent of a child in care, on the basis of a service contract or agreement, to perform a specialized service at the family child care home, including, but not limited to, home maintenance or repair, academic tutoring, or 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 family child care home, but is available for hire by other customers.**
  - (b) **"Independent contractor" does not include an individual who:**
    - (i) **Is a licensed or certified health care professional compensated by the family child care provider to provide a specified health care service to a child in care;**
    - (ii) **Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, educational, or other service only to that child or those children; or**

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- (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.**
- (19-1) **"Infant-toddler" means a child age group comprising children younger than 2 years old.**
- (20) **"Injurious treatment" means:**
  - (a) **Deliberate infliction in any manner of any type of physical pain, including 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) **Utilizing discipline methods that are considered inappropriate by child care professionals and create undue discomfort, such as, but not limited to, 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.**
- (21) **"Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.**
- (22) **"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.**
- (23) **"Office" means the central office or a regional office of the Agency.**
- (24) **Overnight Care.**
  - (a) **"Overnight care" means family child care that is provided between the hours of 12am and 6am.**
  - (b) **"Overnight care" does not include family child care provided to a child enrolled for care during daytime or evening hours that, because of the parent's schedule, must remain at the family child care home for up to 1/2 hour after 12 a.m. or arrive up to 1/2 hour before 6 a.m.**
- (25) **"Parent" means the biological or adoptive parent, or the legal guardian or custodian of a child, who enrolls the child in care.**
- (26) **"Professional development plan" means the written instrument for tracking continued training that is:**
  - (a) **Distributed by the office to a provider; and**
  - (b) **To be completed annually by the provider.**
- (27) **"Provider" means the individual or individuals to whom a family child care certificate of registration is issued under this subtitle.**
- (28) **Relative.**
  - (a) **"Relative" means an individual related to a child by blood, marriage, or adoption.**

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- (b) **"Relative"** includes a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, first or second cousin, great grandparent, great uncle, or great aunt.
- (29) **"Resident"** means a person who lives in the family child care home.
- (30) **"Sanction"** means an enforcement action under this subtitle.
- (31) **"Substitute"** means an adult who is responsible for the operation of a family child care home when the provider is absent.
- (32) **"Successfully passed"** means, when used in connection with a criminal background check or a review of records of abuse and neglect of children or adults conducted on an individual, that the individual:
  - (a) **Has not received a conviction, a probation before judgment disposition, or a not criminally responsible disposition, or does not have a pending charge for the commission or attempted commission of a crime that:**
    - (i) Is listed at COMAR 13A.15.02.07B(1)—(11); or
    - (ii) Indicates other behavior harmful to children; or
  - (b) **Has not been identified as responsible for the abuse or neglect of a child or an adult.**
- (33) **"Superintendent"** means the State Superintendent of Schools or the Superintendent's designee.
- (34) **"Treatment foster care"** means a 24-hour substitute care program, operated by a licensed child placement agency or local department of social services, for children with a serious emotional, behavioral, medical, or psychological condition.
- (35) **Volunteer.**
  - (a) **"Volunteer"** means an individual who:
    - (i) Is 13 years old or older;
    - (ii) Works in or for the family child care program but is not a compensated employee of the provider; and
    - (iii) Is not enrolled as a child in care at the family child care home.
  - (b) **"Volunteer"** does not mean an additional adult or a substitute.

**INTENT:** *The purpose of these definitions is to establish a clear and consistent meaning of certain terms used in COMAR 13A.15. Whenever one of these terms appears in this chapter of regulations, it shall mean only what its definition, as set forth above, says it means.*