



Issuing Letters of Compliance

(December 2016)

for use with

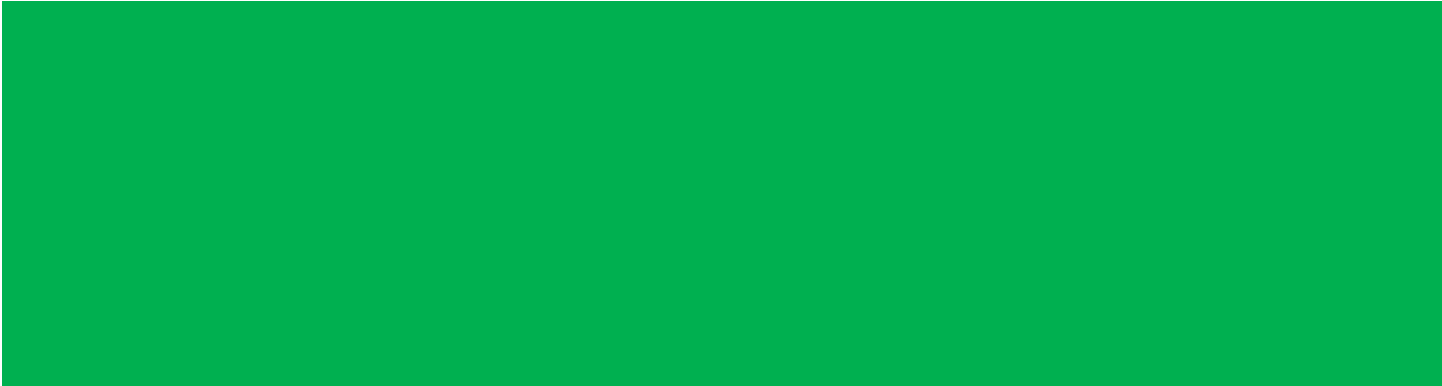
COMAR 13A.17 Letters of Compliance

(as amended effective 7/20/15)

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.01 Capacity.

A. **An office shall determine the capacity of the nursery school or child care program 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.**

INTENT: The purpose of setting maximum capacity is to ensure that the number of children present at any given time does not exceed the facility's ability to provide adequate supervision and care to each of those children. If maximum capacity is exceeded, the health, safety, or welfare of the children present may be jeopardized. To establish a facility's maximum capacity, the Regional Office evaluates certain factors, each of which is critical to child health, safety, and welfare.

Notes:

In setting maximum capacity, the Regional Office takes into account the following:

- *Consideration is given to any limitations imposed by applicable State or local fire, environmental health, zoning, or other requirements.*
- *Evaluation of the facility's physical structure and layout (or an applicant's plans for the structure and layout) to determine whether the requested child capacity can be safely accommodated. Considerations include, but are not limited to:*
 - *The number and age-ranges of children to be served;*
 - *The number, size, location, and appropriateness of child activity areas (both indoor and outdoor);*
 - *The type, extent, and suitability of care-related equipment and furnishings;*
 - *The sufficiency and appropriateness of sanitary facilities.*
- *Review of the facility personnel lists and staffing patterns to ensure that the facility will be able to meet staff-child ratios and group size requirements for the requested child capacity.*

Based on an assessment of the above items, the Licensing Specialist will submit a capacity recommendation to the Licensing Supervisor or Regional Manager. The Supervisor or Manager is responsible for approving or disapproving the capacity recommendation. Before reaching an approval decision, the Supervisor or Manager may need to obtain additional information or conduct a further inspection of the facility to evaluate the appropriateness of the capacity recommendation. Once the decision has been made, the applicant or operator will be promptly notified. If the approved capacity is less than requested, the applicant

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or operator may appeal the decision to the MSDE Licensing Branch Central Office.

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

INTENT: Establishment of maximum capacity is directly based on child health, safety, and welfare considerations. For a given child care area, the operator may not exceed the approved capacity stated on the letter of compliance.

INSPECTION REPORT ITEM: “Capacity”

COMPLIANCE CRITERIA: The number of children present does not exceed the approved capacity for that area as stated on the letter of compliance.

ASSESSMENT METHOD: Observe to determine if the number of children present, by age, is within the number stated on the license. If necessary, verify the children’s ages.

.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.**

INTENT: “Capacity” means the maximum number of children that may be physically present in the facility at the same time. “Enrollment” means the total number of children currently served by the facility at any time during its approved operating hours. “Attendance” means the number of children actually present at a given time. A facility’s enrollment may exceed its capacity, but the number of children in attendance at the same time may not exceed the facility’s capacity.

- 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.**

INTENT: Licensed child care is intended only to provide day-to-day custodial care and supervision of children during the time when their parents are elsewhere. It is expected that each child’s parent or guardian will take the child home at the end of each day. Except as approved in advance by OCC, child care services may not be provided to a child during any given day for more than 14 hours in a 24-hour period.

INSPECTION REPORT ITEM: “Enrollment and Attendance”

COMPLIANCE CRITERIA: During any given day, no child is in attendance for more than 14 hours without the prior approval of the Regional Office.

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ASSESSMENT METHOD: Review the facility's daily child attendance records to determine the length of time children are in attendance there. If a child has been in attendance for more than 14 hours, determine if the facility received prior OCC approval.

C. An operator shall maintain written records of:

- (1) Enrollment with the child's name, address, telephone number, date of birth, and dates and time periods for which enrolled; and**
- (2) Attendance by groups of children which indicate the dates of attendance of each child in the child care facility.**

INTENT: Enrollment records must be maintained listing required information for each child enrolled in care and attendance records noting the dates each child attended the child care program.

INSPECTION REPORT ITEM: "Enrollment and Attendance"

COMPLIANCE CRITERIA: Enrollment and attendance records are maintained.

ASSESSMENT METHOD: Review of the facility's enrollment records to ensure required information is maintained for each child enrolled; and review of the daily attendance records.

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.

INTENT: A facility may not provide care to a child of a given age unless approved by OCC to do so. If granted, this age approval is documented on the license that is issued to the operator. If an age is not specified on the letter of compliance, the facility may not enroll a child of that age.

INSPECTION REPORT ITEM: "Enrollment and Attendance"

COMPLIANCE CRITERIA: The facility enrolls and provides care only to children of the age(s) for which the facility is approved, pursuant to the letter of compliance.

ASSESSMENT METHOD: Review the facility's child admission records to determine if any child enrolled in care is of an age for which the facility has not been approved.