

NOTE: This document includes amendments, effective July 20, 2015, to Chapters 02, 03, 05, 06, 08, 09, and 12 under COMAR 13A.18.

Title 13A STATE BOARD OF EDUCATION Subtitle 18 LARGE FAMILY CHILD CARE HOMES

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; Human Services Article, §1-202; State Government Article, §10-617; Education Article; Annotated Code of Maryland

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Chapter 01 Scope and Definitions

.01 Purpose and Scope.

A. The purpose of this subtitle is to establish requirements for the identification, approval, and operation of large family child care homes.

B. Scope. This subtitle:

(1) Governs child care provided to children for less than 24 hours a day in a private residence that is:

(a) Not the child's own home; and

(b) Approved, or proposed for approval, by the office for a maximum child care capacity of 9 to 12 children;

and

(2) Does not apply to a family child care provider or a family child care home currently registered pursuant to COMAR 13A.15.

.02 Definitions.

A. In this chapter, 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) "Agency" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.

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

(4) Applicant.

(a) "Applicant" means an individual who applies to the office for a certificate of registration to operate a large family child care home.

(b) "Applicant" may include an individual who is currently licensed to operate a small center.

(5) "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.
- (6) "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 the child care provider or a staff member of a child care home to maintain the applicable professional qualifications required by COMAR 13A.18.06.05—.07.
- (7) "Approved preservice training" means training that is:
- (a) Approved by the office; and
 - (b) Used to meet initial professional qualifications required by COMAR 13A.18.06.05—.06 for an applicant or for a staff member of a child care home.
- (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) Child Care Home.
- (a) "Child care home" means a residence in which family child care is provided.
 - (b) "Child care home" includes a:
 - (i) Family child care home registered to operate pursuant to COMAR 13A.15; or
 - (ii) Large family child care home registered to operate pursuant to this subtitle.
- (10) "Continuing registration" means a family child care registration that does not expire.
- (11) "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.
- (12) "Department" means the Maryland State Department of Education.
- (13) "Director" means an individual designated by a provider to conduct the daily operations of a large family child care home.
- (14) "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.
- (15) Employee.
- (a) "Employee" means an individual who for compensation is employed to work in a child care home and who:
 - (i) Cares for or supervises children in the facility; or
 - (ii) Has access to children who are cared for or supervised in the facility.
 - (b) "Employee" includes a paid substitute.
 - (c) "Employee" does not include an individual who is:
 - (i) An independent contractor; or
 - (ii) A registered or certified health care professional who is compensated by the provider or the parent of a child in care to provide a specified health care service to the child.
 - (d) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, "employee" includes an individual who:
 - (i) Is compensated by the provider or a resident to perform a service at the child care home;
 - (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 at §B(21) of this regulation.
- (16) "Family child care" means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.
- (17) "Family child care teacher" means a staff member who:
- (a) Is approved by the office to supervise children in care at a large family child care home; and
 - (b) Meets the professional requirements of COMAR 13A.18.05.06.
- (18) "Group" means a unit of children together with the staff assigned to them.

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

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

(21) Independent Contractor.

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

(i) That is hired by the provider, a resident in the child care home, or the parent of a child in care, on the basis of a service contract or agreement, to perform a specialized service at the 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 child care home, but is available for hire by other customers.

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

(i) Is a registered or certified health care professional compensated by the 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

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

(22) "Infant" means a child younger than 18 months old.

(23) "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.

(24) "Large family child care home" means a child care home approved by the office to operate with a maximum child care capacity of 9 to 12 children.

(25) "Licensing status" means the type of child care center license or family child care registration issued by the agency and the current operating status of that license or registration.

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

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

(28) "Neglect" 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.

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

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

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

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

(31) Overnight Care.

(a) "Overnight care" means child care that is provided between the hours of 12 a.m. and 6 a.m.

(b) "Overnight care" does not include child care provided to a child enrolled for care during daytime or evening hours who, 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.

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

(33) 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.

(34) "Preschooler" means a child who:

- (a) Is 2 years old or older; and
- (b) Does not attend kindergarten or a higher grade.
- (35) "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 and, as applicable, the director, each family child care teacher, and each aide.
- (36) "Provider" means the individual to whom a certificate of registration to operate a child care home is issued pursuant to this subtitle.
- (37) "Provider substitute" means an adult who is approved by the office to be responsible for the operation of a child care home when the child care provider is absent.
- (38) Relative.
 - (a) "Relative" means an individual related to a child by blood, marriage, or adoption.
 - (b) "Relative" includes a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, first or second cousin, great grandparent, great uncle, or great aunt.
- (39) "Resident" means a person who lives in the child care home.
- (40) "Sanction" means an enforcement action under this subtitle.
- (41) "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.
- (42) "School age child" means a child younger than 13 years old who attends a public or nonpublic school in grades kindergarten or above.
- (43) "Small center" means a child care program located in a private residence and licensed for 12 or fewer children that, before January 1, 2012, was licensed to operate as a child care center pursuant to COMAR 13A.16.
- (44) Staff Member.
 - (a) "Staff member" means an individual 16 years old or older, whether paid or not, who is assigned responsibility for child care in a child care home and whose assignment helps to maintain the staff/child ratios required by COMAR 13A.18.08.03.
 - (b) "Staff member" also means the provider.
- (45) "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.18.06.03A; or
 - (ii) If having received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime not listed at COMAR 13A.18.06.03A, has been assessed by the office as suitable for employment pursuant to COMAR 13A.18.06.03B; or
 - (b) A review of records of abuse and neglect of children or adults, that if an individual is:
 - (i) An employee of, or applying for employment by, the provider, the individual has been assessed by the office as being suitable for employment, pursuant to COMAR 13A.18.06.03B; or
 - (ii) An independent contractor, the individual has not been identified as responsible for the abuse or neglect of a child.
- (46) "Superintendent" means the State Superintendent of Schools or the Superintendent's designee.
- (47) "Toddler" means a child 18 months old or older but younger than 2 years old.
- (48) "Treatment foster care" means a 24-hour substitute care program, operated by a registered child placement agency or local department of social services, for children with a serious emotional, behavioral, medical, or psychological condition.
- (49) "Volunteer" means an individual who:
 - (a) Is 13 years old or older;
 - (b) Works in the child care home but is not a compensated employee; and
 - (c) Is not enrolled as a child in care at the child care home.

Chapter 02 Registration Application and Maintenance

.01 Registration — General Requirements.

- A. Requirement to Be Registered.
 - (1) An individual may not operate a large family child care home unless:
 - (a) Both the individual and the home meet the requirements for registration set forth in this subtitle; and
 - (b) The individual possesses a valid certificate of registration.
 - (2) Conversion from a Small Center.
 - (a) An individual currently licensed to operate a small center may apply to the office to convert the small center license to a certificate of registration to operate a large family child care home.

(b) Application for conversion from a small center license shall be made as directed by the office.

(c) A large family child care home that is converted from a small center shall continue to operate with or under the same:

- (i) Licensing status;
- (ii) Approved child care capacity;
- (iii) Approved months, days, and hours of operation;
- (iv) Approved age ranges of children to be served;
- (v) Approved child care areas;
- (vi) Variances, if any;
- (vii) Special conditions or restrictions, if any; and
- (viii) Expiration date, if any.

B. Types of Registration. The office may issue:

(1) An initial registration, which may be issued on a provisional basis pursuant to Regulation .04A of this chapter; or

(2) A continuing registration, which may be:

(a) Issued on a provisional basis pursuant to Regulation .04A of this chapter; or

(b) Replaced by a conditional registration pursuant to Regulation .04B of this chapter.

C. A certificate of registration:

(1) May not be transferred or applied to another individual, residence, or child care program; and

(2) Remains the property of the office.

D. The provider shall display conspicuously the certificate of registration in a location where it can easily be seen and read by parents whose children are in the provider's care or who are considering placing their children in the provider's care.

E. The provider shall surrender the certificate of registration to the office immediately when any of the following occurs or becomes effective:

(1) The provider closes the child care home permanently;

(2) The registration is revoked;

(3) The registration is suspended; or

(4) The initial registration expires, and:

(a) The application for an initial or a continuing registration is denied; or

(b) The provider has not applied for a continuing registration.

F. Except as provided under §G of this regulation, a residence approved for use as a child care home may not also be used to operate a:

(1) Child care home under a different registration; or

(2) Child care program that is subject to the requirements of COMAR 13A.16 or COMAR 13A.17.

G. A residence approved by the office before July 1, 2008, for the concurrent operation of more than one child care home or 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 provider 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. Residence of Applicant or Provider.

(1) Unless currently approved for the purpose, the office may not approve a residence for use as a child care home that is not the primary residence of the family child care registration applicant.

(2) A child care home registration becomes invalid if the home is no longer the primary residence of the provider.

.02 Initial Registration.

A. An application for initial registration shall be filed with the office by an individual who wishes to operate a registered large family child care home and who:

(1) Is not currently a registered large family child care home provider; and

(2) Has not been registered as a large family child care home provider for at least 6 months before the date of application.

B. Unless converting an existing small center to a large family child care home pursuant to Regulation .01A(2) of this chapter, an applicant for an initial registration shall complete an orientation to large family child care home regulations that is offered or approved by the office.

C. Before the proposed opening date of the child care home, an applicant for initial registration shall:

(1) Ensure that an application for a federal and State criminal background check is submitted for:

(a) The applicant;

(b) Each employee, including paid substitutes; and

- (c) Each resident in the home who is 18 years old or older;
- (2) Submit the following items to the office, if not submitted at the time the written application form was submitted:
 - (a) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:
 - (i) The applicant;
 - (ii) Each employee;
 - (iii) Each substitute, whether paid or unpaid;
 - (iv) Each resident in the home who is 18 years old or older; and
 - (v) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;
 - (b) A medical evaluation for the applicant and each resident in the home that:
 - (i) Was completed within 12 months before the date of application for registration;
 - (ii) Was conducted by a practicing physician, certified nurse practitioner, or registered physician's assistant; and
 - (iii) Is signed or verified by the individual who conducted the evaluation;
 - (c) Evidence of compliance with all applicable zoning and building codes;
 - (d) A written plan of operation;
 - (e) An emergency and disaster plan that meets the requirements of COMAR 13A.18.10.01A(3)(a) and (b);
 - (f) Workers' Compensation insurance information;
 - (g) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;
 - (h) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;
 - (i) Documentation that all applicable training requirements set forth at COMAR 13A.18.06.05—.06 have been met by the applicant and each staff member;
 - (j) A 4-week menu of food to be served to children in care at the child care home;
 - (k) A written child discipline policy;
 - (l) If the child care home is located in a condominium or residence which requires homeowners' association membership, written proof of homeowner's liability insurance coverage as required by Maryland law; and
 - (m) Documentation that the home has met all lead safety requirements, as applicable, set forth in COMAR 13A.18.05.05; and
 - (n) All other documentation required by law or regulation, including but not limited to:
 - (i) Proof of an on-site inspection and approval by the local fire authority having jurisdiction;
 - (ii) A building use and occupancy permit, if applicable; and
 - (iii) Workers' Compensation insurance, if applicable.

D. If, within 6 months after the applicant submits a completed application form, the office has not received documentation that all applicable requirements of §B of this regulation have been met, the office may consider the application void.

.03 Continuing Registration.

A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:

- (1) A completed request, on a form supplied by the office, for continued registration;
- (2) Documentation that the continued training requirements and the first aid and CPR certification requirements set forth in COMAR 13A.18.06.05—.07 have been met;
- (3) A medical evaluation that meets the requirements of Regulation .02C(2)(b) of this chapter for:
 - (a) The provider;
 - (b) Each resident in the home who has child care responsibilities; and
 - (c) Each staff member;
- (4) A completed and notarized release of information form that permits the office to examine records of abuse and neglect of children and adults for:
 - (a) The provider;
 - (b) Each provider substitute;
 - (c) Each resident in the home who is 18 years old or older;
 - (d) Each staff member; and
 - (e) If required by the office, any other individual with regular access to the child care area during the approved hours of operation;
- (5) Documentation that the child care home has passed the most recent fire inspection required by the local fire authority having jurisdiction; and
- (6) Any other documentation required by law or regulation.

B. Maintenance of Continuing Registration.

(1) By the end of each 12-month period after the date of issuance of a continuing registration, the provider shall make available to the office documentation that the continued training requirements set forth in COMAR 13A.18.06.05—.07 have been met.

(2) By the end of each 24-month period after the date of issuance of a continuing registration, the provider shall make available to the office the items specified in §A(2)—(6) of this regulation.

.04 Provisional Status and Conditional Registration.

A. Provisional Status.

(1) Except as provided in §A(2) of this regulation, to allow an applicant for an initial or a continuing registration additional time to meet all applicable requirements, the office may approve an initial or a continuing registration 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 registration may not be approved if the office has not yet received evidence that the applicant and, as applicable, each individual specified in Regulation .02C(1) and (2)(a) 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 registration 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 registration; or

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

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

B. Conditional Registration.

(1) If a provider who holds a continuing registration fails to remedy a violation as required, the office may replace the continuing registration with a conditional registration 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 replacing a continuing registration with a conditional registration, the office shall issue to the provider a revised certificate of registration that states the:

(a) Date that the continuing registration was replaced by the conditional registration;

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

(c) Requirements for reinstating the continuing registration.

(3) Immediately upon receipt of the revised certificate of registration, the provider shall:

(a) Remove from display in the child care home the certificate of continuing registration that was originally issued; and

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

(4) If the provider satisfies all requirements for reinstatement of the continuing registration, the office shall promptly notify the provider about the reinstatement of the continuing registration.

(5) If the provider fails to satisfy all requirements for reinstatement of the continuing registration within the specified period of time, the office may suspend or revoke the conditional registration.

.05 Resumption of Service.

A. An application to resume service shall be filed by:

(1) A registered provider who wishes to operate a large family child care home at an address different from that specified on the current certificate of registration; or

(2) An individual who was previously registered by the office to operate a large family child care home and who wishes to re-register, if the last effective date of the previous registration is within 6 months of the application.

B. The application to resume service shall meet all initial registration application requirements, except that:

(1) An abbreviated application form supplied by the office shall be used; and

(2) The office may accept as applicable to the new application the:

(a) Individual's original completion of the orientation specified in Regulation .02C of this chapter, if required;

(b) Original medical reports submitted for the applicant, each resident in the home who will have child care responsibilities, and each staff member if the reports are based on medical evaluations completed within 12 months of the new application;

(c) Results of the original criminal background checks conducted pursuant to Regulation .02B(1) of this chapter;

(d) Results of the original child and adult abuse and neglect clearances conducted pursuant to Regulation .02C(2)(a) of this chapter, if the clearances were completed within 12 months of the application; and

(e) Approved continued training completed within 12 months of the application.

.06 Response of the Office to Application.

A. Except as set forth at §C of this regulation, upon receiving the completed application and all required documentation, whether for an initial registration or a continuing registration, the office shall determine compliance with the requirements of this subtitle by:

- (1) Evaluating the application and required documentation;
- (2) Interviewing the applicant;
- (3) Inspecting the residence proposed for use as a child care home;
- (4) Evaluating the information provided by State and federal criminal background investigations; and
- (5) Evaluating the information provided from records of child and adult abuse and neglect.

B. Upon completing the procedures in §A of this regulation, the office shall, within 30 days:

(1) Issue a certificate of registration to operate the child care home in accordance with the provisions of this subtitle if:

- (a) The application is complete;
- (b) All required documentation has been received; and
- (c) The office is satisfied that the applicant and the residence meet the requirements of this subtitle;

(2) Deny the certificate of registration if the office determines that the applicant or the residence does not meet the requirements of this subtitle; or

- (3) Issue a provisional certificate of registration in accordance with Regulation .04A of this chapter.

C. Within 30 days of receipt of a completed application for conversion of a small center license to a large family child care home registration pursuant to Regulation .02D of this chapter, the office shall issue a certificate of registration to the applicant.

.07 Denial of a Registration Application.

A. The office may deny a certificate of registration if:

- (1) The applicant, a resident, any staff member, or the residence in which child care is to be provided fails to meet the requirements of this subtitle;
- (2) An evaluation of the application by the office reveals that the applicant reported false information;
- (3) The applicant has a documented history of serious or repeated regulatory violations of this subtitle or other regulations of any state concerning the care of children or adults that demonstrates an inability to provide for the health or safety of children;
- (4) The applicant has had a child care home registration, a child care center license, or a letter of compliance denied or revoked before the date on the registration application, 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 registration;
- (6) Upon evaluating the physical condition of the residence and surrounding premises, the office finds conditions that are unsafe or unhealthy;
- (7) An evaluation of the medical report or other information about the applicant or a resident indicates that the:
 - (a) Physical or mental health of the applicant or resident may pose a risk to children; or
 - (b) Applicant is unable to care for children;
- (8) An evaluation of the criminal record of the applicant, an employee including a paid substitute, or a resident in the home indicates behavior harmful to children;
- (9) An evaluation of the information provided in records of abuse and neglect of children and adults reveals that the applicant, a staff member including a substitute, or a resident is identified as responsible for abuse or neglect of children or adults, or is currently under investigation for alleged acts of abuse or neglect of children or adults;
- (10) Based on an interview with the applicant or an evaluation of other pertinent information, the office concludes that the applicant cannot provide for the health, safety, or welfare of 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.
- (11) The applicant is:
 - (a) Providing treatment foster care to a child in other than a preadoptive capacity; and
 - (b) Filing an application for initial registration as a family child care provider.

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

- (1) The reason for denial;
- (2) The specific regulation with which the applicant has failed to comply that is the basis for the denial;
- (3) That the applicant is entitled to a fair hearing; and
- (4) The procedure to be used if the applicant wishes to request a hearing to appeal the decision of the office.

C. If an evaluation of criminal records or records of abuse and neglect of children or adults reveals that a person designated by the applicant as a staff member may pose a risk to children in care, the office, instead of denying the registration certificate, may require the provider to designate another staff member.

D. Denial Before Complete Application.

(1) The office may deny an application for registration at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A 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.

.08 Voluntary Surrender of Registration.

A. A provider may voluntarily surrender a child care home registration at any time by notifying the office.

B. If a registration is surrendered pursuant to §A of this regulation:

(1) The office shall note in the provider's file that the registration has been voluntarily surrendered; and

(2) The provider shall return the surrendered certificate of registration to the office.

Chapter 03 Management and Administration

.01 Advertisement.

A. An individual may not advertise a family child care service unless the individual holds a current certificate of registration issued by the office.

B. An advertisement of the family child care service by a provider shall:

(1) Specify that the child care home is registered; and

(2) Include the registration number issued to the child care home by the office.

.02 Admission to Care.

A. A provider may not admit a child for care unless the provider has:

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

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

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

C. Upon admission of an infant or a toddler, a provider 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 12 months old or older, the need for the child to use a crib for rest purposes.

D. If a child is younger than 6 years old at the time of admission, the provider may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the provider on a form supplied or approved by the Office that the child has received an appropriate lead screening in accordance with applicable State or local requirements.

E. As part of the admission process, the provider shall:

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

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

.03 Program Records.

The provider 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 that indicate:

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

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

B. Maintain:

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

(2) A written child discipline policy as required in COMAR 13A.18.07.03C;

(3) Records of food actually served by the provider for the most recent 4 weeks as required by COMAR 13A.18.12.01G;

(4) A written record of the dates and times at which emergency and disaster plan drills were conducted pursuant to COMAR 13A.18.10.01A(3)(c); and

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

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

- (1) The fees for and provision of care;
- (2) The provider's child discipline policy;
- (3) The presence at the home of any pet animals;
- (4) If applicable, the use of volunteers in the child care program; and
- (5) If overnight care is to be provided to the child, the sleeping arrangements approved by the parent; and

D. Give, or advise the parent how to obtain, information supplied by the office concerning:

- (1) Consumer education on child care; and
- (2) How to file a complaint with the office against a child care provider.

.04 Child Records.

A. Unless a child is temporarily admitted to or retained in care pursuant to §L of this regulation, the provider shall maintain written records, on forms provided or approved by the office, that meet the requirements of this regulation for each child admitted to or continuing in care.

B. Each child's written records shall be:

- (1) Readily accessible to each staff member providing care to the child; and
- (2) Kept on file at the child care home during the period of a child's enrollment and for 2 years after the child's disenrollment.

C. The provider 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 telephone contact information;
- (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.

F. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly from another registered child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.

G. There shall be an immunization record showing that:

- (1) The child has had immunizations appropriate for the child's age which meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene;
- (2) The child has had at least one dose of each vaccine appropriate for the child's age before entry and is scheduled to complete the required immunizations;
- (3) A registered 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, the provider 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 provider shall record or maintain on file:

- (1) Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.18.11.01B;
- (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.18.11.04D;
- (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.18.12.02;
- (5) If program activities away from the child care home 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 child who is 12 months old or older, but younger than 2 years old, 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 provider and the parent at least every 12 months after the child's admission to care.

K. A provider shall maintain daily records of the amounts and kinds of liquids and solid food consumed by each child younger than 2 years old. These records shall be:

- (1) Dated and kept on file for at least 4 weeks;
- (2) Available in the area where children younger than 2 years old are fed; and
- (3) Made available to the child's parent.

L. Temporary Admission.

(1) A provider may temporarily admit or retain a child in care if the child's parent or guardian is unable to provide the health-related records specified in §§D-H of this regulation.

(2) For a child to be temporarily admitted or retained in care, the parent or guardian shall present evidence of the child's appointment with a health care provider or local health department to:

- (a) Receive a medical evaluation to include, if applicable, a lead screening;
- (b) Receive a required immunization;
- (c) Acquire evidence of age-appropriate immunizations on a form approved by the office; or
- (d) Reconstruct a lost record.

(3) The date of appointment, set pursuant to §L(2) of this regulation, may not be later than 20 calendar days following the date the child was temporarily admitted or retained in care.

(4) A provider 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 medical evaluation, immunization, or health record within 3 business days after the date of the appointment made pursuant to §L(2) of this regulation.

.05 Staff Records.

The provider 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 child care home 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 member name, all child care assignments;

C. During an individual's employment at the child care home 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) Employment medical evaluation;
- (4) Criminal background check, except that the provider shall destroy the record of those results immediately after the last day of the individual's employment; and
- (5) Date on which the staff member received the written information required by COMAR 13A.18.06.02;

D. Maintain documentation required for:

- (1) Substitutes, pursuant to COMAR 13A.18.06.08B; and
- (2) The adult available for emergencies, pursuant to COMAR 13A.18.08.02D;

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; and

F. If using volunteers in the child care program, maintain a record for each volunteer that includes:

- (1) The date on which the volunteer received the child health and safety orientation required by COMAR 13A.18.06.02; and
- (2) If the volunteer is present at the child care home more than once per week:

- (a) A brief statement of the volunteer's duties; and
- (b) A medical evaluation of the volunteer that was completed within 12 months before the start of the volunteer's duties.

.06 Notifications.

The provider shall:

- A. Within 5 working days of its occurrence, provide written notification to the office about the:
 - (1) Addition of a new staff member, that includes:
 - (a) 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; or
 - (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, provide to the office complete documentation that the individual meets the requirements of this subtitle for the assignment, unless documentation already is on file in the office;
- C. Notify or require that a staff member notify the office within 24 hours of:
 - (1) The death of a child in care if the child died while at the child care home;
 - (2) The death of a child enrolled at the child care home if the child died of a contagious disease; and
 - (3) An injury to a child that occurs while the child is at the child care home or at an off-site activity 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 child care home that may affect the status of the registration, including but not limited to:
 - (a) Individuals living on the premises;
 - (b) Operation of the child care home; or
 - (c) Telephone number;
- F. Within 5 working days after there is a new resident who is 18 years old or older:
 - (1) Submit to the office a signed and notarized release form giving the office permission to examine records of abuse and neglect of children adults for information about the resident; and
 - (2) Ensure that the resident applies for a federal and State criminal background check; and
- G. Within 10 business days of receiving notice from the home's supplier of water that the drinking water is contaminated, send a written notice of the contamination to the parent of each enrolled child that:
 - (1) Identifies the contaminants and their levels; and
 - (2) Describes the provider's 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. If a provider wishes to make any changes from the current registration, such as use of rooms not previously approved for child care, capacity, hours of operation, or age groups served, the provider 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 registration indicating the change.

.08 Variances.

- A. The 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 provider 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 registration remains in effect and the provider 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 provider that the variance has been granted or denied.

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

(1) The provider 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.

Chapter 04 Operational Requirements

.01 Hours of Care.

A. A provider shall limit the hours of care to the approved hours of operation stated on the certificate of registration.

B. A provider may not offer overnight care without prior written approval from the office.

C. A provider who wishes to provide overnight care shall:

(1) Submit to the office a written plan of operation that includes:

(a) The number and ages of children to be served;

(b) A meal and snack schedule;

(c) The name of the overnight care substitute, if different from the daytime care substitute;

(d) A child supervision plan;

(e) A bedtime routine; and

(f) An evacuation plan for each room where a child in care will sleep; and

(2) Obtain the written approval of each child's parent for the child's sleeping arrangements.

.02 Child Capacity.

A. The office shall determine the capacity of a large family child care home according to criteria established in:

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

(2) Applicable codes, including but not limited to zoning, building, and fire codes.

B. The maximum total capacity of a large family child care home is 12 children.

C. The number of children present in care at any one time may not exceed the maximum child capacity number stated on the certificate of registration.

.03 Enrollment and Attendance.

A. A provider may enroll a child for care at the child care home only if the child's age group is approved for care, as indicated on the provider's current certificate of registration.

B. 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.

C. The office:

(1) Shall count as a child in care a resident who is younger than 6 years old; and

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

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

(b) Cannot be sent home immediately.

D. The provider may not permit a child to remain in care for more than 14 hours in any 24-hour period on a regular basis without prior approval from the office.

.04 Restriction of Operations.

A. Upon determining that any of the following is unsuitable for the child care home, the office may restrict or reduce the provider's approved:

(1) Hours of care;

(2) Child care age groups; or

(3) Child capacity.

B. The office may base a restriction or reduction under §A of this regulation on any of the following factors:

(1) Space available, indoors or outdoors;

(2) Equipment available;

(3) Number and ages of residents in the child care home;

(4) Responsibility of the provider to care for another individual who may require special attention or care, including, but not limited to, an elderly resident or a child with a serious physical, emotional, or behavioral condition;

(5) Applicable fire, zoning, health, environmental, or other codes;

(6) Failure to comply with group size and staffing requirements set forth at Chapter 08.03 of this subtitle; or

(7) Other factors the office determines may cause a risk to a child's health, safety, or welfare.

C. A provider may appeal a restriction or reduction pursuant to §B of this regulation by filing a request for hearing:

- (1) Not later than 20 calendar days after the notification of the office's action; or
- (2) In the case of an emergency reduction in capacity, within 72 hours of notification by the office of its decision to immediately reduce the number of children in care.

Chapter 05 Home Environment and Equipment

.01 Suitability of the Home.

The child care home shall:

- A. Comply with all applicable State and local codes, including but not limited to zoning, building, plumbing, gas, electrical, sewage disposal, drinking water, environmental, health, and fire codes;
- B. Be in good repair;
- C. Be free of health or safety hazards, including infestation by insects and rodents;
- D. Have operable and safe utility services for lighting, heating, and cooking;
- E. Have a toilet in good working condition that is readily accessible to children in care; and
- F. Have an operable refrigerator and stove.

.02 Accessibility.

The provider shall ensure that an access road on the child care home property permits passage by emergency vehicles during times when children are in care.

.03 Rooms Used for Care.

- A. An area of the home may be used for child care only if it:
 - (1) Has been approved for use by the office;
 - (2) Meets the requirements of all applicable fire codes; and
 - (3) Does not have a condition that may pose a risk to the health, safety, or welfare of the children in care.
- B. The space used for child care purposes may include space within the family living area of the residence.
- C. A minimum of 35 square feet of floor space shall be provided for each child in care, except that a minimum of 30 square feet of floor space shall be provided for each child in a large family child care home that was licensed as a small center before December 1, 1971.
- D. A child care home currently approved by the office to operate with less square footage per child than required by §C of this regulation may continue to operate with that reduced square footage as long as the:
 - (1) Provider demonstrates to the satisfaction of the office the impossibility of complying with the minimum square footage required by §C of this regulation while maintaining the economic viability of the program; and
 - (2) Office determines that the reduced square footage does not threaten the health, safety, or welfare of any child in care.
- E. Calculation of the square footage of floor space provided for each child:
 - (1) May include furniture and equipment routinely used for child care purposes, such as but not limited to infant high chairs, diapering stations, tables and chairs used for program activities, and open shelves for storage of items belonging to children in care or related to program activities; and
 - (2) May not include any floor space, rooms, or areas within the area approved for child care that are not suitable or available for the daily program activities of the children, such as but not limited to columns, vestibules, corridors, and equipment or storage space reserved for used by a resident.
- F. If approved to provide care for infants or toddlers, the provider shall designate space for mothers to breastfeed or express breast milk that:
 - (1) Is not located in a bathroom;
 - (2) Has access to an electrical outlet;
 - (3) Has appropriate seating; and
 - (4) Has access to running water.

.04 Home Repair and Maintenance.

Maintenance, repair, or renovation activity performed at a child care home 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 provider may not use paint with lead content on any:
 - (1) Exterior or interior surface of the child care home; or
 - (2) Material or equipment used for child care purposes.
- B. If the child care home 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 provider shall submit a copy of the current lead risk reduction or lead free certificate.

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

(1) Ensure there is no chipping, peeling, flaking, chalking, or deteriorated paint on any surface of an interior or exterior area of the home;

(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 home 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 child care home 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 provider 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 child care home shall have hot and cold running water, with hot water temperature not exceeding 120°F.

B. 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 hand washing.

C. Drinking water shall be supplied by a 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 the source approved by the office pursuant to §C of this regulation.

.08 Sanitary Facilities and Supplies.

A. Except as set forth at §B of this regulation, the provider shall provide one toilet and one sink that are:

(1) Maintained in good operating condition and in a sanitary manner;

(2) Easily accessible to the children; and

(3) Equipped with water-resistant, nonabsorbent platforms which are safely constructed at a height that allows children to use the toilet and sink unassisted.

B. For each group of children younger than 2 years old 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.

C. 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.

D. Portable toilets, also known as potty-chairs, may not be used.

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

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

G. 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 child care areas of the home to allow children to engage in activities safely, allow proper child supervision, and help ensure the safety of each child, employee, and visitor to the home.

B. A provider 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, a provider shall provide an approved source of lighting that will operate in case of a power failure.

D. A provider shall provide adequate outdoor lighting to ensure the safety of persons entering and leaving the child care home when it is dark outside.

.10 Telephone and Communication.

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

B. In a child care home 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. On each level of the child care home where care is provided to children younger than 2 years old, there shall be an operable telephone.

D. The provider shall provide additional telephones or extensions in the child care home as may be required to:

- (1) Summon emergency fire and rescue services promptly; and
- (2) Transmit and receive other emergency communications.

.11 Cleanliness and Sanitation.

A. All of the space in the child care home approved for child care purposes, including floors, walls, ceilings, fixtures, furnishings, materials, and equipment, shall be kept clean and free of infestation.

B. Cleaning may not be conducted while children are present except in emergencies or as cleanup activities that are part of the daily child care program.

C. 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; and
 - (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 child care home shall have an outdoor activity area on the premises of, adjacent to, or near and safely accessible to the home that provides adequate usable play space for the approved capacity of the home.

B. Usable Outdoor Play Space.

(1) Except as set forth at §B(2) of this regulation, a child care home shall have an outdoor activity area that provides at least 75 square feet of usable play space for each child.

(2) A child care home that was originally licensed as a small center, and for which a notice of intent filed pursuant to COMAR 13A.16.02.02A(2) as part of an application for a child care center license was received by the office before January 1, 2009, shall have an outdoor activity area that provides ample usable play space for all of the children in attendance.

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.

F. If required by the office, the outdoor activity area shall be enclosed to protect children in care from accessible hazards such as a heavily trafficked area, a body of water, or environmental hazards.

G. A child may not be allowed to:

- (1) play on climbing equipment from which the child can fall 7 feet or more to the ground;
- (2) Use unsafe activity equipment;
- (3) Use activity equipment in an unsafe manner; or
- (4) Wear a clothing item or accessory that may pose a hazard to the child while engaged in the activity.

H. The provider shall ensure that children use suitable protective gear when engaged in an activity for which protective gear is required by law.

.13 Swimming Facilities.

A. A provider or substitute may permit children in care to use only swimming facilities that:

- (1) Are subject to State or local standards of health, sanitation, and safety; and
- (2) Meet those standards.

B. An above-ground swimming pool:

- (1) May not be used for swimming activities; and
- (2) Shall be made inaccessible to children in care.
- C. A child in care may not use a pool, such as a fill-and-drain molded plastic or inflatable pool, that does not have an operable circulation system approved by the local health department.

Chapter 06 Provider and Staff Requirements

.01 Minimum Staff Age.

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

.02 Staff Orientation.

On or before assignment, a provider shall ensure and document that each 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 and disaster plan contents;
- D. Identity of the staff members who:
 - (1) Are currently certified in first aid and CPR; and
 - (2) Have completed approved training in medication administration;
- E. The identity of the individuals who are required to be available to provide emergency coverage pursuant to COMAR 13A.18.08.02D;
- F. Hand washing and diapering procedures approved by the office;
- G. The child care home'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 community resources available to a family of a child who may have special needs; and
- K. The contents of the current version of this subtitle.

.03 Suitability for Employment.

A. A provider may not employ an individual who has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

- (1) 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 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 child care home 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 provider, or any agency or entity cited by the individual or the provider 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 provider may not permit the individual to begin or to resume employment until the office has notified the provider 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 child care home, the office shall notify the individual and the provider 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 provider:

(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 child care home except to exercise parental responsibilities with respect to a related child in care.

F. A provider 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—.07, as applicable, of this chapter, unless the individual is a substitute functioning in accordance with Regulation .08 of this chapter.

.04 Staff Health.

A. Medical Evaluation.

(1) A provider shall obtain a medical evaluation, including a tuberculosis screen, if indicated, on a form supplied or approved by the office, that has been completed within 6 months before the individual begins work in the child care home, from each prospective:

(a) Staff member; and

(b) Except for a health care professional serving as a consultant pursuant to Regulation .09C of this chapter, support staff who will be present at the child care home while children are in care.

(2) The medical evaluation may transfer directly from one child care home to another, or from a licensed child care center to the child care home, if the evaluation was completed within the previous 12 months.

B. Exclusion from Work. Except with the approval of the office and the health officer, a provider may not permit an individual with a serious transmissible infection or communicable disease listed on a chart supplied by the office to work at the child care home during the period of exclusion from child care recommended on the chart for that infection or disease.

.05 Child Care Home Directors.

A. Use of a Director.

(1) A provider may designate an individual to serve as the director of the child care home.

(2) If an individual is not designated by the provider as the director, the provider shall be the director of the child care home.

B. An individual designated as the director of a child care home shall meet the requirements of this regulation.

C. The provider shall meet the requirements for qualifying as the director of a child care home.

D. Except when engaged in occasional child care home-related activities or away on leave, the director shall be present in the child care home during at least 1/2 of the operating hours of the home 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.

E. Except as set forth at §F of this regulation, to qualify as a director in a large family child care home, an individual shall:

- (1) Be 21 years old or older;
- (2) Hold a high school diploma or a certificate of high school equivalence, or have successfully completed at least 6 credits 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; and
 - (b) 3 semester hours or their equivalent of approved administrative training; and
 - (c) Effective January 1, 2016:
 - (i) 3 clock hours of approved training in ADA compliance; and
 - (ii) Approved training in supporting breastfeeding practices.
- (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;
- (5) Unless previously approved by the office to direct a child care program serving children younger than 2 years old, have completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old; and
- (6) Have completed 1 year of experience working directly with children in a registered child care home, licensed child care center, nursery school, church-operated school, or similar setting.

F. An individual is considered qualified as a director when that individual has:

- (1) 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; and
- (2) Completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old.

G. A director shall:

- (1) Maintain the professional development plan received from the office;
- (2) According to the professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of service as a director, that consists of a:
 - (a) Minimum of 6 clock hours of core of knowledge training; and
 - (b) Maximum of 6 clock hours of elective training; and
- (3) Document completion of the continued training on the professional development plan.

.06 Family Child Care Teachers.

A. A family child care teacher in a child care home shall be 19 years old or older.

B. Except as set forth at §C of this regulation, to qualify as a family child care teacher, an individual:

- (1) Shall hold or have successfully completed:
 - (a) A high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;
 - (b) Either 9 clock hours of approved pre-service training in communicating with staff, parents, and the public or at least one academic college course for credit; and
 - (c) Either:
 - (i) 6 semester hours or 90 clock hours or their equivalent of approved pre-service training;
 - (ii) The Child Development Associate Credential issued by the Child Development Associate National Credentialing Program; or
 - (iii) Accreditation by the National Association for Family Child Care as a family child care provider; and
- (2) Have completed at least one of the following:
 - (a) 1 year of experience working under supervision with children in licensed child care center, nursery school, church-operated school, or similar setting;
 - (a) 1 year of experience as a registered family child care provider; or
 - (c) 1 year of college, or a combination of experience and college that together are equivalent to 1 year;

C. An individual shall qualify as a family child care teacher if the individual:

- (1) Holds an associate's or higher degree with approved courses in early childhood education;
- (2) Qualified before July 1, 2008, as a child care teacher in a licensed child care center and has been continuously employed since that time at the same or another licensed child care center;
- (3) Has been approved as a teacher by the Department for early childhood in nursery school through third grade; or
- (4) Is certified by the Department or by any other state for early childhood in nursery school through third grade.

D. A family child care teacher in a child care home shall:

(1) According to the individual's professional development plan, complete approved continued training, at the rate of at least 12 clock hours per full year of employment as a child care teacher, that consists of a:

- (a) 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.

E. Before a family child care teacher may supervise a child younger than 2 years old, the individual shall, unless previously qualified by the office to supervise an infant or a toddler:

(1) Meet the requirements of §§A—B of this regulation and have completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old; or

(2) Be 19 years old or older and:

(a) Meet the requirements of §B(1)(a) and (b) and §B(2) of this regulation; and

(b) Have completed 6 semester hours of approved training, or the equivalent, related exclusively to the care of children younger than 2 years old.

.07 Aides.

A. An aide shall:

(1) Be 16 years old or older;

(2) Work under the direct supervision of the provider or the family child care teacher in charge of the group of children to which 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 has completed 90 clock hours or the equivalent in early childhood education preservice training, and except as set forth in §C of this regulation, an individual hired to work as an aide 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.

C. The requirement to complete an orientation session, as set forth at §B of this regulation, does not apply to an individual hired to work as an aide before January 1, 2009.

.08 Substitutes.

A. When a staff member is absent, a substitute for that staff member shall be provided as needed to maintain the staff/child ratios required by COMAR 13A.18.08.03.

B. A substitute shall:

(1) Be 18 years old or older;

(2) Be familiar with this subtitle;

(3) Complete, sign, and submit to the office the required forms for substitutes, which include permission to examine records of abuse and neglect of children;

(4) If paid, apply for a federal and State criminal background check at a designated law enforcement office in the State; and

(5) Present no risk to the health, safety, or welfare of children.

C. If a substitute is needed for longer than a continuous 2-week period, the provider 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 provider 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.

.09 Support Personnel.

A. Except as set forth at §B of this regulation, the provider 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. Additional staff need not be provided if children are involved in appropriate activities and supervised at all times while necessary duties, such as food preparation, are performed.

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

.10 Volunteers.

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

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

Chapter 07 Child Protection

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

A provider, employee, substitute, volunteer, individual residing on the premises of the child care home, or other individual connected with the home may not subject a child to abuse, neglect, mental injury, or injurious treatment.

.02 Abuse/Neglect Reporting.

A. A provider, employee, or substitute who has reason to believe that a child has been:

(1) Abused, inside or outside of the child care home, 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; or

(2) Neglected, inside or outside of the child care home, 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. A provider shall:

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

(2) Instruct the 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 child care home, the telephone numbers of the Child Protective Services unit of the local department and the appropriate law enforcement agency.

D. A provider may not require an employee or substitute to report through the provider, rather than directly to the local department or a law enforcement agency, when the employee or substitute 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 provider 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 provider shall:

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

(a) Discipline methods used at the child care home; 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, substitute, volunteer, and other individual connected with the child care home.

.04 Parental Access.

A provider shall permit the parent of a child in care to:

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

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

.05 Authorized Release.

A. A provider shall ensure that a staff member releases a child only to the child's parent or to another individual, if directed by the parent, whose identity is verified.

B. 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 provider shall ensure the safety and security of each child at all times.

B. Whenever an area of the child care home is being used for a child care activity and children are present, the provider 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 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 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 provider pursuant to COMAR 13A.18.06.09C;

(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; or

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

(2) Unless documentation is on file at the child care home that an independent contractor performing a service at the child care home 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 an appropriately qualified staff member is present throughout the activity to supervise the children.

(2) A child may not participate in the activity unless the provider has received prior written permission from the child's parent or guardian for the child's participation.

Chapter 08 Child Supervision

.01 Individualized Attention and Care.

A provider shall ensure that:

A. Each child receives:

(1) Attention to the child's individual needs, including but not limited to;

(a) Making reasonable accommodations for children 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 services on the facility premises as specified in the child's individual education plan, individual family service plan, 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 provider 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 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 provider 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 a family child care teacher who meets the requirements of COMAR 13A.18.06.06.

B. The provider 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. A child younger than 2 years old may be handled or fed only by an individual designated to do so by the provider.

D. Staff Availability.

(1) In case of a temporary absence from the child care home of the provider or, if applicable, the director:

(a) The provider shall designate a family child care teacher to be present and in charge of the child care home; or

(b) If a family child care teacher is not available, the provider shall direct the provider's substitute to be present and in charge of the child care home.

(2) If the only children in attendance are 2 years old or older and only one staff member is needed to meet staff/child ratio requirements, the provider 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 child care home within 15 minutes of notification.

.03 Group Size and Staffing.

A. Assignment of Staff. One or more family 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:

<i>Child Ages</i>	<i>Staff/Child Ratio</i>	<i>Maximum Group Size</i>
<i>2 years old</i>	<i>1 to 6</i>	<i>12</i>
<i>3 or 4 years old</i>	<i>1 to 10</i>	<i>12</i>
<i>5 years old or older</i>	<i>1 to 12</i>	<i>12</i>

D. Groups of Children Younger than 2 Years Old. In a group of children where each child is younger than 2 years old, the following staff/child ratio and maximum group size requirements apply:

<i>Child Ages</i>	<i>Staff/Child Ratio</i>	<i>Maximum Group Size</i>
<i>Infants</i>	<i>1 to 3</i>	<i>6</i>
<i>Toddlers</i>	<i>1 to 3</i>	<i>9</i>
<i>Infants and toddlers, with 1 to 2 infants in the group</i>	<i>1 to 3</i>	<i>9</i>
<i>Infants and toddlers, with 3 or more infants in the group</i>	<i>1 to 3</i>	<i>6</i>

E. Mixed-Age Groups with Children Younger than 2 Years Old. In a group where children younger than 2 years old are mixed with children 2 years old or older, the following minimum staffing levels and maximum group size requirements apply:

<i>Group Composition</i>	<i>Minimum Staffing Level</i>	<i>Maximum Group Size</i>
<i>Includes 1 or 2 children under the age of 2</i>	<i>1 staff member</i>	<i>8</i>
<i>Includes 1 or 2 children under the age of 2</i>	<i>2 staff members</i>	<i>12</i>
<i>Includes 3 or 4 children under the age of 2</i>	<i>2 staff members</i>	<i>8</i>
<i>Includes 3 or 4 children under the age of 2</i>	<i>3 staff members</i>	<i>12</i>

F. Mixed-Age Groups with Children 2 Years Old or Older.

(1) In a mixed age group with children who are 3 years old or older, the staff to child ratio is 1 to 10.

(2) In mixed-age groups of varying sizes that include children who are 2 years old, the following minimum staffing levels apply:

<i>Group Composition</i>	<i>Group Size</i>	<i>Minimum Staffing Level</i>
<i>Includes one to three 2-year-old children</i>	<i>Up to 10</i>	<i>1 staff member</i>
<i>Includes four or more 2-year-old children</i>	<i>Up to 12</i>	<i>2 staff members</i>

G. 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:

<i>Child Ages</i>	<i>Staff/Child Ratio</i>	<i>Maximum Group Size</i>
<i>2 years old</i>	<i>1 to 6</i>	<i>12</i>
<i>3 years old or older</i>	<i>1 to 12</i>	<i>12</i>

(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.

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

.05 Supervision During Water Activities.

A. A provider 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 child care home by the provider, 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 child care home employee; or

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

or

B. An off-site activity by an independent contractor and at least one child in care is being transported, the provider shall ensure that there is at least one 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.

C. To determine if a resting child is safe, breathing normally, and in no physical distress:

(1) Each resting child shall be observed at intervals appropriate to the child's age and individual needs; and

(2) A resting child younger than 12 months old shall be observed at least every 15 minutes.

Chapter 09 Program Requirements

.01 Schedule of Daily Activities for All Children.

A. The provider 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. A provider shall assign one staff member primary responsibility for each infant and toddler in care during each staff shift.

B. Upon enrollment of an infant or a toddler, the provider shall, in consultation with the parent of the child, 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 a toddler, the written activity plan required at the time of the child's admission to care shall be:

- (1) Available 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, a provider 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;
- (4) In good repair, clean, nontoxic, and free from hazards including lead paint; and
- (5) Culturally sensitive and representative of the children in care.

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 in care:

- (1) May include furniture and other furnishings used by residents in the child care home; and
- (2) Shall be scaled in proportion to the child's size.

.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 child care home for more than 4 hours, and for children 5 years old or older who regularly take rest periods in the child care home;

(2) A suitable bed for each child who is 12 months old or older and who is present in the child care home 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 child care home; and

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

- (a) Younger than 12 months old; or
- (b) 12 months old or older but younger than 2 years old, if the child's parent requests a crib, portable crib, or playpen.

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, portable crib, and playpen shall meet the standards of the U.S. Consumer Product Safety Commission.

D. Stackable cribs may not be used.

E. Each crib, portable crib, and playpen in use shall be placed so that:

- (1) It presents at least one long side without a wall, plexiglass panel, or other solid barrier; and
- (2) 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, portable cribs, or playpens 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, portable crib, or playpen.

.05 Equipment for Infants and Toddlers.

A. A sufficient number of strollers or carriages with appropriate restraints shall be available to accommodate all nonwalking infants and toddlers who are present in care.

B. The use of walkers is prohibited.

C. The child care home shall have furnishings that allow the safe and easy feeding of infants and toddlers, including but not limited to high chairs, child-sized tables and chairs, 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.

Chapter 10 Safety

.01 Emergency Safety Requirements.

A. Emergency and Disaster Plan.

- (1) The provider or a staff member 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 child care home.
- (2) The provider 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 child care home, 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 child care home.
- (5) Each staff member 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 provider 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 child care home and determine the presence of each child currently in attendance.

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

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

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

C. A provider shall post, immediately accessible to each telephone in the child care home, a notice stating the:

- (1) 9-1-1 emergency telephone number to summon fire, police, and rescue services;
- (2) Child care home'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.18.08.02D; 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 family child care teacher or the provider 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 child care home 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 child care home is approved.

B. Whenever a child in care is present, there shall be at least one staff member, or the provider, present who is 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 child care home auspices to or from the child care home, 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 provider to assist in transporting children in care.

E. A provider shall maintain first aid supplies as required by the office, conveniently accessible for each group of children at the child care home and at an off-site activity.

.03 Safe Use of Materials and Equipment.

The provider 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 staff member and each child in attendance; and
- B. As applicable, in accordance with manufacturer instructions or recommendations.

.04 Potentially Hazardous Items.

A. A provider 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. If a firearm is maintained in the child care home, 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.

G. Whenever a child younger than 5 years old is in care, the provider shall ensure that:

- (1) All electrical sockets within reach of the child are plugged or capped as required by the applicable fire code;
- (2) Suitable protective barriers are placed at locations accessible and potentially hazardous to the child; and
- (3) Child-proof devices are placed on cabinets and drawers that contain items potentially hazardous to the child.

H. 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 registered 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.

Chapter 11 Health

.01 Exclusion for Acute Illness.

- A. The provider shall:
 - (1) Monitor, and ensure that each staff member present monitors, each child in attendance 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. A provider 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. A provider 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. A provider may not knowingly admit to care or retain in care a child with a transmissible infection or a communicable disease during the period of exclusion recommended for that infection or disease as shown on a chart provided by the office, unless the health officer grants approval for the child to attend child care during that period.

.03 Preventing Spread of Disease.

- A. A written hand washing 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 the provider, each staff member, each volunteer, and each 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 by the provider or substitute 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; and
- 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 registered 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 noted 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 staff member designated by the provider to administer medication.
- F. Medication Administration Training.
 - (1) Whenever children in care are present, there shall be at least one child care home staff member present who has completed medication administration training approved by the office.
 - (2) Medication may be administered to a child in care only by a staff member who has completed approved medication training.
- G. The requirements of §F of this regulation shall not apply if:
 - (1) The child care home employs a registered nurse, registered 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 staff member 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, a provider 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) A provider 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 provider shall notify the child's parent of that revocation.
 - (c) The provider shall document the revocation of authorization to self-administer and the notification to the child's parent in the child's record.

.05 Smoking.

Smoking is prohibited in any indoor or outdoor area approved for child care use during the child care home's hours of operation.

.06 Alcohol and Drugs.

Whenever children are in care, a provider may not allow the consumption of alcoholic beverages or the use of illegal or nonprescribed controlled dangerous substances:

- A. By a person supervising, or helping to supervise, a child in care;
- B. In an area of the child care home approved for child care during the home's hours of operation; or
- C. By a staff member or a volunteer during an off-site program activity.

Chapter 12 Nutrition

.01 Food Service.

- A. Food and beverages that are furnished by a provider 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.
- B. For children in care, the provider shall furnish:
 - (1) All beverages, including beverages for meals and snacks; and
 - (2) Milk with all meals.
- C. A beverage furnished by the provider may not contain an added sweetener or caffeine, except for:
 - (1) Infant formula; or
 - (2) A beverage prescribed for a child by a health care provider.
- D. If the child is:
 - (1) Younger than 2 years old, milk furnished to the child shall be supplied or approved by the child's parent; or
 - (2) 2 years old or older, milk furnished to the child by the provider shall be 1% fat milk or nonfat milk, unless otherwise ordered by a health care provider or requested by the child's parent.

E. The provider may arrange with the child's parent to furnish milk of a type that is different from the milk ordinarily furnished by the provider.

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

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

G. If a provider chooses not to provide meals, the provider shall make arrangements with the parent of each child to provide food for meals.

H. A provider shall keep a supply of nutritious food on hand in order to provide food to a child whose parent has not supplied:

- (1) Food for meals or snacks; or
- (2) Sufficient food to meet the standards of the Child and Adult Care Food Program of the U.S. Department of Agriculture.

I. Menus. A provider shall:

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

(2) Keep a dated record of food actually served in the home, 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 a provider agrees to accept a child who requires a modified diet for:

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

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

.03 Food Sources.

A. A provider shall furnish food at the child care home 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. A provider may not provide to the children home-canned goods or any other hermetically sealed food prepared in a place other than a registered food processing establishment.

C. A provider:

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

- (a) Pasteurized Grade A;
- (b) Except as provided by §C(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. A provider 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 the child's home and all food held in reserve for service by the provider.

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) If stored on open shelves, at least 6 inches off the floor.

D. Food may be stored:

- (1) Separately from family food; or
- (2) With family food if the provider chooses to have the entire family food storage area inspected.

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

- (1) Easily cleanable or disposable;
- (2) Nontoxic;
- (3) Nonabsorbent;
- (4) Tightly closed; and
- (5) Clearly labeled as to its contents.

F. The provider:

- (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 provider 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 provider 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. 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 Feeding Infants and Toddlers.

A. The provider shall ensure that the written feeding schedule for each infant and toddler, as required by COMAR 13A.18.03.02C, is:

- (1) Followed; and
- (2) Updated as necessary or at least every 3 months while the child is in care.

B. Self-Feeding by Children Younger than 18 Months Old.

(1) The child shall be held for each bottle feeding except when developmentally able and insistent upon self-feeding.

- (2) The child may hold the bottle only:
 - (a) When seated; and
 - (b) If the bottle is made of unbreakable material.

C. Except as specified by §D of this regulation, a provider may serve a child younger than 18 months old 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 provider or the parent that are consumed the same day.
- D. Only whole, pasteurized milk will be served to a child younger than 2 years old who is not receiving formula or breast milk, except that skim milk, reconstituted nonfat dry milk, or 1—2 percent milk may be served upon the written prior approval of the child's parent and health care provider.
- E. A provider shall ensure that:
- (1) All food and bottles intended for consumption or use by a child younger than 18 months old are labeled with the child'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 child care home;
 - (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 children younger than 2 years old 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.

Chapter 13 Educational Programs in Nonpublic Nursery Schools

.01 Purpose and Scope.

This chapter establishes requirements for approval to operate an educational program in a nonpublic nursery school located in a residence that is registered as a large family child care home.

.02 Definitions.

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

B. Terms Defined.

- (1) "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.
- (2) "Child care home registration" means the document issued by the Department pursuant to this subtitle that authorizes the recipient to operate a large family child care home.
- (3) "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.
- (4) "Department" means the State Department of Education.
- (5) "Department representative" means an individual designated by the Department to determine compliance with this chapter.
- (6) "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.
- (7) "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.
- (8) "Montessori program" means an educational program based on the pedagogical philosophy of Dr. Maria Montessori, as reflected in the program's teacher qualifications, curriculum, instructional methods, and materials and equipment.
- (9) "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.
- (10) "Office" means the central office or a regional office of the Department's Division of Early Childhood Development, Office of Child Care.
- (11) "State Board" means the Maryland State Board of Education.
- (12) "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. A provider may be approved to operate an educational program in a nonpublic nursery school only if:
- (1) The provider holds a valid registration to operate a large family child care home; and
 - (2) The educational program would not be operated in the living space of the residence where the child care home is located.
- B. Unless a provider chooses to cease operating an educational program, approval to operate the program, once granted, shall continue as long as the:
- (1) Child care home registration remains in effect;
 - (2) Educational program is operated according to the terms under which approval to operate was granted; and
 - (3) Provider remains in full compliance with all applicable requirements of this chapter.
- C. 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 home registration is suspended or revoked and the provider:
- (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.
- D. A provider who has ceased operating an educational program subject to the requirements of this chapter shall promptly return to the office the child care home registration that certifies approval to operate the educational program.
- E. A certificate of approval to operate an educational program that was issued to the provider prior to January 1, 2012, shall remain in effect.

.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) A provider who is already approved to operate an educational program may not apply for approval to operate another educational program if the educational program for which the provider is currently approved is not in full compliance with all applicable requirements of this chapter.
- 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 home registration that certifies approval to operate an educational program.
- C. The child care home registration 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 provider intends to change the terms under which approval has been granted, the provider 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 provider.
- E. A provider 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 home registration; 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, a provider may seek approval of a change in the terms of the approval if approval of the change is the means for the provider to demonstrate compliance with this chapter.
- G. A provider may not implement a change in the terms of approval until the office has issued a revised child care home registration that reflects the change.
- H. A provider shall inform the office in writing at least 30 days before the provider ceases operating an educational program.

.05 Compliance and Inspections.

- A. Continued approval to operate an educational program is conditioned on the provider'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 provider, at any time during the approved hours of operation of the program.

C. During an inspection, the provider 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 provider 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 provider 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 provider 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 against an educational program located in a child care home may be severable.

.06 Personnel Qualifications.

A. Educational Program Administrator.

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

(2) The educational program administrator at a minimum shall meet the standards established in §B(3) of this regulation.

(3) The provider 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. 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 §B(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) In addition to meeting the requirements of §B(3) of this regulation, a teacher employed in a Montessori program shall also hold a Montessori diploma for the level of the individual's assignment.

(5) If the degree, college credit, or foreign credential required under §B(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 preservice 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) 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.

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

D. Written Statement of Teacher Qualifications. A provider 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 provider 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 provider 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 provider 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. The requirements of §B(1)—(8) of this regulation are met by compliance with child record requirements set forth at COMAR 13A.18.03.04C.

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

B. The requirements of §A of this regulation are met by complying with pertinent health, fire safety, and zoning requirements set forth under this subtitle.

.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.

Chapter 14 Inspections, Complaints, and Enforcement

.01 Inspections.

A. The office shall inspect each child care home:

- (1) On an announced basis before issuing a certificate of initial registration or continuing registration; and
- (2) On an unannounced basis, at least once within each 12-month period after the date that a certificate of initial registration or continuing registration was issued to the provider.

B. The provider or staff member shall permit inspection of all areas of the home by the agency representative during the provider's hours of operation.

C. The agency representative may make inspections, in addition to the announced and unannounced inspections specified in §A of this regulation, without prior notice to the provider.

D. Upon request, the provider or staff member shall make the records required by this subtitle available to the agency representative for inspection and copying.

E. A provider or staff member may request satisfactory identification from the agency representative before admitting the person for an inspection.

F. A provider may appeal a finding of noncompliance with this subtitle by requesting a review of findings by the regional office or the central office of the Agency.

.02 Complaints.

The office shall investigate:

A. Both written and oral complaints that relate to a potential violation of a regulation under this subtitle, including anonymous complaints; and

B. Complaints of unregistered family child care.

.03 Warnings.

If an investigation of a complaint or an inspection of a child care home indicates a violation of this subtitle that does not present an immediate threat to the health, safety, and welfare of a child in care, the office may issue a warning in writing, on an inspection report or by separate letter, that states:

A. The violation found, citing the regulation;

B. The time period for correcting the violation; and

C. That failure to correct the violation may result in sanctions being imposed or in suspension or revocation of the registration.

.04 Intermediate Sanctions.

A. Upon determining that a provider has violated or a child care home fails to meet any of the regulations of this subtitle, the office may:

(1) Restrict the age or number of children accepted for care;

(2) Reduce the number of children in care;

(3) Require the provider to receive remedial instruction in a specified content area;

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

(5) Enter into an agreement with the provider detailing requirements in addition to those above, including time limits for compliance; and

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

B. If the office determines that the provider has violated a condition or requirement of the intermediate sanction, the office may suspend or revoke the registration.

.05 Nonemergency Suspension.

A. The office may suspend the certificate of registration, for a period of not more than 60 calendar days, upon determining that the provider or the child care home is in violation of any of the regulations under this subtitle and that the health, safety, or welfare of a child in the home is threatened.

B. The office shall notify the provider in writing of the suspension at least 20 calendar days before the effective date stating:

(1) The effective date and period of the suspension;

(2) The reason for suspension;

(3) The regulation with which the provider has failed to comply that is the basis for the suspension;

(4) Corrections required to ensure reinstatement of the certificate of registration;

(5) That the provider shall stop providing child care on the effective date of the suspension unless the provider requests a hearing;

(6) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;

(7) The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;

(8) That the suspension shall be stayed if a hearing is requested;

(9) That, if the suspension is upheld following the hearing, the provider shall cease providing child care for the period of the suspension;

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

(11) That the provider is required to surrender the certificate of registration 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) Reinstatement the certificate of registration and return it to the provider; or

- (2) Revoke the certificate of registration.

.06 Emergency Suspension.

A. The office may immediately suspend the certificate of registration for a period of not more than 45 calendar days upon finding that a child's health, safety, or welfare imperatively requires emergency action.

B. The office shall hand-deliver a written notice to the provider informing the provider of the emergency suspension, giving the reasons for the action, and notifying the provider of the right to request, within 30 days of the delivery of the notice, a hearing before the Superintendent's designee.

C. When the certificate of registration is to be suspended immediately:

- (1) The office shall repossess the certificate of registration;
- (2) The provider shall stop providing child care immediately; and
- (3) The office shall notify the parents of the children in care of the suspension and make every reasonable effort to assist the parents of the children in making other child care arrangements.

D. If a hearing is requested by the provider, the Superintendent's designee shall hold a hearing within 7 calendar days of the date of the request.

E. Within 7 calendar days of the hearing, a decision concerning the emergency suspension shall be made by the Superintendent's designee.

F. If the decision does not uphold the emergency suspension, the provider may resume providing child care.

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

- (1) Reinstatement the certificate of registration and return it to the provider; or
- (2) Revoke the certificate of registration.

.07 Revocation.

A. The office may revoke a certificate of registration if the:

- (1) Provider or child care home is in violation of one or more of the regulations under this subtitle and the health, safety, or welfare of a child in the home is threatened;
- (2) Provider misrepresented or offered false information on the application or on any form or report required by the office;
- (3) Provider interferes with or obstructs the agency representative in the performance of the duties of the office;
- (4) Provider fails to submit all documentation required to maintain the certificate of registration;
- (5) Provider or staff member refuses to permit access to a child or to the space in the home used for child care by a parent or an agency representative during operating hours of the child care home;
- (6) Terms or conditions of a sanction have been violated;
- (7) Violations required to be corrected during a period of suspension have not been corrected and the period has ended;
- (8) The provider 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.18.06.03A — B and F, and .10B; or
 - (b) Child security requirements set forth in COMAR 13A.18.07.06;
- (9) Provider permits an individual to have child supervision responsibilities after being notified by the office that the individual has been disapproved for that purpose;
- (10) Evaluation of information provided to or acquired by the office indicates that the provider is unable to care for the welfare of children; or
- (11) Provider admits a child for treatment foster care in the home, unless the child is placed in the home in a preadoptive capacity.

B. If the office decides to revoke a certificate of registration, the office shall notify the provider in writing at least 20 calendar days in advance of the revocation, stating:

- (1) The effective date of the revocation;
- (2) The reason for the revocation;
- (3) The regulation with which the provider has failed to comply that is the basis for the revocation;
- (4) That the provider shall stop providing child care on the effective date of the revocation;
- (5) That the provider is entitled to a hearing if requested in writing within 20 calendar days of the delivery of the notice;
- (6) The procedure to be used if the provider wishes to request a hearing to appeal the decision of the office;
- (7) The revocation shall be stayed if the hearing is requested, unless the revocation immediately follows an emergency suspension period; and
- (8) That the provider is required to surrender the certificate of registration to the office when the revocation becomes effective.

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

.08 Penalties.

- A. An individual found to be operating a child care home, or advertising a family child care service, without a valid family child care registration is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:
- (1) \$1,500 for the first violation; and
 - (2) \$2,500 for a second or subsequent violation.
- B. The office may institute legal proceedings to:
- (1) Enjoin any individual not registered who is providing family child care from continuing to operate; or
 - (2) Ask a court in the jurisdiction of the child care home to impose a fine of up to the maximum amount permitted by law on an individual found to be operating in violation of this subtitle.

.09 Civil Citations.

- A. The office may issue a civil citation imposing a civil penalty to an individual who provides unregistered family child care in violation of the requirements of this subtitle.
- B. Assessment of Penalty.
- (1) Subject to §B(3) of this regulation, an individual to whom a civil citation is issued is subject to a civil penalty in the amount of:
 - (a) \$250 for the first violation;
 - (b) \$500 for the second violation; and
 - (c) \$1,000 for the third and each subsequent violation.
 - (2) Each day that unregistered family child care occurs in violation of the requirements of this subtitle is a separate violation under this regulation.
 - (3) The total amount of civil penalty imposed against an individual in an action under this regulation may not exceed \$5,000.
- C. An individual against whom a civil penalty has been imposed under this regulation shall pay the full amount of the penalty promptly to the Department, as instructed by the civil citation or as otherwise directed by the office.
- D. Appeals.
- (1) An individual may appeal the imposition of a civil penalty under this regulation by filing an appeal with the office as instructed by the civil citation or as otherwise directed by the office.
 - (2) Appeals are conducted in accordance with the provisions of COMAR 13A.18.15.

Chapter 15 Administrative Hearings

.01 Scope.

- A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact on child care home registrations, such as registration denials, revocations, suspensions, reductions in capacity, limitations on the ages or numbers of children who may be admitted to a child care home, or employment exclusions pursuant to COMAR 13A.18.06.03A or B of this subtitle.
- 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 those actions listed in §A of this regulation. A decision by an administrative law judge of the Office of Administrative Hearings in a family child care registration 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 home 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 registration to operate a child care home.
 - (4) "Capacity" means the number of children who may be in care at a child care home 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, or an employment exclusion pursuant to Chapter 06.03A or B of this subtitle.

- (8) "Filed" means 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) "Office" means the central office or a regional office of the Office of Child Care.
- (11) "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.
- (12) "Party" means the appellant and the Office of Child Care.
- (13) "Provider" means a person registered to provide family child care.
- (14) "Registration" means a certificate issued by the Department which gives a person legal permission to operate a child care home.
- (15) "Superintendent" means the State Superintendent of Schools.

.03 Hearing Requests.

- A. A hearing shall be held when an applicant or provider requests a hearing to contest:
 - (1) The denial of an application for registration;
 - (2) A revocation or suspension of a registration; or
 - (3) Any other action that adversely impacts on registration, including, but not limited to:
 - (a) The setting of a provider's 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 home.
- B. Nonemergency Action Hearing Requests.
 - (1) All nonemergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the provider, 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 by the Office of Administrative Hearings within 90 days of the filing date.
 - (5) Any nonemergency action is stayed if a hearing request is timely filed, unless the action is:
 - (a) A revocation which immediately follows an emergency suspension period; or
 - (b) A denial which follows the expiration of the provisional period of a registration 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 provider, 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 shall be conducted within 7 days of the filing date of the hearing request.
 - (4) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.
 - (5) The filing of a hearing request may not stay an emergency action.

.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, the appellant, and the appellant's representative.
- 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 registration of a child care home; 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 nonemergency 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 nonemergency 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 Nonemergency 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) of this chapter 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 family child care registration 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 the 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 it reached its 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.

Chapter 16 Public Access to Licensing Records

.01 Definitions.

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

B. Terms Defined.

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

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

(3) "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 registering of a person or a child care home to provide child care.

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

(5) "Requester" means an individual, business, corporation, partnership, association, organization, or governmental agency that requests inspection of, or information from, licensing records.

(6) "Sociological information" means any of the following information about a provider, a staff member, a volunteer, or a resident in the child care home:

(a) Social Security number;

(b) Personal address;

(c) Personal phone number;

(d) Information regarding marital status, dependents, or relatives; and

(e) Information regarding employment status, including employment application.

(7) "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 registered child care homes;

(2) Records of complaint forms pertaining to confirmed or unsubstantiated complaints;

(3) Copies of certificates of registration, including those on provisional status;

(4) Variances;

(5) Correspondence and documents requiring abatement 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 provider or a child care home, including denial letters, sanctions, emergency suspensions, and revocations; and

(7) Correspondence regarding requests for inspection of licensing records under this regulation.

B. 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.

