



Child Care Center Licensing Manual

(August 2016)


for use with

COMAR 13A.16 Child Care Centers
(as amended effective 7/20/15)

Table of Contents

COMAR 13A.16.02 LICENSE APPLICATION AND MAINTENANCE

.01 License – General Requirements	1
.02 Initial License	4
.03 Continuing License	7
.04 Provisional and Conditional Status	10
.05 Response of the Office to Application	12
.06 Denial of License Application	13



.01 License—General Requirements.

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

INTENT: Maryland law requires a child care center, as defined in COMAR 13A.16.01.02 B (14), to be licensed before it may operate. Licensure indicates that a facility has met minimum child health and safety standards. By setting certain requirements for the care, supervision, and nurturance of children in out-of-home care, the standards serve to protect the well-being of those children. As a condition of licensure, each operator must comply with all applicable requirements of COMAR 13A.16 Child Care Centers. Failure to comply may result in denial, suspension, or revocation of the license.

Note: Operating a child care center without a valid license is a violation of Maryland law and may result in criminal prosecution.

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

- (1) **Except as provided by §B (2) or (3), as applicable, of this regulation, a tax-exempt religious organization that wishes to operate a nursery school or a child care center shall apply to become licensed, and shall meet all applicable requirements, under this subtitle.**
- (2) **If the tax-exempt religious organization plans to operate a nursery school or a child care center in a school building that exclusively serves children who are enrolled in that school, the organization may apply for a:**
 - (a) **Child care center license under this subtitle; or**
 - (b) **Letter of compliance under COMAR 13A.17.**
- (3) **In a nursery school or child care center located in a school building exclusively for children enrolled in that school and operated by a tax-exempt religious organization, the following regulations of this subtitle do not apply:**
 - (a) **COMAR 13A.16.03.05C (1) and (2) concerning staff records;**
 - (b) **COMAR 13A.16.06.05—.12 concerning professional qualifications and training requirements for child care staff and the director, principal, or administrator of the program; and**
 - (c) **COMAR 13A.16.09.01, .03B (1) and (2), and .03C concerning the program.**

INTENT: Education Article, § 9.5-405(b), Annotated Code of Maryland, exempts tax-exempt religious organizations from licensing requirements pertaining to qualifications for program administrators and staff and to program curriculum content or structure in a nursery school or a child care center in a school building exclusively for children enrolled in that school. These areas are

not subject to review by the Office of Child Care. While staff records must be kept, however, they need not include information about staff age, position, or qualifications. If a tax-exempt religious organization seeks nursery school approval only, a child care center license is not required.

Note: The tax-exempt religious organization must obtain an exemption letter from the Maryland State Department of Education (MSDE), Nonpublic School Approval Branch, if seeking exemption from approval to operate a nonpublic school, and maintain such letter on file at the school.

C. Approved Montessori School.

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

- (a) Child health and safety;**
- (b) The provision of child care; and**
- (c) An educational program in a nonpublic nursery school.**

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

- (a) COMAR 13A.16.02.03(4) concerning an annual fire inspection, if the school has documentation verifying compliance with fire safety regulations applicable to a nonpublic nursery school pursuant to COMAR 13A.09.09.11A;**
- (b) COMAR 13A.16.06.05.B(4) concerning the preservice training requirement for directors;**
- (c) COMAR 13A.16.06.09.A(1)(b) concerning qualification requirements for a child care teacher in a preschool center;**
- (d) COMAR 13A.16.06.09.B(1)(a) concerning the core of knowledge completion requirement for continued training;**
- (e) COMAR 13A.16.06.10.B(1)(a) concerning the requirement for preservice training; and**
- (f) COMAR 13A.16.09.01A (4) concerning the requirements for a balanced schedule of daily activities.**

***INTENT:** A Montessori school must be certified by a Department-recognized Montessori validating organization that considers, at a minimum, the elements of teacher qualifications, written curriculum, instructional methods, and materials.*

***Note:** The term “Montessori” cannot be used in the school’s name unless the school is certified as required at COMAR 13A.16.16.03C.*

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

INTENT:

COMAR 13A.16.02 License Application and Maintenance

- A license may be issued only to a specific applicant for operation of a child care center at a specific location. Any change in the applicant or the location requires issuance of a new license.
- Once a license is issued, it confers a certain property right that cannot be taken away by the State without due process of law. The license document, however, is State property and must be returned to the State if the center's authority to operate is suspended or terminated, or if the center goes out of business.

Note: When the ownership of a facility is transferred, it is important to maintain the continuity of care as much as possible in order to minimize disruption in the child care services provided by the previous ownership. For guidance on ensuring that continuity of care is maintained, see "**Change of Licensee/Letter Holder**".

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

INTENT: The center's license must be plainly displayed so that parents and visitors can easily determine if the facility is authorized to operate a child care program and, if so, the conditions under which that authorization has been granted (i.e., days and hours of operation, maximum capacity, etc.).

INSPECTION REPORT ITEM: "License Conspicuously Displayed"

COMPLIANCE CRITERIA: The license is posted in the child care area in a manner that allows it to be seen plainly and easily by parents or other visitors to the center.

ASSESSMENT METHOD: Observe the location and visibility of the license.

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

- (1) **The operator closes the center permanently;**
- (2) **The license is revoked;**
- (3) **The license is suspended; or**
- (4) **The license expires, and the:**
 - (a) **Application for a continuing license is denied; or**
 - (b) **Operator has not applied for a continuing license.**

G. A center approved by the office before July 1, 2008, for the concurrent operation of more than one type of child care program may continue to be used to operate those programs, except that, while concurrent approvals are in effect, the office may not approve a request by the operator for:

- (1) **An increase in child capacity;**
- (2) **A change in the hours of operation;**
- (3) **A change in the ages of children served;**

- (4) **A change in the approved child care area; or**
- (5) **A variance to a regulation under this subtitle.**

H. Effective January 1, 2012, the office may not:

- (1) **Accept an application for an initial license as a small center; or**
- (2) **Issue a license to operate a small center, except that a license may be issued to:**
 - (a) **An applicant for a license from whom the office received the license application before January 1, 2012; or**
 - (b) **An operator already licensed to operate a small center before January 1, 2012.**

INTENT: On January 1, 2012, the licensing category “Small Center” was abolished by Statute and replaced with the registration category “Large Family Child Care Homes”. Providers who did not want to convert their Small Center licensing status to a Large Family Child Care Home registration status were allowed to remain as Small Centers.

.02 Initial License.

A. An individual or organization not currently licensed and wanting to operate a child care center shall:

- (1) **Complete an orientation to child care center licensing regulations that is offered or approved by the office;**

INTENT: The orientation provides information about the child care center licensing requirements and the license application process. The orientation is offered on-line at <http://earlychildhood.marylandpublicschools.org/child-care-providers/licensing/orientations>

- (2) **File a notice of intent with the office before applying for permits in connection with construction or operation of a center;**

INTENT: The notice of intent alerts the Regional Office that a new child care facility is being planned. This enables the Regional Office to open a new license application file and to begin arranging any technical assistance the applicant may need.

***Note:** A pre-site visit must be conducted to assess feasibility of proposed site. Size, layout, and outdoor space are major considerations. Continue the provision of technical assistance throughout the process to ensure that development activities meet regulatory requirements.*

- (3) **Submit to the office at least 60 days before the proposed opening date a completed and signed application form, supplied by the office, that contains a statement of truthfulness and commitment to comply with this subtitle; and**
- (4) **Ensure that an application for a federal and State criminal background check is submitted for:**

COMAR 13A.16.02 License Application and Maintenance

- (a) **The applicant, if the applicant is an individual who will have frequent contact with children who are cared for in the facility;**
- (b) **The director;**
- (c) **Each employee, including paid substitutes; and**
- (d) **Each individual 14 years old or older living on the child care center premises.**

***INTENT:** To ensure that OCC is aware of the criminal histories of the applicant, individuals living on the premises, employees, and others who will have frequent contact with children in care.*

***INSPECTION REPORT ITEM:** “Initial License”*

***COMPLIANCE CRITERIA:** The applicant, employees and other individuals, as applicable, have applied to CJIS for a FBI and State Criminal History Records Check.*

Note:

- *Whenever submitting a criminal background check (CBC) request, the operator must include the appropriate OCC Regional Office authorization number on the CBC request form along with the applicant’s authorization number. The following is a list of the Regional Office authorization numbers:*

<u>Authorization Number</u>	<u>OCC Regional Office</u>
1100000016	Region 1 (Anne Arundel Co.)
1100000020	Region 2 (Baltimore City)
1100000031	Region 3 (Baltimore Co.)
1100000042	Region 4 (Prince George’s Co.)
1100000053	Region 5 (Montgomery Co.)
1100000064	Region 6 (Howard Co.)
1100000075	Region 7 (Allegany, Garrett, Washington Co.)
1100000086	Region 8 (Caroline, Dorchester, Kent, Queen Anne’s, Talbot Co.)
1100000090	Region 9 (Somerset, Wicomico, Worcester Co.)
1100000101	Region 10 (Calvert, Charles, St. Mary’s Co.)
1100000112	Region 11 (Cecil, Harford Co.)
1100000123	Region 12 (Frederick Co.)
1100000182	Region 13 (Carroll Co.)

- *This process allows CBC results and subsequent “Alerts” to be sent to the child care provider and OCC.*

B. Before the proposed opening date, the applicant shall submit the following items to the office, if not submitted at the time the written application form was submitted:

COMAR 13A.16.02 License Application and Maintenance

August 29, 2016

- (1) **Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:**
 - (a) **The director;**
 - (b) **Each employee;**
 - (c) **Each individual 18 years old or older living on the same premises as the child care center;**
 - (d) **The applicant, if the applicant is an individual who will have frequent contact with children who are cared for in the facility; and**
 - (e) **Trustees, managers, or board members who may have frequent contact with children in care, if the applicant is a corporation, agency, association, or other organizational entity;**

Note: See *“Release of Information” form OCC 1260.*

- (2) **Evidence of compliance with all applicable zoning and building codes;**
- (3) **Site plans;**
- (4) **Floor plans with architectural details;**
- (5) **A written plan of operation;**
- (6) **Workers' Compensation insurance information;**

Note: See *“Worker’s Compensation Insurance Information Form”- OCC 1201.*

- (7) **Fire evacuation plan;**
- (8) **A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;**

Note: See *“OCC 1203 Child Care Facility Personnel List/Staff Change Form”*

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

Note: See *OCC 1206 Staffing Pattern for Child Care Centers”*

- (10) **Menu for 4 weeks;**
- (11) **A written child discipline policy; and**
- (12) **All other documentation required by law or regulation, including but not limited to:**
 - (a) **Proof of an on-site inspection and approval by the local fire authority having jurisdiction; and**
 - (b) **Building use and occupancy permits.**

INTENT of §B above: A license to operate will not be issued until the OCC Regional Office has received and approved all required application-related documentation. If

COMAR 13A.16.02 License Application and Maintenance

the applicant wants the center to open on a specific date, the applicant must make sure this date is communicated to the Regional Office and that all necessary documentation is submitted by the date determined by the Regional Office.

The Regional Office must have certain information in order to determine if the applicant meets licensing requirements.

- *Criminal background checks and child abuse/neglect checks on anyone who will have access to the children in care are needed to help protect the safety of those children.*
- *Evidence of code compliance is necessary to ensure that the center's physical plant is safe for use.*
- *Other physical plant documentation is necessary to ensure that there is sufficient, appropriate space to accommodate the proposed child capacity.*
- *Staffing patterns are necessary to ensure that children will have sufficient, appropriate adult supervision at all times.*
- *Menu plans are needed to ensure that the children's nutritional needs will be consistently met through an appropriate food variety.*
- *Written child discipline procedures are needed to ensure that all center employees and parents of children in care are aware of the circumstances under which discipline may occur, and the nature of that discipline.*

Note: *If all required documentation is not received by the Regional Office within six (6) months after the proposed opening date, the Office may consider the application void.*

.03 Continuing License.

A. Obtaining a Continuing License. An operator shall submit to the office, before expiration of the initial license:

- (1) **A request for a continuing license, on a form supplied by the office;**

INTENT: Prior to expiration of the initial license, the operator must apply to convert the center license to continuing (non-expiring) status. To provide sufficient time for application to be made, OCC shall furnish the operator with an application packet at least 120 days before expiration of the initial license.

COMAR 13A.16.02 License Application and Maintenance

Note: At least 120 days before current license expiration, the Regional Office will transmit to the operator a "Request for Continuing Status" application packet. This packet serves as the 120-day notice of initial license expiration. Additional notification will occur at least 60 days before license expiration when the Regional Office Licensing Specialist contacts the operator or director to schedule the announced "license conversion" inspection that must be conducted as part of the continuing license application process. Use **"Universal Conversion from Initial to Continuing Cover Letter"** to transmit the application packet.

- (2) **Signed and notarized permission to examine records of abuse and neglect of children and adults for information about all individuals, as applicable, specified at Regulation .02B(1) of this chapter; and**
- (3) **Any other documentation required by law or regulation.**

INTENT: In order to obtain a continuing license, the operator must complete and submit all application items required by OCC.

Note: The **"Request for Continuing License or Letter of Compliance – OCC 672"** specifies all the forms and other documentation that the operator will need to submit to the Regional Office. The operator can either mail the completed application packet (which must include all specified documentation) to the Regional Office, or the completed packet may be given to the Licensing Specialist at the time of the license conversion inspection.

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

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

INTENT: A continuing license will not be issued until the OCC Regional Office has received and approved all required application-related documentation, including documentation that the center has passed a fire safety inspection by the appropriate fire authority.

Notes:

- The Provider's Initial License expires after two years with no provision for renewal; therefore, a Continuing License must be issued prior to the expiration date of the Initial License. If all items required in §B above are not received prior to the Initial License expiration date, a Continuing License on Provisional status must be issued.
- The license anniversary month and day must be noted in the remarks section of the license.

C. Maintaining a Continuing License.

COMAR 13A.16.02 License Application and Maintenance

- (1) **The operator shall comply with all applicable requirements under this chapter.**
- (2) **By the end of each 12-month period after the date of issuance of a continuing license, the operator shall provide to the office documentation of compliance with applicable continued training requirements set forth at COMAR 13A.16.06.**

Note: *Compliance with this regulation is determined during each annual unannounced inspection and in accordance with “**Checking Staff Continued Training in Child Care Centers Guidelines**”.*

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

INTENT: *While a continuing license does not have an expiration date and will not need to be renewed; the operator must periodically update certain documentation to avoid an enforcement action which could result in the revocation of the license.*

INSPECTION REPORT ITEM: *“Continuing License”*

COMPLIANCE CRITERIA: *All documentation required to maintain a continuing license has been submitted.*

ASSESSMENT METHOD: *Review provider file to determine if all required documentation has been submitted.*

Notes:

- *By the end of each 24-month period following issuance of a continuing license, the operator must provide the following to the Regional Office:*
 - *A signed and dated “**Release of Information**” form OCC 1260 for:*
 - *The operator, if the operator is an individual,*
 - *The director, if different from the operator,*
 - *Each employee who was hired on or after October 1, 2005,*
 - *Each person 18 years old or older living on the premises of the facility, and*
 - *If the center is a corporation, agency, or similar entity, each director or trustee who may have frequent contact with the children in care.*
 - *Documentation that the center has satisfactorily passed:*

COMAR 13A.16.02 License Application and Maintenance

- A fire safety inspection every 12 months (or within whatever other timeframe may be required by the applicable fire authority);
 - Well and septic testing, if the facility has private water and/or sewage; and
 - If applicable, boiler inspection, pool approval, and any other certification required by local law.
- The operator can either mail the documentation items listed above to the Regional Office, or maintain them at the center for presentation and review by the Licensing Specialist during an unannounced inspection visit.
 - A criminal background check (CBC) conducted on an employee or other person for whom a CBC is required does not need to be updated every 24 months unless the original CBC results were not fingerprint-supported. A person for whom non-fingerprint-supported CBC results have been received will need to submit biennial "name-check only" CBC requests until such time (if ever) that the person's CBC results can be fingerprint-supported.
 - At least 30 days prior to license anniversary date, mail or deliver to Provider the **"Universal 24-Month Maintenance Cover Letter and Checklist" form, OCC 674.**
 - If all required documentation is not received timely, encourage the provider to comply just as you would if it was a noncompliance resulting from an inspection. **DO NOT PLACE PROVIDER ON A CONDITIONAL LICENSE SIMPLY FOR NON-RECEIPT OF THIS INFORMATION.** The Regional Manager will determine action to be taken based upon the length of time provider remains noncompliant.

.04 Provisional and Conditional Status.

A. Provisional Status.

- (1) **Except as provided in §A (2) of this regulation, to allow an applicant for an initial or a continuing license additional time to meet all applicable requirements, the Office may approve an initial or a continuing license on a provisional basis for a period of up to 120 days after determining that the health and safety of the children in care are not in imminent danger.**
- (2) **An initial license may not be approved if the Office has not yet received evidence that the applicant and each individual, as applicable, specified at Regulation .02A(4) and B(1) of this chapter has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records.**

- (3) **At the end of the provisional period, if all requirements for the initial or continuing license are not met due to:**
 - (a) **Failure by the applicant to take an action necessary to achieve compliance, the Office shall deny the application for license; or**
 - (b) **Circumstances beyond the control of the applicant, the Office may continue the provisional status for one or more additional periods of up to 120 days per period, except that provisional status may not be continued for more than 24 months after the start of the first provisional period.**
- (4) **If the Office denies a license at the end of the provisional period, the applicant or operator does not have a valid license and shall cease operating.**

INTENT: A license on a provisional status permits the facility to operate on a temporary basis even though certain necessary requirements have not yet been fully met. It grants a specified amount of time to meet those requirements. A license may be issued with a provisional status only if the unmet requirements do not represent a potential threat to the health, safety, or welfare of children in care.

Note: When removing an applicant from provisional status to licensure, be sure to include the provisional time period(s) in the two-year expiration/anniversary date. For example:

Provisional was issued on February 22, 2010 for 120 days. Another provisional was issued on June 22, 2010 for another 60 days ending August 21, 2010. Provider came into compliance on August 21, 2010. You would issue the License, LOC, or Registration with the start date of August 22, 2010 and calculate the expiration/anniversary date by using the 1st provisional dated February 22, 2010 which would result in an expiration/anniversary date of January 31, 2012.

B. Conditional Status.

- (1) **If an operator who holds a continuing license fails to remedy a violation as required, the Office may place the license on conditional status for:**
 - (a) **A period of up to 120 days; and**
 - (b) **Upon approval by the Agency's central office, an additional period of up to 120 days.**
- (2) **Upon placing a continuing license on conditional status, the Office shall issue to the operator a revised license that states the:**
 - (a) **Placement of the license on conditional status;**
 - (b) **Period of time of the conditional status; and**
 - (c) **Requirements for lifting the conditional status.**
- (3) **Immediately upon receipt of the revised license, the operator shall:**
 - (a) **Remove from display in the center the continuing license that was originally issued; and**
 - (b) **Display the revised license as required by Regulation .01D of this chapter.**

- (4) **If the operator satisfies all requirements for lifting the conditional status within the specified period of time, the Office shall promptly:**
 - (a) **Discontinue the conditional status; and**
 - (b) **Notify the operator to redisplay the original continuing license.**
- (5) **If the operator fails to satisfy all requirements for lifting the conditional status within the specified period of time, the Office may suspend or revoke the continuing license.**

***INTENT:** After a continuing license is issued, if an operator fails to correct certain noncompliance, OCC may replace the continuing license with a revised license placing it on conditional status. Conditional status is issued for a specified period of time and sets forth specific requirements for reinstatement of the continuing license. If the operator has still failed to make the necessary corrections by the end of the specified timeframe, the continuing license may be suspended or revoked.*

***INSPECTION REPORT ITEM:** “Conditional Status”*

***COMPLIANCE CRITERIA:** The conditional license is posted in the child care area in a manner that can be easily seen by parents and other individuals visiting the center.*

ASSESSMENT METHODS:

- *Observe to see if the conditional license is posted.*
- *Observe the location of the conditional license to determine if it is visible to parents and other individuals visiting the center.*

***Note:** A Continuing License is placed on “Conditional” status as a last resort to encourage the Provider to come into compliance with regulations. Placing a provider’s continuing license on conditional status is optional. Using the progressive discipline process, i.e., warning letters, compliance agreements, and intermediate sanctions, continue to be viable disciplinary options. If these instruments fail, moving on to suspension, emergency suspension, and revocation is appropriate without ever having placed a continuing license on conditional status.*

.05 Response of the Office to Application.

- A. Upon receiving a completed application, whether for an initial license or a continuing license, and all documentation required by law or regulation, the office shall determine compliance with the requirements of this chapter by:**
 - (1) **Evaluating the application and required documentation; and**
 - (2) **Inspecting the:**
 - (a) **Facility proposed for use as a child care center, if the application is for an initial license; or**

Note: When an applicant is ready for an “Initial Inspection”, the majority of the application requirements should have been met (U&O, Fire, CBCs, Releases, Medicals, Provider Requirements, and Staff Requirements, etc.) leaving only the physical plant, certain program requirements, and certain health and safety requirements to check during the “Initial Inspection”. For special instructions, see **“Conducting ‘Initial’ Inspections”**.

- (b) **Child care center, if the application is for a continuing license.**

INTENT: Once a complete Initial or Continuing License application has been submitted, the Regional Office must assess it in its entirety to ensure that all pertinent application requirements have been met. Before an application can be approved, the facility must also be inspected to ensure that all applicable facility requirements have been met. The Regional Office has an obligation to the applicant to complete its review of the application and conduct the required inspection in an expeditious manner.

- B. Except as specified at §C of this regulation, the office shall, within 30 days after completing the procedures in §A of this regulation:**

- (1) **For an initial license application:**

- (a) **Issue an initial license;**
(b) **Issue an initial license with provisional status; or**
(c) **Deny an initial license; or**

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

INTENT: Once the complete application has been evaluated and the facility itself has been found to be in compliance with all applicable requirements, The Regional Office has an obligation to approve or deny the license in an expeditious manner.

- C. The office may not issue an initial license until child care staff, sufficient in number to meet the staff/child ratio and group size requirements of COMAR 13A.16.08.03 as they apply to the requested child capacity, have successfully passed federal and State criminal background checks and a review of child and adult abuse and neglect records.**

.06 Denial of License.

- A. An office may deny an application for an initial license or a continuing license if:**

- (1) **The applicant or the building in which child care is provided fails to meet the requirements of this chapter;**
(2) **An evaluation of the application form by the office reveals that the applicant reported false information;**
(3) **The applicant has a history of regulatory violations which demonstrates an inability to provide for the health or safety of children;**

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

INTENT: As specified by Maryland law, the primary purpose of center licensing regulations is to protect the health, safety, and well-being of each child in care. For this reason, OCC may disapprove a license application if the applicant falsifies information submitted in connection with the application or has demonstrated an inability to maintain satisfactory compliance with licensing regulations, or if OCC has substantial reason to believe that the applicant, the physical condition of the facility, or a person connected with the facility may present a risk of harm to a child in care.

Notes:

- *Reporting false Information: This includes falsification of any required documentation. As a basis for denial, this is generally used in combination with another basis, such as an unreported criminal history, a history of licensing violations, or a child abuse history.*
- *Previous regulatory history: The applicant previously held a license, certificate, or other permission to operate a program or facility serving children, and the applicant's compliance history as an operator shows an inability to provide for the health or safety of children.*
- *Refusal to comply: Examples include refusal to complete a required orientation session, submit required application documents, allow an inspection of the facility, apply for criminal background checks, or abide by the requirements of a compliance agreement.*

COMAR 13A.16.02 License Application and Maintenance

- Previous denial or revocation: Generally, if a child care license or letter of compliance previously held by the applicant was denied or revoked due to gross or repeated overcapacity, serious lack of supervision, repeated failure to meet staff/child ratio and/or group size requirements, child neglect or abuse, or illegal activity involving the facility, the Office of Child Care will not approve another license or letter of compliance.
- Criminal history: The applicant's criminal background check report (State or FBI) reveals a conviction, pending charge, probation before judgment, or not criminally responsible disposition for certain acts or attempted acts, which include but are not limited to the following:
 - A crime involving:
 - ❖ A child;
 - ❖ Cruelty to animals;
 - ❖ Domestic violence; or
 - ❖ A weapons or firearms violation of federal or state laws;
 - A sex offense;
 - A violent crime classified as a felony;
 - Abduction or kidnapping;
 - Abuse of a child or an adult;
 - Confinement of an unattended child;
 - Manufacturing, distributing, or dispensing a controlled dangerous substance;
 - Perjury;
 - Pornography;
 - Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or
 - Reckless endangerment.
- Child abuse and neglect: The Regional Office carefully evaluates each report of indicated abuse or neglect to determine:
 - The seriousness of the abuse or neglect,
 - How long ago the abuse or neglect occurred,
 - Whether it indicates a current potential risk to children in care, and
 - Whether the offender has undergone any rehabilitation.
 - The presence, by itself, of an abuse or neglect finding does not automatically disqualify the applicant from being approved for a child care license.

Note:

See chapter 06, regulation .03, Suitability for Employment, for additional information regarding disqualification based on criminal history or child abuse/neglect background checks.

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

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

INTENT: Under Maryland law, OCC must comply with due process requirements if an application is denied. This means that OCC must inform the applicant why the decision to deny was made, the applicant's appeal rights, and how those rights may be exercised.

Notes:

- See the **“Request for Hearing/Appeal” form, OCC 1281.**
- See chapter 18, *Administrative Hearings*, for requirements pertaining to the appeal hearing process under the *Office of Administrative Hearings (OAH)*.

C. Denial Before Complete Application.

- (1) **The office may deny an application for an initial or a continuing license at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A of this regulation.**
- (2) **If the office decides to deny the application before the application process is complete, the office shall send written notice of that decision to the applicant within 30 calendar days after making the decision.**

INTENT: To spare the applicant unnecessary additional expense or effort, if the office concludes during the application process that the application cannot be approved, the office will terminate the process and advise the applicant accordingly.