

Family Child Care Licensing Manual

(November 2016)

For use with

COMAR 13A.15 - Family Child Care
(As amended effective 7/20/15)

Table of Contents

COMAR 13A.15.07 CHILD PROTECTION

.01 Prohibition of Abuse, Neglect, and Injurious Treatment	1
.02 Abuse/Neglect Reporting.....	1
.03 Applicability to Residents.....	3
.04 Child Discipline	3
.05 Parental Access	4
.06 Authorized Release	4
.07 Child Security	6

COMAR 13A.15.07 Child Protection

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

A child in care may not be subjected to abuse, neglect, mental injury, or injurious treatments as defined in COMAR 13A.15.01.02B.

INTENT: Maryland law forbids corporal punishment of a child, in any form, by anyone other than the child's parent or legal guardian. No child may be subjected (or allowed to be subjected) to abuse, neglect, or injurious treatment by any person connected with the family child care home.

INSPECTION REPORT ITEM: "Prohibition of Abuse, Neglect, Injurious Treatment"

COMPLIANCE CRITERIA: No child in care is being abused, neglected, or subjected to mental injury, or injurious treatment.

ASSESSMENT METHODS:

- *Observations of the interactions between the Provider/Additional Adult/Substitute and other residents of the home to determine whether abuse or neglect are suspected, or injurious treatment is occurring.*
- *If child abuse or neglect is suspected, CPS is contacted.*
- *If injurious treatment is occurring, OCC established procedures are followed.*

Notes:

- *"Abuse", "injurious treatment", "mental injury" and "neglect" are defined in 13A.15.01.02B(1), (20), (21), and (22) respectively.*
- *If CPS has determined that abuse or neglect occurred at the home, the Regional Office may move to suspend the Provider's registration on an emergency basis.*
- *If licensing staff has determined that injurious treatment occurred at the home, the Regional Office may move to suspend the Provider's registration on an emergency basis.*

.02 Abuse/Neglect Reporting.

An individual who is responsible for providing care to a child:

- A. Shall monitor the child for signs and symptoms of child abuse or neglect; and**
- B. If the individual has reason to believe that a child in care has been:**

COMAR 13A.15.07 Child Protection

- (1) **Abused, shall report that belief directly to the protective services unit of the local department of social services or to a law enforcement agency, as required under Maryland law; or**
- (2) **Neglected, shall report that belief directly to the protective services unit of the local department of social services as required under Maryland law.**

INTENT: Each child must be monitored daily for any indication that he or she may have been subject to abuse. Suspicions of abuse or neglect must be reported immediately to the Child Protective Services unit in the local Department of Social Services (DSS) or to local police authorities. If injurious treatment has occurred in the family child care home by anyone associated with the home, it must be reported immediately to the Regional Office.

INSPECTION REPORT ITEM: “Abuse and Neglect Reporting”

COMPLIANCE CRITERIA:

- *Each day, the Provider observe the appearance and behavior of each child for any indication of abuse or neglect (see “**Signs and Symptoms of Child Abuse, Neglect, and Mental Injury.**”)*
- *Suspected:*
 - *Abuse is reported immediately to Child Protective Services or police authorities;*
 - *Neglect is reported immediately to Child Protective Services; and*
 - *Injurious treatment is reported immediately to the Regional Office.*
- *The Provider has informed each substitute, the additional adult (if applicable), and all residents of the proper procedure for reporting suspected abuse or neglect.*
- *Telephone numbers for the local CPS Unit and police department are posted in the family child care home and readily accessible.*

ASSESSMENT METHOD: *Observation to determine:*

- *If the provider/additional adult/substitute is monitoring children for abuse or neglect. Alternatively, discussion to determine if, how, and when the children are monitored.*
- *If the provider/additional adult/substitute knows proper abuse/neglect reporting procedures. If observation is not possible, discussion to determine if and how each of these persons knows the correct procedures.*

COMAR 13A.15.07 Child Protection

.03 Applicability to Residents.

The requirement set forth in Regulation .01 of this chapter also applies to a resident of the family child care home.

INTENT: Each resident is subject to the same abuse/neglect reporting requirements and the same abuse/neglect/injurious treatment prohibitions as the provider.

.04 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 subtitle.**

B. The provider or substitute 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.**

INTENT: The Provider's child discipline policy and procedures must be appropriate to the age and maturity of the child and must not cause harm or pain to the child.

INSPECTION REPORT ITEM: "Child Discipline"

COMPLIANCE CRITERIA: *All child discipline techniques are appropriate and do not cause harm or pain to children in care.*

ASSESSMENT METHODS:

- *Observation to determine the nature and appropriateness of the Provider's discipline procedures.*
- *If observation is not possible, discussion to determine how the children are disciplined.*

Notes:

- *The Provider's child discipline policy and procedures must be in writing and made available to parents at the time they enroll their children in the Provider's child care program. The discipline policy and procedures must be included in the written agreement as required at 13A.15.03.03A(2).*
- *The Office may deny a registration application or suspend or revoke a registration if there is evidence that the applicant, provider, additional adult, substitute, or resident has subjected a child to abuse, neglect, mental injury, or injurious treatment. Alternatively, the Office may require the Provider to enter into a compliance agreement or impose other intermediate sanctions.*

COMAR 13A.15.07 Child Protection

.05 Parental Access.

The provider or substitute shall permit the parent of a child in care to have access to the child at all times and to observe the areas of the home used for child care during the provider's hours of operation.

***INTENT:** Whenever the Provider's home is in operation, parents must have access to their children and to the areas of the home that are approved for care. Parents do not need to notify the Provider in advance of a visit to the Provider's home during operating hours.*

***INSPECTION REPORT ITEM:** "Parental Access"*

***COMPLIANCE CRITERIA:** Without prior notification, parents have free access to their children and to the approved child care areas at all times during operating hours.*

***ASSESSMENT METHOD:** Observation to determine if parents have free access. If observation is not possible, discussion to determine if, when, and where parents have access.*

.06 Authorized Release.

- A. **Except as indicated in §B of this regulation, the provider or substitute shall release a child only to the child's parent or to another individual if directed by the parent and if the identity of the other individual is verified by the provider or substitute.**
- B. **In case of the death, disappearance, incapacity, or sudden unavailability of the parent or individual designated to pick up the child, or when requested by Child Protective Services, the provider or substitute may release the child to a Child Protective Services worker.**

***INTENT:** In order to protect children from harm (and the Provider from liability), the Provider may not release a child to anyone except the child's parent or legal guardian, an identified person who has been explicitly named by the parent, or an identified Child Protection Services worker.*

***INSPECTION REPORT ITEM:** "Authorized Release"*

***COMPLIANCE CRITERIA:** The Provider have a policy to ensure that each child is released only to:*

- *The child's parent or legal guardian,*
- *A person identified as being someone authorized by the parent or guardian to pick the child up, as stated on the child's "**Emergency Form**" (OCC 1214) or in a special written authorization for a specific date or situation (see "Notes" below), or*

COMAR 13A.15.07 Child Protection

- *An identified Child Protection Services worker.*

ASSESSMENT METHOD: *Discussion to determine if:*

- *There is a child release policy,*
- *Each substitute and additional adult, if appropriate, is aware of the policy, and*
- *The policy is routinely followed.*

Notes:

- *The “Emergency Form” OCC 1214 is intended to provide the names and contact information for persons who are routinely authorized to pick the child up if the parent or guardian is unavailable. However, a parent may want to have the child picked up from the Provider’s home by someone else as part of a special occasion or activity (for example, an out-of-town relative who has arrived for a visit, or a car pool driver for an afterschool sports practice). In this type of situation, the Provider may release the child only if:*
 - *The parent has specified to the Provider in writing what the purpose of the special arrangement is, who is expected to pick the child up, and when the pick-up will occur, and*
 - *The Provider is able to verify the identity of the person who arrives for the child.*
- *If a parent or legal guardian who seems to be intoxicated shows up to pick up the child, the Provider has no right to deny the person access to the child or to prevent the person from taking the child. However, the Provider do have the right to contact Child Protective Services immediately to express concern about the apparent condition of the person and the possible risk to the child. The following are some other courses of action the Provider may wish to consider:*
 - *If the person seems so intoxicated that the child would be placed at risk of serious and immediate harm by being released to the person, the Provider can call the police. Likewise, if the person poses a threat to the Provider or any of the other children, the Provider can call the police and request immediate assistance. If possible and prudent, the Provider may try to stall the person until the police arrive.*
 - *If there is another parent or authorized adult noted on the child’s “Emergency Form” OCC 1214, the Provider may try to contact that person to explain the situation and request the person’s assistance.*

COMAR 13A.15.07 Child Protection

- *If the person plans to drive the child home, the Provider might suggest using an alternative means of transportation (for example, calling a taxi). However, the Provider must remember that the intoxicated parent or legal guardian has the right to remove the child, and the Provider should not take any action that will put the Provider or any other child in danger.*

.07 Child Security.

- A. **The provider shall ensure the safety and security of each child at all times.**

INTENT: The Provider is fully responsible at all times for the safety, health, and welfare of each child in attendance.

- B. **Whenever an area of the home is being used for a child care activity and children are present, the provider may not allow that area to be used at the same time for any other purpose without prior approval of the office.**

INTENT: Areas approved for child care may not be used for any purpose other than child care activities if children in attendance are present in that area.

INSPECTION REPORT ITEM: "Child Security"

COMPLIANCE CRITERIA: If children are present in an approved child care area, the area is used only for child care related activities.

ASSESSMENT METHOD: Observation of each approved area that has children present to determine whether any activity not related to child care is occurring.

- C. **In addition to meeting all other child supervision requirements of this subtitle, the provider shall ensure that an individual who meets the requirements of this subtitle for supervising children in care:**
- (1) **Accompanies a child whenever the child is in the presence of an individual at the home who is not:**
 - (a) **Another individual who meets the requirements of this subtitle for supervising children in care;**
 - (b) **The child's parent, guardian, or other individual to whom the child may be released under Regulation.06 of this chapter;**
 - (c) **An individual who is authorized by the child's parent or guardian, and whose identity is verified by the provider, to provide a health care, educational, or other service to the child;**
 - (d) **Another child enrolled in care; or**
 - (e) **A child who resides at the home; and**
 - (2) **Remains within sight and sound of an independent contractor performing a service at the home whenever the independent contractor is in an area where a child is present, unless documentation is on file at the family child care home**

COMAR 13A.15.07 Child Protection

that the contractor has successfully passed federal and State criminal background checks and a review of child abuse and neglect records.

***INTENT:** With certain stated exemptions, an individual who has successfully completed federal and State criminal background checks and a child abuse and neglect clearance must chaperone a child in care whenever the child is in the presence of a person who is not officially associated with the family child care home. A similarly screened individual must remain within sight and sound of an outside contractor if that contractor has not passed background checks and clearance, and is in an area where children are present.*

***INSPECTION REPORT ITEM:** “Child Security”*

***COMPLIANCE CRITERIA:** Each child is chaperoned as required whenever the child is in the presence of a person who is not officially associated with the family child care home. Only individuals who have successfully completed both criminal background checks and a child abuse and neglect clearance are alone with children at any time, unless that person is exempted by regulation.*

***ASSESSMENT METHOD:** If a visitor or other non-excepted outsider is present, observe to determine if each child in that person’s presence is chaperoned as required. If observation is not possible, interview the Provider to determine how and by whom this requirement is met.*

Notes:

- *A person hired by the parent of a child in care to provide a particular service only to that child is not considered to be an “independent contractor” as explained at 13A.15.01.02B(19)(b).*
- *The requirement for a child to be chaperoned during a “third-party” activity is intended only where the activity has been arranged (wholly or in part) at the program level and may be open to participation by other children in care.*
- *A child may not participate in a “third-party” activity without prior written permission from the child’s parent.*