

# Large Family Child Care Homes Manual

(January 2017)

for use with

## COMAR 13A.18 – Large Family Child Care Homes

(as amended effective 7/20/15)

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## COMAR 13A.18.07 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.**

*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 is 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.18.01.02B(1), (23), (27), and (28) 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.**

**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**

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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.**

*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 observes 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:*

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- *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.*

### **.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.**

***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.*

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### 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.18.03.03B (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.*

### **.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.**

***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.*

### **.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.**

***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*

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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 has 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
- 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:

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- *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.*
- *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.*

### **.06 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 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.**

*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. Unless an employee or staff member has successfully passed federal and State criminal background checks and a review of child abuse and neglect records,**

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**the individual may not be alone with an unrelated child in care.**

***INTENT:** Before a facility employee may be left alone with an unrelated child in care, the employee must have successfully completed federal and State criminal background checks and a child and adult abuse/neglect clearance.*

***INSPECTION REPORT ITEM:** "Child Security"*

***COMPLIANCE CRITERIA:** Only employees who have successfully completed both criminal background checks and a child and adult abuse/neglect clearance are alone with children at any time.*

***ASSESSMENT METHOD:** If an employee is observed to be alone with an unrelated child in care, determine if that person has successfully completed the required background checks and clearance.*

***Note:** If a newly hired employee is someone for whom OCC has previously received federal and State criminal background check results (due either to employment at another child care center or to having been a family day care home provider or resident) and those results were "clean," the person may be left alone with children at the current facility pending receipt of results of the federal and State CBC application made in connection with the person's current employment.*

**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.**



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**INTENT:** *With certain stated exceptions, a facility employee who has successfully passed federal and State criminal background checks and, if hired on or after October 1, 2005, has had a satisfactory child and adult abuse/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 facility. A similarly screened employee 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 associated with the large family child care home, unless that person is excepted 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 Director and facility staff as needed 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 defined in Chapter .01 regulation .02B(29). Therefore, the operator is not required to have the person accompanied. The requirement for a staff member to be present during a "third-party" activity is intended only where the activity has been arranged (wholly or in part) at the program or facility level and may be open to participation by other children in care.*
- *OCC performs child abuse/neglect clearances only for persons who are officially associated with the child care program (i.e., employees, substitutes, residents, etc.). For an independent contractor, the Director must arrange with the local Child Protective Services (CPS) Unit to perform the clearance. For this purpose, the Director will need to request a CPS release of information form (DHR/SSA 1279) from the local department, have the contractor complete the release form, and then submit it directly to the local CPS Unit.*
- *Maryland's Family Law Article §5-554(e) and (f) prevent an operator from sharing with OCC the specific findings of criminal*

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*background check (CBC) reports that the operator has received from CJIS on an independent contractor. In view of this prohibition, OCC can assess compliance with this regulation in one of two ways:*

- *The Licensing Specialist may request the Director to reveal only enough of the contractor's CBC reports to show the CJIS letterhead, the name of the report subject, and the nature of each report (federal or State). This is sufficient to verify that "documentation exists on file." As to whether the person has "successfully passed" the background check, the Licensing Specialist may request the Director to give a statement (verbal or written) affirming that assessment. If this statement is given, compliance with the requirement is assessed.*
  - *The Licensing Specialist should request the Director to provide a written (signed and dated) statement saying that (a) the contractor's federal and State criminal background check results have been received at the facility, and (b) the contractor successfully passed the background check. If this statement is submitted, compliance with the requirement is assessed.*
- *An outside person hired to do staff training at the large family child care home would fall under the definition of independent contractor.*

### **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.**

*INTENT: A child activity conducted by a "third-party" person requires the presence of a properly qualified staff member. A child may not participate in a "third-party" activity without prior written permission from the child's parent.*

**INSPECTION REPORT ITEM:** "Child Security"

#### **COMPLIANCE CRITERIA:**

- *A qualified staff member is present during each "third-party" activity.*
- *The large family child care home has received written permission from a child's parent before the child participates in a "third-party" activity.*

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**ASSESSMENT METHOD:**

- *During a "third-party" activity, observe to determine if a qualified staff member is present. If observation is not possible, interview the Director and facility staff as needed to determine which staff members, if any, are present during "third-party" activities.*
- *Review child records to determine if written parent permissions are present for children who participate in a "third-party" activity.*