

# 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.18.16 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.

*INTENT: The purpose of these definitions is to establish a clear and consistent meaning of certain terms pertinent to requests for information contained in child care licensing records. Whenever one of these terms appears in this Chapter of these regulations it shall mean only what its definition above says it means.*

### .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;

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- (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.

*INTENT: Except for records that are prohibited by law from release (for example, child abuse and neglect records), an eligible requester may inspect certain licensing records pertaining to a facility's compliance with child care regulations. Providers may inspect the contents of their own licensing files.*

- 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.

*INTENT: The Office needs to have certain personal information about the Provider in order to perform its licensing functions. However, the Office is prohibited from releasing that information unless directed by a court of law, or to help establish certain legal claims, or for legitimate public agency purposes.*

### **.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.

*INTENT: Record inspection requests must be submitted to the Regional Office of OCC by mail or email.*

- 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:

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- (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.**

*INTENT: Under Maryland law, any member of the public may obtain certain information from a child care licensing record.*