

Child Care Center Licensing Manual

(August 2016)

for use with

COMAR 13A.16.01-.19
Child Care Centers
(as amended effective 7/20/2015)

Maryland State Department of Education
Division of Early Childhood Development
Office of Child Care
Licensing Branch

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Introduction

Purpose of the Manual

The Child Care Center Licensing Manual (Manual) is used as a reference for Office of Child Care (OCC) licensing staff, licensed child care center operators, and for those who apply to become child care center operators. The Manual primarily provides assistance in interpreting and applying Code of Maryland Regulation (COMAR) requirements when child care facilities are inspected for compliance by licensing staff. By providing a comprehensive set of interpretive guidelines, the Manual enables child care center operators to achieve and maintain compliance, and enables licensing staff to assess operator compliance in a consistent and equitable manner.

Contents and Use of the Manuals

The Manual is divided into chapters. Each chapter corresponds to the chapter number and subtitle of the related COMAR (Example –COMAR 13A.16 .01 Scope and Definitions). Each chapter is posted individually with its own table of contents listing the applicable subsections. Each chapter and subtitle includes the full text of the regulations found in each subsection of the chapter, the intent of the regulation, the inspection report item, the compliance criteria, the method by which compliance with the regulation is assessed, and reference notes, as applicable. The text of each regulation appears in **bold** type. The guidance information appears in *italics*. The referenced forms and resource documents appear in *Red italics*.

The **Intent** explains the regulation in more detail and the reason for the regulation.

The **Inspection Report Item** refers to the exact location on the Electronic Licensing Inspection System (ELIS) inspection form, or the paper Inspection Report where compliance or noncompliance with the regulation is recorded during an inspection.

The **Compliance Criteria** set forth the specific elements that OCC licensing staff will use in determining whether or not the inspection report item is in compliance.

The **Assessment Method** addresses the means by which licensing staff will evaluate the compliance criteria.

The **Notes** provide further details, explanations, or reference to resource materials and/or forms. Some of the “Notes” have been included only to give additional helpful information.

The referenced **Forms** and **Resource Documents** are easily accessed on the Licensing Branch website in the “Forms” and “Resource Documents” locations.

CHILD CARE CENTER LICENSING MANUAL

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COMAR 13A.16.01-.19 Child Care Centers

(as amended effective 7/20/15)

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COMAR 13A.16.01 SCOPE AND DEFINITIONS

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.01 Scope.

- A. Applicability of Subtitle.** Except as specified at §B of this regulation, this subtitle governs non-parental care of children for part of a 24-hour day not in the child's own home, in a group setting such as a child care center, preschool, child development center, nursery school, before-school and after-school program, school age child care, or early learning center, by whatever name known, under private nonprofit, proprietary, public, and religious auspices.

INTENT: When a parent or guardian enrolls in a child care facility, there may be certain risks for the child. To offset these risks, child care center regulations have been established to protect the child's health and safety. These regulations set certain minimum standards for child health and safety and the operation of a child care program.

B. Exemptions. This subtitle does not apply to:

- (1) A family child care home registered under COMAR 13A.15;
- (2) A facility that offers or provides a residential placement for a child under Family Law Article, Title 5, Subtitle 5, or Health-General Article, Title 6 or 10, Annotated Code of Maryland;
- (3) A youth camp, as defined by Health-General Article, §14-401(j), Annotated Code of Maryland;
- (4) A child care service operated by the federal government or on federal property;
- (5) A public school during the hours in which an instructional program is offered;
- (6) A nonpublic kindergarten for children at least 5 years old during the hours in which an instructional program is offered;
- (7) A nonpublic elementary school during the hours in which an instructional program is offered;
- (8) Child care services provided in connection with a shelter housing individuals temporarily without residences, exclusively for the children of those individuals;
- (9) The physical plant, including sanitary facilities, of a child care center exclusively for school age children, located in a currently operating public or nonpublic school building, if the application of the regulation would require modification of the physical plant;
- (10) Programs that operate for 6 weeks or less in any calendar year; or
- (11) The instructional program, curriculum, and teacher, principal, and administrator qualifications of a:
 - (a) Nursery school operated by a tax-exempt religious organization which does not have a certificate of approval from the State Board of Education; or
 - (b) Child care program operated by a tax-exempt religious organization in a school building used exclusively for children who are enrolled in that school.

INTENT: Certain early childhood programs and services are exempt from the requirements of COMAR 13A.16 – Child Care Centers, because:

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- They do not meet the definition of a child care center;
- They are granted licensing exemption under Maryland law; or
- Their period of operation is too short to allow the application of licensing requirements.

Exemption Categories include:

- **Unconditionally Exempt.** The following are exempt from the requirement to be licensed because they are outside the scope of licensing regulations:
 - Child care provided in connection with a shelter (for homeless persons, battered women, etc.) as long as the service are exclusively for children of persons residing in the shelter. The child care service need not be provided in the shelter facility itself, but may be provided in an adjacent building.
 - Summer Youth Camps licensed by Maryland State Department of Health and Mental Hygiene.
 - A nonpublic nursery school operated by a bona fide tax-exempt religious organization as long as the nursery school holds a certificate of approval from the Maryland State Department of Education.
 - Child care service provided on federal government property.
 - A program for children that is operated for six weeks or less in a calendar year.
 - An instructional program for three-year old or four-year-old children offered by a non-public or public school during school hours.
 - Sunday schools (no matter when actually held) or Bible schools.
- **Exempt by Definition.** The following are exempt from the requirement to be licensed because they are not considered “child care” as defined under COMAR 13A.16.01.02B (14) (b). These programs include:
 - Before school or after school activity conducted or sponsored by a public or nonpublic school that is approved or exempt from approval by the Maryland State Department of Education.
 - Group lessons or classes, unless provided in a pattern indicating that a child care center is being operated. “Lessons or classes” mean specialized training in a specific subject such as swimming, tennis, sports clinics, computers, foreign languages, dance, gymnastics, arts and crafts, and music.
 - Scouting, sports, or youth club activities. A "youth club" means an organization where participants come together for a common purpose in

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which there may be a membership fee. Examples include hobby clubs, photography clubs, drama clubs, service clubs, etc.

- *School-age recreational or supplementary education programs operated by local Departments of Recreation and Parks or by public or nonpublic schools, as long as custodial supervision is not the primary purpose of the program. Some Departments of Recreation and Parks offer latch-key child care services. The services do not differ in substance from after-school child care and must be licensed.*
- *Preschool programs offered by Departments of Recreation and Parks that mirror traditional nursery schools must be licensed. However, a preschool program that lasts for approximately 1 hour per day, 1 or more times per week, which consists of skills instruction (such as gymnastics, dance, tumbling, art, etc.) does not need to be licensed.*
- *Before-and-after-school programs for school age children operated by tax-exempt religious organizations that are located in schools and serve only children who are enrolled in those schools.*
- *Supervisory services to children while parents are immediately available. A program does not need to be licensed if it provides child supervision in support of occasional or intermittent parental activities by sponsors such as health spas, aerobics classes, doctor's offices, supermarkets, etc., where the parents are on-site, can be notified immediately by the sponsor in the event of emergency, and can return to the child.*
- **Partial Exemptions** – *Staff Qualifications, Curriculum, Certain Equipment. Pursuant to COMAR 13A.16.02.01B, certain facilities are exempt from requirements pertaining to staff qualification, program curriculum, and certain equipment. These programs include:*
 - *Nursery schools or child care centers operated by tax-exempt religious organizations, and*
 - *Approved Montessori Schools*
- **Partial Exemption** – **Physical Plant**. *Child care centers for school-age children operated before and after school in a building that is currently in use as a public or private school are exempt from any licensing regulation that would require modification of the physical plant; however, such child care programs are subject to local fire, health, and zoning codes required of school buildings.*

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NOTE: *Particularly with respect to businesses or organizations that offer after-school programs, it is sometimes difficult to determine if child care is being provided, or whether an organized "lesson" or "class" is truly the primary focus of the program. As applicable, the following questions should be asked to help make this determination:*

- *What time do children arrive for the after-school program?*
- *Does the program provide transportation to the after-school site? If so, beginning at what time are the children picked up? At what time do they arrive at the after-school site? At what time are lessons offered and for how long? When do the children leave? Who transports them when they depart the after-school site? Does the program serve children who do not participate in the after-school program?*
- *Are there any children who are at the after-school program all day? If so, at what times are lessons offered to those children? What activities are the children involved in when they are not taking lessons?*
- *Is the after-school program open to children on school holidays? If so, how long are children at the program site when they are not actually participating in a specific lesson or class? What are they doing when they are not in class, and who supervises them?*
- *Are field trips offered? If so, how often and what do they consist of? How long is their duration? Who supervises the children during the field trips?*
- *What services does the program offer in its advertising? If the program has any advertising flyers or brochures, request that the program director provide copies for review. If the program has a website, get the address.*
- *Does the program hold a camp license pursuant to Maryland Department of Health and Mental Hygiene regulations governing youth camps?*

.02 Definitions.

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

B. Terms Defined.

(1) Abuse.

- (a) **"Abuse" means 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.**
- (b) **"Abuse" includes sexual abuse of a child, whether physical injuries are sustained or not.**

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- (2) **"Acute illness"** means an abnormal condition of the body with rapid onset accompanied by abnormal symptoms and signs that has a short course of duration, as opposed to a chronic illness of long duration.
- (3) **"Acute illness center"** means a child care center which is exclusively for the temporary care of children who are ill and cannot attend their usual child care or school.
- (4) **"Adolescent center"** means a child care center that offers programs exclusively to children in middle school and junior high school.
- (5) **"Agency"** means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.
- (6) **"Agency representative"** means an individual designated by the Agency to determine compliance with this subtitle.
- (7) **"Applicant"** means a person who has submitted to the office all of the required forms and documentation to request approval for licensure either for an initial license or for a continuing license.
- (8) **"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 child care center staff members to maintain the employment qualifications required by COMAR 13A.16.06.**
- (9) **"Approved Montessori school"** means an educational program in a nonpublic nursery school that has been validated by a Montessori validating organization as meeting, at a minimum, Montessori school standards regarding teacher qualifications, written curriculum, instructional methods, and materials and equipment.
- (10) **"Approved preservice training"** means training that is:
 - (a) **Approved by the office; and**
 - (b) **Used to meet initial employment qualifications required by COMAR 13A.16.06 for child care center staff members.**
- (11) **Assistant Child Care Teacher.**
 - (a) **"Assistant child care teacher"** means a staff member who:
 - (i) **Is responsible for helping a child care teacher in a school age child care program; and**
 - (ii) **Meets the requirements of COMAR 13A.16. 06.11.**
 - (b) **"Assistant child care teacher"** includes a staff member known before December 17, 2008, as an assistant group leader.
- (12) **"Capacity"** means the total number of children specified by the license of the center who may be in care at any one time.
- (13) **"Child"** means an individual:
 - (a) **6 weeks old or older and younger than 16 years old; or**

- (b) **Younger than 21 years old who has a disabling condition or other emotional, developmental, physical, educational, or medical need necessitating child care beyond 16 years old.**
- (14) **Child Care.**
 - (a) **"Child care" means the care or supervision of a child when the child's parent has given the child's care over to another for some portion of a 24-hour day as a supplement to the parent's primary care of the child.**
 - (b) **"Child care" does not mean:**
 - (i) **A before-school or after-school activity conducted or sponsored by a public or nonpublic school that is approved or exempt from approval by the Maryland State Department of Education;**
 - (ii) **Scouting, sports, or youth club activities;**
 - (iii) **School-age recreational or supplementary education programs operated by a local department of recreation and parks, law enforcement agency, or a public or nonpublic school, if custodial supervision is not the primary purpose of the program;**
 - (iv) **Supervisory services to children provided by a church, health club, health provider, or similar sponsor in support of an occasional or intermittent parental activity or service offered by the sponsor while parents are on the same premises as the services to children and are immediately available to the children; or**
 - (v) **Programs primarily designed for the religious training of children, provided on a weekly basis or for a short period in the summer, commonly known as Sunday schools or Bible schools.**
- (15) **Child Care Center.**
 - (a) **"Child care center" means an agency, institution, or establishment that, on a regular schedule for at least 2 days per week and for at least 2 hours per day, or on a 24-hour basis, offers or provides child care to children who do not have the same parentage, except as otherwise provided for in law or regulation.**
 - (b) **"Child care center" includes:**
 - (i) **A nonpublic nursery school approved under Education Article, §2-206, Annotated Code of Maryland, in which an educational program is offered or provided for children who are 2 years old or older but younger than 5 years old;**
 - (ii) **A facility providing specialized training in a specific discipline or subject that also offers a child related service such as, but not limited to, transportation, free play, meals or snacks, tutoring, or homework sessions; and**
 - (iii) **Child care operated by a State or local government agency.**
 - (c) **"Child care center" may offer more than one type of program or care.**
- (16) **Child Care Teacher.**

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- (a) **"Child care teacher" means a staff member who:**
 - (i) **Is responsible for supervising a child care activity or a group of children in care; and**
 - (ii) **Meets the requirements of COMAR 13A.16.06.09 or .10, as applicable.**
- (b) **"Child care teacher" includes a staff member known before December 17, 2007, as:**
 - (i) **Senior staff, if working with infants, toddlers, or preschoolers; or**
 - (ii) **Group leader, if working with school age children.**
- (17) **"Combined preschool and school age center" means a child care center that serves both preschool children and school age children, whether in separate groups or mixed age groups.**
- (18) **"Continuing license" means a child care center license that does not expire.**
- (19) **"Core of knowledge training" means training in any of the following topics that has been approved by the Office as meeting Maryland Child Care Credential Program requirements:**
 - (a) **Child development;**
 - (b) **Curriculum;**
 - (c) **Health, safety, and nutrition;**
 - (d) **Special needs;**
 - (e) **Professionalism; and**
 - (f) **Community.**
- (20) **Custodial Supervision.**
 - (a) **"Custodial supervision" means parentally authorized oversight of a child by an individual other than the child's parent or guardian.**
 - (b) **"Custodial supervision" includes responsibility for:**
 - (i) **The well-being and the whereabouts of the child for a given period of time; and**
 - (ii) **Direct transfer of the custody of the child from and to an authorized person.**
 - (c) **"Custodial supervision" does not include the oversight of a child who is participating in a specific activity, such as scouting, sports, or youth clubs.**
- (21) **"Department" means the Maryland State Department of Education.**
- (22) **"Drop-in center" means a child care center which only provides care to children on an intermittent and occasional basis for less than 4 hours a day.**
- (23) **"Educational program" means a program of instruction as defined by the State Board of Education.**
- (24) **"Elective training" means training taken from an approved source such as a national conference or seminar that is not necessarily core of knowledge training.**
- (25) **Employee.**
 - (a) **"Employee" means an individual:**

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- (i) **Who for compensation is employed by the center operator to work at or for the center; and**
 - (ii) **Whose work assignment involves the care or supervision of children in the facility or access to children who are cared for or supervised in the facility.**
- (b) **"Employee" does not include an individual who:**
 - (i) **Is an independent contractor; or**
 - (ii) **Provides a consultative health service pursuant to COMAR 13A.16.06.14C.**
- (c) **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 any individual who:**
 - (i) **Is compensated by the operator to perform a service at the center;**
 - (ii) **Has access to children in care; and**
 - (iii) **Does not clearly meet, or is not excluded from, the definition of independent contractor set forth in §B(29) of this regulation.**
- (26) **"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 and for which the provider is paid, in accordance with Family Law Article, §§5-550— 5-557.1, Annotated Code of Maryland.**
- (27) **"Group" means a unit of children together with the staff assigned to them.**
- (28) **"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 center is or will be located.**
- (29) **"Identified as responsible for child abuse or neglect" means being determined by a local department to be responsible for indicated child abuse or neglect, or awaiting the local department's appeal hearing after the determination.**
- (30) **Independent Contractor.**
 - (a) **"Independent contractor" means an individual or entity:**
 - (i) **That is hired by the center operator or by another party, on the basis of a service contract or agreement, to perform a specialized service at the center, including but not limited to food catering, child transportation, facility maintenance or repair, or supplemental 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 center, but is available for hire by other customers.**
 - (b) **"Independent contractor" does not include an individual who:**

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- (i) **Provides a consultative health service pursuant to COMAR 13A.16.06.14C;**
 - (ii) **Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, academic, 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.**
- (31) **"Infant" means a child 6 weeks old or older but younger than 18 months old.**
- (32) **"Infant-toddler center" means a child care center which offers programs only for children younger than 2 years old.**
- (33) **"Injurious treatment" means:**
- (a) **Deliberate infliction in any manner of any type of physical pain, including but not limited to 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) **Using discipline methods which create undue discomfort, such as 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.**
- (34) **"Kindergarten" means an educational program for children who are 5 years old, or who will be 5 years old by September 1 of the year they enter the program, provided in a:**
- (a) **Public school or a nonpublic school approved by the State Department of Education; or**
 - (b) **Nonpublic school operated by a tax-exempt religious organization which holds a letter of exemption from approval by the State Board of Education under Education Article, §2-206, Annotated Code of Maryland.**
- (35) **"License" means the document issued to a licensee by the Department, which gives permission to operate a child care center in accordance with this subtitle.**
- (36) **"Licensee" means an individual or a partnership, group, association, cooperative, or corporation which has the legal authority and responsibility for governing and operating a center and for compliance with this subtitle.**
- (37) **"Local department" means the department of social services, by whatever name known, in any of Maryland's 24 local jurisdictions.**
- (38) **"Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.**

- (39) **"Montessori validating organization"** means an entity that is constituted to determine if an educational program meets Montessori school standards and is recognized by the Department as qualified for that purpose.
- (40) **Neglect.**
 - (a) **"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.
 - (b) **"Neglect"** does not include, for that reason alone, providing a child with nonmedical religious remedial care and treatment recognized by State law in place of medical treatment for a child's injuries or illnesses.
- (41) **"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.
- (42) **"Office"** means the central office or a regional office of the Agency.
- (43) **"Operated by a tax-exempt religious organization"** means that the operator has submitted a copy of the determination letter from the Internal Revenue Service which recognizes the organization as a bona fide church organization exempt from taxation under the Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3).
- (44) **"Operator"** means a licensee or an agent of a licensee.
- (45) **"Parent"** means the biological or adoptive parent or the legal guardian or custodian of a child, who enrolls the child in child care.
- (46) **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.
- (47) **"Preschool center"** means a child care center which offers programs for children younger than 5 years old.
- (48) **"Preschooler"** means a child who:
 - (a) Is 2 years old or older; and
 - (b) Does not attend kindergarten or a higher grade.
- (49) **"Professional development plan"** means the written instrument for tracking continued training that is:
 - (a) Distributed by the office; and
 - (b) To be completed annually by each staff member in a child care center.
- (50) **"Sanction"** means an enforcement action under this subtitle.

- (51) **"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.
- (52) **"School age center"** means a child care center which offers programs to children who attend a public or nonpublic school in kindergarten or grades 1—12.
- (53) **"School age child"** means a child younger than 16 years old who attends a public or nonpublic school in grades kindergarten or above.
- (54) **School Building.**
 - (a) **"School building"** means a facility that houses:
 - (b) **A nursery school;**
 - (c) **An instructional program for kindergarten, a higher grade or grades, or any combination of grades; or**
 - (d) **A combination of the entities specified in §B (54) (a) (i) and (ii) of this regulation.**
 - (e) **"School building" does not include a church or other facility that houses only:**
 - (i) **A program for preschoolers; or**
 - (ii) **A before- and after-school program.**
- (55) **"Small center"** means a child care center which is:
 - (a) **Located in a private residence; and**
 - (b) **Licensed for 12 or fewer children.**
- (56) **"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 center and whose assignment helps to maintain the staff/child ratios required by COMAR 13A.16.08.03.
- (57) **"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.16.06.03A; 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.16.06.03A, has been assessed by the office as suitable for employment pursuant to COMAR 13A.16.06.03B; 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, a child care center, the individual has been assessed by the office as being suitable for employment, pursuant to COMAR 13A.16.06.03B; or**

COMAR 13A.16.01 Scope and Definitions

- (ii) **An independent contractor, the individual has not been identified as responsible for the abuse or neglect of a child.**
- (58) **"Superintendent" means the State Superintendent of Schools or the Superintendent's designee.**
- (59) **"Toddler" means a child 18 months old or older but younger than 2 years old.**
- (60) **"Volunteer" means an individual who:**
 - (a) **Is 13 years old or older;**
 - (b) **Works in or for a child care center but is not a compensated employee of the center;**
 - (c) **Is not counted by the child care center toward maintenance of the staff/child ratios required by this chapter; and**
 - (d) **Is not enrolled as a child in care at the child care center.**

***INTENT:** The purpose of these definitions is to establish a clear and consistent meaning of certain terms used in COMAR 13A.16. Whenever one of these terms appears in these regulations, it means only what its definition set forth above says it means.*



Child Care Center Licensing Manual

(August 2016)


for use with

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

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.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:

- 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:**

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- (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:

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- (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 Patter 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

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.*

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.

- (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:*

- *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.



Child Care Center Licensing Manual

(August 2016)

for use with


COMAR 13A.16 Child Care Centers

(as amended effective 7/20/15)

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.01 Multi-Site Centers.

A child care center may have more than one location and may be treated as one center for purposes of this chapter only if:

A. The buildings:

- (1) Function as one integrated center, are in close proximity such as across the street or on the same campus, and are connected by an intercom system; and**
- (2) Are under the supervision of one director; and**

B. Two or more locations:

- (1) Are administered by one central administration with one ownership; and**
- (2) Share common administrative policies and procedures and contracts.**

***INTENT:** When a child care license is issued, it is issued to authorize operation only at a specific location. A licensee may be authorized to operate a number of centers at various locations, but each of these centers must be separately licensed because each is sited at a different location. Most centers are fully contained within a single area or structure; however, a center's "location" may include two or more separate areas or structures if those areas or structures are in close physical proximity to each other and are operated as a single administrative unit under a single director.*

***INSPECTION REPORT ITEM:** "Multi-Site Centers"*

***COMPLIANCE CRITERIA:** Each different site location or location address of a center has been issued a separate license; however, if the licensee has been authorized to operate two or more separate structures in close physical proximity to each other as a single "location", only one license is required.*

***ASSESSMENT METHOD:** Review the address locations of the center operations to determine:*

- If the multi-site center operates at different location addresses and holds a separate license for each site location.*
- Verify if the licensee has been authorized to operate separate areas or structures of the center as a single "location" and holds a single license for such an operation.*

.02 Admission to Care.

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

- (1) Met the applicable requirements of this regulation; and**
- (2) Received the written records required by Regulation .04C—H of this chapter, unless the child is temporarily admitted or retained in care on a temporary basis pursuant to §F of this regulation.**

INTENT: A child may not begin care until the center has received a medical evaluation, immunization certificate (immunization record), and emergency information for the child.

INSPECTION REPORT ITEM: “Admission to Care”

COMPLIANCE CRITERIA:

- On or before the first day that the child begins care, the center has received the following items signed by the child’s parent or guardian and, if indicated, by a licensed health practitioner:
 - **“Emergency Form”, OCC form 1214**
 - **“Health Inventory”, OCC form 1215** (or equivalent form which contains all information as required on the Health Inventory)
 - **“Immunization Certificate” (record), DHMH form 896**

ASSESSMENT METHOD: Review of children’s files to determine if the child’s file contains a completed Emergency Form, Health Inventory, and Immunization Certificate (immunization record).

Notes:

- When documents required for admission to care have not been received, inform the operator or Director that the parent must be told that the child may not return to the center until all required documents are received. Do not send the child home.
- While verification of “Lead Screening” is a part of the Health Inventory, the parent has 30 days after admission to get it completed.
- See the current **DHMH “Age-Appropriate Immunization Chart”** schedule.

Federal law under the Americans with Disabilities Act (ADA) prohibits child care programs from denying admission to a child with a disability solely on the basis of that disability. For more information on the applicability of ADA requirements to child care programs, see **“Child Care and the A.D.A.”**

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

INTENT: Before caring for a child, center staff must know the individual needs of a child. In order for this information to be specific to each child, the information about each child must be provided in writing by the parent. This information must be maintained by the center for the purpose of easy reference by center staff.

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA: *There is a written statement from the parent about each child's individual needs that is maintained by the center. Documentation indicates that center personnel and the child's parent have discussed any particular needs the child may have so that the program can be prepared to address those needs. This discussion must occur on or before the first day that child begins in care.*

Note: *Documentation may be in any format, but it must include, at a minimum:*

- *The date of the discussion;*
- *The specific nature of the child's individual needs, if any, identified by the parent; and,*
- *The signatures of the parent and the center representative.*

ASSESSMENT METHOD: *Review each child's file to determine if there is a written statement from the parent about the child's individual needs.*

C. As part of the admission process, the operator shall:

- (1) **Give the parent, or advise the parent how to obtain information that is supplied by the office concerning:**
- (2) **Consumer education on child care;**
- (3) **How to file a complaint against the child care center; and**
- (4) **Provide documentation that the requirements of §C (1) of this regulation have been met.**

INTENT: *Parents/Guardians must be given or provided information on how to obtain written information that includes basic requirements for licensed programs and informs them about their rights and responsibilities. The operator must ensure that each parent of a child in care receives a copy of the **Consumer Education Pamphlet** provided by OCC, or must advise parents about how to get a copy of the pamphlet. Parents/Guardians may obtain general information about child care at:*

<http://earlychildhood.marylandpublicschools.org/families>

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA: *Each parent of a child currently in care has received a copy of or information about how to obtain the information brochure.*

ASSESSMENT METHODS:

- *Review records of children currently enrolled in care to determine if for each child (or for at least one child from each family), there is signed and dated documentation that the child's parent has received a copy of the brochure, or*

- *Interview the operator about if and how information has been provided to parents about how to receive a copy of the information brochure.*

D. Upon admission of an infant or toddler, an operator 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;**

INTENT: *At the time of admission of a child under age 2, the operator must establish a written feeding regimen for the child in consultation with the parent. The regimen must include feeding times, types and amounts of food, and food progression and must address any medical recommendations regarding feeding. The established regimen must be followed, and it must be re-evaluated at least every 3 months or more often as necessary.*

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA: *For each child under 2-years-old, a written feeding regimen:*

- *Is established at the child's admission in consultation with the parent;*
- *Addresses all the required elements;*
- *Is implemented during each day that the child is in attendance; and*
- *Is re-evaluated in consultation with the parent at least every 3 months or more often as necessary.*

ASSESSMENT METHOD: *Review the file of each child in care who is under 2-years-old to determine if a written feeding regimen is present that meets all listed compliance criteria.*

(2) A written individual activity plan for the child; and

INTENT: *When an infant or toddler is enrolled in care, the operator must ensure that a written individualized activity plan for the child is developed jointly by the child's parent and a qualified staff member. This plan must address in detail what the child's individual needs are and how they will be met. The plan must identify the qualified staff member who will have responsibility during each work shift for implementing the plan and ensuring that the child receives appropriate care.*

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA:

- *For each infant and toddler enrolled in care, there is a written individualized activity plan that was jointly developed by qualified staff and the parent at the time of the child's admission to care.*
- *The written plan details:*
 - *The child's normal eating, sleeping, and other activity patterns and specifies how the facility will accommodate those patterns;*
 - *How the child will receive consistent and appropriate stimulation;*
 - *Diapering; and*
 - *Assignment per shift of a qualified primary caregiver.*

ASSESSMENT METHOD: *Review each enrolled infant and toddler's record to determine if a written plan is present and if the plan meets the compliance criteria.*

- (3) **If the child is a toddler or an infant who is 12 months old or older, the need for the child to use a crib for rest purposes.**

INTENT: *If a parent of a child who is 12 months old or older knows their child needs a crib for rest time, the parent must inform the center of such.*

INSPECTION REPORT ITEM: *"Admission to Care"*

COMPLIANCE CRITERIA: *There is a crib available for use by each infant and/or toddler enrolled who is 12 months old or older whose parent has informed the center that the child needs to sleep/rest in a crib.*

ASSESSMENT METHOD: *Determine if any parent of a child who is 12 months old or older has informed the center that their child needs a crib for sleeping/resting. If so, observe to see if a crib (or cribs) is/are available for such a child/ren.*

- E. If a child is younger than 6 years old at the time of admission, the operator 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 operator 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.**

INTENT: *To help decrease the damaging effects of lead poisoning in children, Maryland law requires each child under the age of 6 years to have an appropriate lead screening within 30 days after beginning in care at the center.*

INSPECTION REPORT ITEM: *"Admission to Care"*

COMPLIANCE CRITERIA: *Within 30 days after admitting a child younger than 6 years old, the center received a completed and signed “Health Inventory”, OCC form 1215 or equivalent form approved by the Regional Office.*

ASSESSMENT METHOD: *Review children’s files to determine if and when the center received the required documentation.*

Notes:

- *The child’s parent is responsible for making sure the child has received a lead screening.*
- *The child’s physician is responsible for ensuring that the child received the appropriate lead screening.*
- *If a child has been tested but the health practitioner does not have the test date, the local health department in the jurisdiction where the child lives can help the child’s parent get a record of the test results.*
- *The zip codes of the at-risk areas that require blood lead testing are listed on the back of the Health Inventory form. When a child registers to begin school, this form will meet the requirements for school entry. For this reason, parents should be encouraged to keep a copy of the form for school registration purposes.*
- *The center operator is responsible for making sure the center receives documentation of the appropriate lead screening within 30 days after the child first attends care. If that documentation is not received within the required timeframe (or if the documentation shows that the screening was not the correct one as required by State or local law), the operator may not permit the child to attend the center until the parent supplies documentation that the child has had the appropriate lead screening.*

F. Temporary Admission to Care.

- (1) **An operator may temporarily admit or retain a child in care if:**
 - (a) **The child is homeless; or**
 - (b) **The child’s parent is unable to provide the health-related records specified in Regulation .04D, E, G, or H of this chapter.**
- (2) **For a child to be temporarily admitted or retained in care, the parent 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 health record.**
- (3) **The date of the appointment required by §F (2) of this regulation may not be later than 20 calendar days after the date the child was temporarily admitted or retained.**
- (4) **An operator 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 health-related information within 3 business days after the date of the appointment made pursuant to §F(2) of this regulation.**

.03 Program Records.

The operator 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, by groups of children, which indicate:**
 - (a) **The dates of attendance of each child in the center; and**
 - (b) **Verification by each child's parent of that child's recorded daily attendance in care; and**

***INTENT:** The facility must maintain enrollment and attendance records for all children enrolled to enable OCC to assess compliance with regulatory requirements pertinent to facility capacity, staff/child ratios, and group size. Parental verification of attendance provides proof that the child was in attendance on any particular day.*

***INSPECTION REPORT ITEMS:** "Program Records"*

***COMPLIANCE CRITERIA:** The center maintains current and complete enrollment and attendance records.*

***ASSESSMENT METHOD:** Review the facility's files to determine if the required records are present and that the operator has a process in place for parental verification of attendance.*

***Note:** Parental verification of attendance was mandated for purposes related to programs with children participating in the Subsidy program. Operators must submit attendance verification with their invoices for payment. Operators may develop various processes for parent verification which are acceptable.*

B. Maintain:

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

***INTENT:** The operator must ensure that facility staff know where each child is at all times while the child is in attendance.*

***INSPECTION REPORT ITEM:** "Program Records"*

***COMPLIANCE CRITERIA:** The center has a procedure to ensure that staff members always know the location of each child.*

ASSESSMENT METHOD:

- *Ask the Director if the required procedure exists and whether it is written or verbal. If it is written, ask to see it.*
- *Interview facility staff to evaluate their knowledge of the procedure.*

- (2) **A written child discipline policy as required in COMAR 13A.16.07.03C;**

***INTENT:** Providers and staff are more likely to avoid abusive practices if they are well-informed about effective, non-abusive methods for managing children's behaviors. The center must keep on file the written discipline policy required by Regulation .07.03C.*

***INSPECTION REPORT ITEM:** "Program Records"*

***COMPLIANCE CRITERIA:** The written discipline procedures are maintained on file.*

***ASSESSMENT METHOD:** If the written procedures are not openly posted, ask a facility staff member where a copy can be found.*

***Note:** See sample policy guide, entitled "**Discipline Measures**".*

- (3) **Records of food actually served by the center for the most recent 4 weeks as required by COMAR 13A.16.12.01G;**

***INTENT:** Proper menu planning is critical to ensuring that children in care get nutritionally correct types and amounts of food and beverages each day. Parents have a right to know what food is being served to their children and when, and menu-posting provides them with this knowledge. For the same reason, and because last-minute changes to planned menus are sometimes necessary, a record of food actually served must be kept for a reasonable period of time.*

INSPECTION REPORT ITEM: "Program Records"

COMPLIANCE CRITERIA: A dated record of food actually is served is maintained on file for at least 4 weeks after the corresponding menu date.

ASSESSMENT METHOD: Observe to determine if dated records of food served are on file for the required time.

Note: See sample "**Weekly Menu Planner**".

- (4) **A written record of the dates and times at which emergency and disaster plan drills were conducted pursuant to COMAR 13A.16.10.01A(3)(c); and**

INTENT: A written record of emergency and disaster plan drills must be maintained so that compliance with this regulation can be assessed.

INSPECTION REPORT ITEMS: "Program Records"

COMPLIANCE CRITERIA:

- A written log or similar document is maintained that records the date and time of each emergency evacuation drill.
- The dates indicate the emergency fire evacuation drills took place at least monthly.
- The dates indicate other emergency and disaster evacuation drills took place at least twice per year.

ASSESSMENT METHOD: Review facility records for evidence that evacuation drills occur as required.

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

INTENT: A complete copy of current center licensing regulations (COMAR 13A.16, Child Care Centers) must be present and displayed for review by center employees and parents.

INSPECTION REPORT ITEM: "Program Records"

COMPLIANCE CRITERIA: A complete copy of current center licensing regulations is displayed where it can be readily accessed by center staff and parents.

ASSESSMENT METHOD: *Observe to determine if and where the current regulations are displayed.*

- C. Display a copy of the consumer education pamphlet on child care supplied by the office so that it is freely available for reference to parents; and**

INTENT: *The operator must make the **Consumer Education Pamphlet** available and accessible for parents to reference. The operator must ensure that a copy of the parent information brochure provided by OCC is displayed for reference purposes.*

INSPECTION REPORT ITEM: *"Program Records"*

COMPLIANCE CRITERIA: *A copy of the brochure is displayed where it can be seen and used for reference by parents.*

ASSESSMENT METHOD: *Observe to identify if and where a display copy of the brochure is available for parent reference.*

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

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

INTENT: *This information is necessary to protect the health and safety of children in care.*

INSPECTION REPORT ITEM: *"Program Records"*

COMPLIANCE CRITERIA: *The center maintains written agreements for all children in care.*

ASSESSMENT METHOD: *Review center records to determine if there is a written agreement for each child in care.*

.04 Child Records.

- A. For each child admitted to, or continuing in care, the operator shall maintain written records, on forms provided or approved by the office that meet the requirements of this regulation.**

INTENT: *The operator must keep complete, current, and accurate records of all children served by the program.*

INSPECTION REPORT ITEM: *"Child Records"*

COMPLIANCE CRITERIA: *The center maintains written records for each child in care.*

ASSESSMENT METHOD: *Review center records to determine if there is a written record for each child in care.*

Notes:

- *Compliance with requirements of this regulation is further assessed at §§ B-J, as applicable.*
- *Certain information or forms, i.e., Emergency Card, Health Inventory, Parental Permission Slips, etc., required for each child may be found in the child's individual file or may be consolidated in a centrally located file.*
- *For information not found in the child's individual record, ask Operator or Director if required information is housed elsewhere within the facility.*
- *Reviewing Child Records: Child Care Centers are generally approved to serve large numbers of children. It is extremely time-consuming for licensing staff to inspect large numbers of child records during an inspection given the complexity and amount of information required to be checked for each record. To decrease time spent in this area, while ensuring that the provider maintains appropriate child records, Licensing Specialists may proceed as follows:*
 - *Randomly select 10 child records, creating a mixture of all infant and toddler records with some preschooler records, and review for compliance with the following:*
 - *§.04 of this Chapter, Child Records, A.–K., as applicable;*
 - *Chapter .09, §.02 Activity Plans; and,*
 - *Chapter .12, §.06 Infant Feeding, as applicable.*
 - *When a noncompliant record is reviewed, cite the noncompliance on the inspection form (be sure to use the canned comment) and cease inspecting child records.*
 - *Inform the Director that a noncompliance was found; therefore, all child records must be checked for completeness and accuracy. (You may note this directive in the additional comment section.)*

- *Ask the Director to contact you when all child records are compliant with regulations.*
- *Inform the Director that upon your return, you will randomly select another 10 child records to check.*
- *If all records checked in this random selection are compliant, the child record noncompliance will be noted as corrected.*
- *If non-compliances are found, the "N" will stand as cited until the Licensing Specialist finds no non-compliances during the random sampling review of child records.*
- *Licensing Specialist must discuss further follow-up with the Supervisor*

B. Each child's written records shall be:

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

INTENT: Center staff must be able to easily access child records at all times. Records must be retained for at least 2 years after a child's disenrollment.

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: All required records are accessible to all center staff members providing care to children, and are retained for at least 2 years unless specified otherwise by regulation.

ASSESSMENT METHOD: Review records required to be maintained by the center, and observe location of child records for ease of accessibility.

C. The operator 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 home and work telephone numbers;**
- (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.**

INTENT: *For each child, center staff must always know whom to contact in an emergency involving the child. At a minimum, emergency contact information must include certain items and must be reviewed by parents to make sure that it's accurate and complete.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA:

- *The center maintains a completed emergency information form for each child in care.*
- *The form used is an **OCC 1214 "Emergency Form"** or an equivalent document that has been approved by the Regional Office for use.*
- *Each form has been signed and dated by the child's parent or guardian.*

ASSESSMENT METHOD: *Review child records to verify that a completed emergency information document is present for each child.*

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, unless the child is a school-age child who attends a school-age program located in the child's school.

INTENT: *To help decrease the damaging effects of lead poisoning in children, Maryland law requires each child under the age of 6 years to have an appropriate lead screening.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: *Each child in care younger than 6 years old has received appropriate lead screening.*

ASSESSMENT METHOD: *Review children's files to determine if and when the center received the required documentation.*

Notes:

- *Three, four and five year old children who are enrolled in public or nonpublic school are considered school-age children. If the child attends a school-age program located in the child's school, the assumption is that documentation of lead screening would be on site in the school's file.*
 - *The child's parent is responsible for making sure the child has received a lead screening.*
 - *The child's physician is responsible for ensuring that the child received the appropriate lead screening.*
 - *If a child has been tested but the health practitioner does not have the test date, the local health department in the jurisdiction where the child lives can help the child's parent get a record of the test results.*
 - *The zip codes of the at-risk areas that require blood lead testing are listed on the back of the Health Inventory form. When a child registers to begin school, the Form 1215 will meet the requirements for school entry. For this reason, parents should be encouraged to keep a copy of the form for school registration purposes.*
- F. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly from a registered family child care home, another 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. Unless a school-age child attends a school-age program located in the child's school, the operator shall obtain, and maintain at the center, 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 licensed 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.**

INTENT:

- *To minimize health risks to children, the center must obtain and maintain an immunization record for each enrolled child which demonstrates that each child has had immunizations appropriate for the child's age per the guidelines of the Maryland Department of Health and Mental Hygiene (DHMH).*
- *To minimize the possibility of an adverse reaction to an immunization to occur while the child is in care at the center, the child must have had at least one dose of each vaccine appropriate for the child's age before entry into the center and the date of dosage must be recorded on the immunization record.*

INSPECTION REPORT ITEMS: "Child Records"

COMPLIANCE CRITERIA: *Children's files contain an immunization record that complies with (1) – (4), as applicable, of this regulation.*

ASSESSMENT METHOD: *Review children's files to determine if the files contain immunization documentation.*

Notes:

- *If an immunization or specific immunizations are medically contraindicated, the file or immunization record must indicate such as recorded by a licensed physician or a health officer.*
 - *If a parent objects to a child's immunizations or specific immunization(s) because of bona fide religious beliefs and practices, the immunization record of the child must contain a statement from the parent indicating such objection.*
 - *For guidance in checking immunization records during an inspection see the **DHMH Age-Appropriate Immunization Chart schedule**, and **"Checking Immunization Records During Inspections"**.*
- 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, an operator 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.**

INTENT: *To provide for parent's bona fide religious beliefs and practices, a parent may opt out of the child immunization requirement or medical examination requirement, or both by providing a written statement of the child's health status in lieu of an immunization record and medical evaluation.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: *A written (signed and dated) statement from the parent that the child is in satisfactory health and free from any communicable disease is included in the child's program admission records of each child whose parent objects to having the child immunized or medically examined because of religious beliefs and practices.*

ASSESSMENT METHOD: *Review the child's file. If the file does not contain a medical examination or record of immunizations, determine if a written, signed, and dated parental statement indicating objection to a medical examination or immunizations, or both, is present.*

I. The operator shall record or maintain on file:

- (1) **Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.16.11.01;**
- (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.16.11.04A(1) and D;**
- (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.16.12.02;**
- (5) **If program activities away from the center 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 toddler or an infant who is 12 months old or older has requested a crib for the child's rest periods.**

INTENT: *For easy reference and recall, the center must maintain, at the center, all records required by this regulation.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: *All records required by this regulation are maintained at the center.*

ASSESSMENT METHOD: *Review child records maintained by the center to determine if the center maintains the following:*

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- Incidences of acute illness requiring exclusion of a child from care as required by Chapter 11, regulation .01;
- Incidences of injury or death of a child while in care as required by regulations .06C and D of this Chapter (See **“Accident/Injury Record”** form);
- Parental permission to administer medication, as required by Chapter 11, regulations .04A(1) and .04D;
- As applicable, written prescription or written parental instruction regarding a child’s modified diet as required by Chapter 12, regulation .02;
- Written parental permission to take the child to program activities away from the center as required by regulation .04I(5) of this Chapter;
- As applicable, written parental request for the provision of a crib for an infant or toddler who is 12 months old or older as required by regulation .04I(6) of this Chapter.

Note: These instruments may be located in a consolidated file centrally located, posted in appropriate locations in the facility, or in individual child records.

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 operator and the parent at least every 12 months after the child's admission to care.

INTENT: In order to ensure that the operator is aware of, understands, and is equipped to meet all of the child’s needs, the operator must ensure that the parent’s/guardian’s written information about the child’s individual needs is current. To ensure that the information is current, at least every 12 months the operator must review the information provided with the parent/guardian.

INSPECTION REPORT ITEM: “Child Records”

COMPLIANCE CRITERIA: There is indication on the written statement from the parent about each child’s individual needs that it has been reviewed with the parent/guardian within the last 12 months.

Notes:

- Documentation must include, at a minimum:
 - The date of the latest review;
 - The specific nature of the updated information, if any, identified by the parent/guardian; and,

- *The signatures and dates of the parent/guardian and the center representative of the most recent review/update of the information of the child's individual needs.*

ASSESSMENT METHOD:

- *For each child who has been enrolled in the center for more than 12 months, review the child's file to determine if there is a written statement from the parent/guardian about the child's individual needs that has been updated at least every 12 months.*
- *Ensure that the updated information has been signed and dated by the operator and the parent/guardian.*

K. An operator shall maintain daily records of the amounts and kinds of liquids and solid food consumed by each infant and toddler. These records shall be:

- (1) **Dated and kept on file for at least 4 weeks;**
- (2) **Available in the infant or toddler feeding area; and**
- (3) **Made available to the child's parent.**

***INTENT:** In order to ensure that center staff and the parents/guardians of each infant and toddler (children under age 2 years) are aware of the foods and liquids consumed each day by the child, the type and amount of food and drink consumed by that infant or toddler must be recorded daily, be available in the infant and/or toddler feeding area, and made available to the parent of the infant or toddler.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA:

- *A feeding record that lists the amounts and kinds of liquids and solid foods consumed by each infant and toddler is completed each day the child is in attendance.*
- *The daily feeding records of each infant and toddler are maintained at the center for at least 4 weeks.*
- *The infant/toddler feeding records are available in the feeding area(s).*
- *The infant/toddler feeding records are made available to parents/guardians of infants and toddlers.*

ASSESSMENT METHOD:

- *Review the record of each infant and toddler enrolled to determine if it contains daily feeding records for at least the last 4 weeks that the child was in attendance.*

If the infant/toddler has been enrolled for less than four weeks, determine if the child's record contains a daily feeding record that spans the time period for which the infant/toddler has been in attendance.

- *Observe the feeding area(s) to determine if current daily feeding records are located there for each infant and toddler.*
- *Interview the Operator to determine how the daily feeding records are made available to parents of infants and toddlers.*

Note: *For more guidance on infant feeding, see Chapter .12, §.06.*

.05 Staff Records.

Notes:

- *Some Operators, with facilities at multiple sites, keep staff records at a central location. Since inspections are unannounced, staff records may not be on site upon arrival of the licensing specialist. In those instances, the Operator must be given the opportunity to get the records to the site before the inspection is completed.*
- *Some Operators keep staff records locked in a confidential file at all times. When an operator is not available during an unannounced inspection and the person in charge does not have access to the locked records, schedule a follow-up visit (the next business day) to review the records.*
- *Some operators keep staff records in a computerized system which is acceptable.*

The operator 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 center on a routine basis;**

INTENT: *To help ensure the safety of children in care, the operator must maintain a current and complete list of all facility employees and must make that list available to OCC.*

INSPECTION REPORT ITEM: *"Staff Records"*

COMPLIANCE CRITERIA: *A current and complete Employment Record is maintained which lists all current personnel and is provided to the Regional Office upon request. **OCC Form 1203 Personnel List/Change Form** is used for this purpose.*

ASSESSMENT METHOD: *Review the facility files to determine if a current and complete Employment Record is present and compare with **OCC 1203 Personnel***

List/Change Form or an alternative form approved by the Office, and the CCATS Associated Party list for that facility.

Notes:

- Child care centers may maintain a computerized version of the employment record and may submit to OCC as an alternative to OCC 2013 Personnel List/Change Form. The computerized format must contain all elements noted on the OCC 1203.
- On a routine basis, a center's Employment Record is reviewed by the Regional Office in conjunction with each unannounced inspection of the facility in accordance with policy, **"Verifying Staff Employment in Child Care Facilities During Annual Unannounced Inspections"**.
- The Employment Record is subject to review by the Regional Office at other times as well (for example, in connection with a complaint investigation).
- The Regional Office may request the center to submit the current Employment Record in advance of an unannounced inspection.
- If the Employment Record is not reviewed in advance, it will be reviewed on-site during the inspection.

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 name, all child care assignments;**

INTENT: So that OCC, parents/guardians of children in care, and visitors may verify that the center is complying with staff/child ratio and maximum group size requirements, the operator must post current and complete staffing pattern form(s).

INSPECTION REPORT ITEM: "Staffing Pattern Posted"

COMPLIANCE CRITERIA: A current and complete **Staffing Pattern form**, either **OCC 1206**, or an alternative form that has been approved by the Regional Office is posted for each child activity room.

ASSESSMENT METHOD:

- *Observe to determine if all necessary staffing pattern forms are posted in a conspicuous location in the center.*
- *Review each form for currency and completeness.*

Notes:

- *A center must post its current staffing patterns in a conspicuous location in the center. The staffing patterns do not have to be posted in each classroom. Collective posting at a single location (for example, on a main bulletin board) is acceptable.*
- *On a routine basis, a center's Employment Record is reviewed by the Regional Office in conjunction with each unannounced inspection of the facility.*
- *The Employment Record is also subject to review by the Regional Office at other times (for example, in connection with a complaint).*
- *The Licensing Specialist should be careful to link review of the staffing patterns to review of the Employment Record to ensure that properly trained staff are providing required coverage at all times.*

C. During an individual's employment at the center 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) **An employment medical evaluation;**
- (4) **Criminal background check results, except that the operator shall destroy the record of those results immediately after the last day of the individual's employment; and**
- (5) **The date on which the staff member received the written information required by COMAR 13A.16.06.02;**

***INTENT:** During the employment of each person, the operator must maintain a record of the person's employment medical evaluation, job qualifications and duties, training completed while employed, federal and State criminal background check results, and*

date when the required staff orientation was received. This record must be maintained for 2 years after the person is no longer employed.

INSPECTION REPORT ITEM: "Staff Records"

COMPLIANCE CRITERIA: *A record containing the required information is maintained for:*

- *Each current employee; and*
- *Each ex-employee for two years after the end of the person's employment.*

ASSESSMENT METHOD: *Review the records of current employees and ex-employees to determine if compliance criteria are met.*

Notes:

- *Due to the confidentiality requirements for CBCs, copies of the criminal background results should not be in the employee's record for OCC review.*
- *The process found in "**Checking Staff Continued Training in Child Care Centers Guidelines**" may also be used to check staff records for compliance with this regulation.*

D. Maintain documentation required for:

- (1) **Substitutes, pursuant to COMAR 13A.16.06.13; and**
- (2) **The adult available for emergencies, pursuant to COMAR 13A.16.08.02D(3); and**

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.**

INTENT: *In order that the Regional Office can assess the center's compliance with requirements regarding the use of substitutes, pursuant to Chapter .06, Regulation .13, the center must maintain a written record of the days each substitute provided care to enrolled children and identify the staff member for whom the substitute worked.*

INSPECTION REPORT ITEM: "Staff Records"

COMPLIANCE CRITERIA: *For each substitute used by the center, there is a record of all of the dates the substitute was used and the name and job title of the person(s) the substitute replaced.*

ASSESSMENT METHOD: *Review the facility files for each substitute used by the facility to determine if the required records are present.*

.06 Notifications.

The operator shall:

A. Within 5 working days of its occurrence, provide written notification to the office about the:

(1) Addition of a new employee or 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; and**

***INTENT:** To enable OCC to determine if each new employee or staff member meets all applicable requirements of Chapter .06 of these regulations, the operator must provide OCC with certain hiring-related documentation at the earliest possible time.*

***INSPECTION REPORT ITEM:** "Notification of New Employee"*

COMPLIANCE CRITERIA:** Within 5 business days after a new employee's start date, the operator provides the Regional Office with a completed **"Child Care Facility Personnel List/Staff Change Form", OCC 1203.

***ASSESSMENT METHOD:** Review the facility's current Employment Record to identify recent hires. If there have been recent hires, review the facility's licensing file to determine if a **"Child Care Facility Personnel List/Staff Change Form"** form), and a completed **"Release of Information" form OCC 1260**, have been received as required for each new hire.*

***Note:** To curtail unnecessary CJIS Alerts, request the Operator or Director to inform the office of individuals no longer employed at the facility, or who were never employed after getting CBCs. The **"Child Care Facility Personnel List Staff Change Form"** may be used for this purpose.*

(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.**

***Note:** **OCC 1203 Personnel List/Staff Change Form** is used for reporting purposes.*

B. Within 15 working days of adding the new employee or staff member, provide to the office:

- (1) If applicable, documentation that the individual meets the requirements of this chapter for the assignment, unless documentation already is on file in the office; and**

- (2) **If the individual is paid by the center operator, proof of compliance with the laws and regulations pertaining to criminal background checks;**

***INTENT:** To ensure that new employees are qualified for the positions for which they were hired, and that those individuals are in compliance with criminal background check laws and regulations.*

***INSPECTION REPORT ITEM:** "Notification of New Employee"*

***COMPLIANCE CRITERIA:** As applicable, within 15 business days after a new employee's start date, the operator provides the Regional Office with documentation that the individual meets the regulatory requirements, if any, for the individual's job assignment. [NOTE: This documentation need not be submitted to OCC if the individual is identified in the Child Care Automated Tracking System (CCATS) as an associated party for another child care facility in the same position].*

Notes:

- *All new facility employees must apply to CJIS for a State and FBI record check. If, however, a new employee has previously had a State and FBI record check done and OCC has received the results from CJIS, the person is "known" to OCC and may begin child care duties before the results of the new record check application are returned (i.e., the new employee need not be "chaperoned" pending receipt of the new CBC application results).*
- *In the case of a multi-site operator, if an employee transfers from one site to another, a new record check application is not required. Since the person's employer remains the same regardless of the person's actual job site location, the person is not considered to be a new employee; therefore, the background check requirements for new employees do not apply.*
- *CJIS "365-Day Requests":*
 - *If a new employee's previous employer was a child care facility, school, adoption or foster care agency, children's recreation center, or similar program or service for children, and if CJIS received a Maryland State and FBI record check request on that person from the previous employer within the year, the person's current employer may file a "**365-Day Request**" with CJIS.*
 - *The 365-day request is made by submitting a special CJIS form, authorizing CJIS to send the results of that previous record check to the new employer and to the appropriate OCC Regional Office.*
 - *Results are usually received by the new employer and the Regional Office within 3-4 days after a properly completed request reaches CJIS.*

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- Facility operators may obtain copies of the 365-Day Request form and instructions for completing the form by calling CJIS Customer Service at (410) 764-4501.
 - There is no fee for filing a 365-Day Request form.
 - The operator must submit two copies of the special 365-Day Request form to CJIS. One copy should include the operator's authorization number, and the other copy should include the appropriate Regional Office's authorization number. Without these authorization numbers, CJIS will not know where to send the record check results.
 - The operator should photocopy the completed request form and forward the photocopy to the OCC Regional Office as proof that the 365-Day Request has been submitted.
 - State and FBI record check results received on the basis of a 365-Day Request will be accepted by OCC in lieu of a brand-new criminal background check application. If, however, CJIS rejects the 365-Day Request for any reason, the new employee will have to submit a new criminal background check application.
- Whenever submitting a criminal background check (CBC) request for a center employee, the operator must include the appropriate OCC Regional Office authorization number on the CBC request form. 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.)

C. Notify or require that a staff member notify the office within 24 hours of:

- (1) **The death of a child if the child died while at the center;**
- (2) **The death of a child enrolled at the center if the child died of a contagious disease; and**
- (3) **An injury to a child that occurs while the child is at the center or on a field trip which results in the child's being:**

- (a) **Treated by a medical professional; or**
- (b) **Admitted to a hospital;**

***INTENT:** The Regional Office must be notified of a child's serious injury or illness, or death while in care, within one working day of its occurrence.*

***INSPECTION REPORT ITEM:** "Notifications"*

***COMPLIANCE CRITERIA:** Each incident involving injury to a child that needs professional medical attention, or death from an injury while in care, or death due to a contagious disease is reported to the Regional Office within 24 hours.*

***ASSESSMENT METHOD:** Comparison of serious incident report(s) received from the center with entries made into children's records regarding the date, time, and nature of each serious incident.*

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;**

***INTENT:** The operator must notify parents of any injuries or accidents involving their children so that they can seek proper medical attention as necessary. Serious injuries must be reported immediately. Non-serious injuries must be reported within the same day.*

***INSPECTION REPORT ITEM:** "Notifications"*

***COMPLIANCE CRITERIA:** The operator notifies the parent:*

- *Immediately, if the injury or accident is serious, or*
- *By the end of the same day, if the injury or accident is not serious.*

***ASSESSMENT METHOD:** Review children's files to determine whether, for each noted injury, there is documentation of if and when parental notification occurred.*

*Note: See **"Accident/Injury Record"** form.*

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 center which may affect the status of the license, including but not limited to:**

- (a) **Individuals living on the premises;**
- (b) **Operation of the center; or**
- (c) **Telephone number;**

INTENT:

- *In order for the office to maximize safeguards to children in care, the operator must notify the office immediately upon awareness that an employee is under investigation for a criminal charge or an allegation of child abuse or neglect.*
- *In order to ensure that the status of the license is current as it pertains to changes at the center, the operator must notify the office immediately of changes to the operation that occurred after the license was issued including, but not limited to, the changes referenced in §.07 of this Chapter and the changes referenced in §E (2)(a)-(c) above.*

INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA: *The operator has notified the office immediately of any changes in operation referenced in §.07 of this Chapter and the changes referenced in §E (2)(a)-(c) above.*

ASSESSMENT METHOD: *Review the file of the center to determine if the operator reported changes to the office immediately.*

F. Within 5 working days after there is a new resident on the premises 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 and adults for information about the resident; and**
- (2) **Direct the resident to apply for a federal and State criminal background check; and**

INTENT: *In order for the office to ensure that each adult resident on the premises is in compliance with the criminal background investigation requirement, the operator must notify the office within 5 working days of such a resident by complying with §§(1) and (2) of this regulation.*

INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA:

- *The operator has submitted a signed and notarized release form giving the office permission to examine the records of abuse and neglect of children and adults for information about the new adult resident.*

- *The operator has ensured that the new adult resident has applied for a federal and State criminal background check.*

ASSESSMENT METHOD: *Review the file of the center to determine if the operator complied with this regulation within 5 working days of the adult becoming a resident of the child care facility.*

G. Within 10 business days of receiving notice from the center’s supplier of water that the drinking water is contaminated, send a written notice of the contamination to the parent of each child enrolled that:

- (1) **Identifies the contaminants and their levels; and**
- (2) **Describes the plan for dealing with the water contamination problem until the water is determined by the appropriate authority to be safe for consumption.**

INTENT: *Unsafe water supplies may cause illness or other problems and contain bacteria and parasites. Infants below 6 months who drink water containing nitrate in excessive levels could become seriously ill and, if untreated, may die. Parents/guardians must be informed of the contamination of drinking water in the child care facility.*

INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA: *The operator has notified the parents/guardians of each child in care that the drinking water is contaminated, the contaminants and their levels, and plan of corrective action.*

ASSESSMENT METHOD: *Review the file of the center to determine if the operator complied with the notification requirement.*

Notes:

- *If the facility’s drinking water does not come from a public water system, or the facility gets the drinking water from a household well, programs should test the water every 2 years or as required by the local health department for:*
 - *Bacteriological quality,*
 - *Nitrates,*
 - *Total dissolved solids,*
 - *pH levels, and*
 - *Other water quality indicators as required by the local health department.*
- *Testing for nitrate is especially important if there are infants under six months of age in care.*
- *Public water systems are responsible for complying with all regulations, including monitoring, reporting, and performing treatment techniques.*

.07 Change of Operation.

- A. Except when converting the child care center to a summer youth camp, if an operator wishes to make any changes from the current license, such as use of rooms not previously approved for child care, capacity, hours of operation, age groups served, or the introduction of food service, the operator shall request and receive written approval of the change from the office before implementing the change.**

INTENT: Under Maryland law, only the Office of Child Care may modify the terms or conditions of a center license.

INSPECTION REPORT ITEM: "Change of Operation"

COMPLIANCE CRITERIA: *Except for conversion to a summer camp, the operator has received written approval of that change from the Regional Office before implementation.*

ASSESSMENT METHOD: *Through observation and, if necessary, review of facility records, determine if any unreported change has occurred pertinent to the facility, facility operations, or the number or ages of children served that affects the status or scope of the license.*

Notes:

- *If an operator wishes to expand the approved operating hours to include evening or overnight care, certain additional information must be provided to OCC before approval will be considered.*
- *When the use of an alternative site for child care is requested because of an emergency environmental situation (such as environmental hazard, structural damage, eviction, etc.) in a child care center, the following procedures will be used:*
 - *The Licensing Specialist shall:*
 - ❖ *Conduct an on-site inspection of the alternative site,*
 - ❖ *Check the square footage and the number of toilets, hand sinks, and drinking facilities.*
 - ❖ *If the alternative site is not in full compliance, the OCC Regional Manager will make a decision as to the health and safety risks to the children and the length of time the center is expected to be at the location.*
 - *Request a fire inspection and, if applicable, a sanitation inspection,*
 - *Contact the local zoning board to ascertain appropriateness of the site for use*
 - *Staff/child ratios and group size must be in compliance.*

- *Rooms should be structured to accommodate individual groups of children to the extent possible (i.e., program, materials, and equipment).*
- *If the Regional Manager approves use of the site, a letter of authorization shall be issued to the operator. That letter must be posted conspicuously in the site's approved child care area.*
- *The plan for using the alternative site shall be evaluated periodically.*
- *The operator must send a letter to parents notifying them that the licensed center is temporarily closing during the emergency. In addition, the operator must post a notice at the licensed center notifying the public that the center is temporarily closed.*
- *The Licensing Specialist shall recommend to the operator that an opportunity be provided for parents and children to make a preliminary visit to the alternative site.*

Note: See ***“Change of Operation”*** form.

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 license indicating the change.

INTENT: *Whenever the terms or conditions of a license are modified, the license must be re-issued.*

C. If an operator wishes to convert to a summer youth camp, the operator shall:

- (1) Notify the office before implementing the change to a summer youth camp;**
- (2) Upon request by the office, provide proof to the office of the center's certification as a summer youth camp under Health-General Article, Title 14, Subtitle 4, Annotated Code of Maryland;**
- (3) Remove the child care center license from display on the premises used for operating a summer youth camp during the period of summer youth camp operation; and**
- (4) Notify parents of children in care and those applying for care that:**
 - (a) A child care center is not being operated during summer months; and**
 - (b) State regulations for camps differ from those for child care centers.**

INTENT: *A facility is not permitted to operate simultaneously as a child care center and a summer youth camp – at a given time. It may operate only as one or the other. The Maryland Department of Health and Mental Hygiene (DHMH) has sole jurisdiction over the certification and regulation of summer youth camps. Application to DHMH for summer youth camp certification is at the facility operator's discretion. If an operator wishes to operate a summer youth camp, the operator must notify the OCC Regional Office before starting to operate as a camp and must tell parents that the facility will be*

operating as a camp under the requirements of DHMH, and not as a child care center under the requirements of OCC.

INSPECTION REPORT ITEM: “Change of Operation”

COMPLIANCE CRITERIA: *The operator has informed OCC and DHMH of the change of operation from a child care center to a summer youth camp.*

ASSESSMENT METHOD: *Review office file of the operator to determine if the operator has informed OCC of the change in operation from a child care center to a summer youth camp.*

.08 Variances.

A. An 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 operator 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 license remains in effect and the operator continues to comply with the terms of the variance.**

INTENT: *To permit an applicant or operator who cannot reasonably meet a regulation's literal requirements, to meet the intent of the regulation in an alternative way that protects the health, safety, or well-being of each child in care.*

Notes:

- *Under Maryland law, the Office of Child Care does not have authority to grant an exemption from any regulation.*
- *All center licensing regulations exist primarily to protect the health, safety, and welfare of each child in care; therefore, OCC will only grant a variance if doing so will not diminish that protection.*
- *A variance is an acceptable way of meeting the intent of a regulation without meeting the regulation's literal requirements.*
- *To request a variance, the applicant or operator must submit a completed “**Variance Request**” form **OCC 1213**, along with any relevant supporting documentation, to the Regional Office.*
- *In making the request, the applicant or operator must propose an alternative and demonstrate how that alternative will fully satisfy the regulation's intent.*

- *Each variance is granted only under certain conditions, and the applicant or operator must continue to meet those conditions.*
- *If the variance is granted, it has the same force and effect as the regulation, and the applicant or operator must comply fully with all of its terms and conditions.*

INSPECTION REPORT ITEM: “Variances”

COMPLIANCE CRITERIA: *The applicant or operator has followed procedures for requesting a variance to a regulation, if applicable, and the variance has been granted by the office.*

ASSESSMENT METHOD:

- *Before inspecting the facility, the Licensing Specialist reviews the facility file to see if a variance is in effect and, if so, what its nature and duration are.*
 - *If a variance is in effect at the time of a routine licensing inspection, the Licensing Specialist assesses compliance with the terms of the variance.*
- B. Within 30 calendar days of receiving a completed request for a variance, the office shall notify the operator that the variance has been granted or denied.**
- C. If a variance request is denied by a regional office of the Agency:**
- (1) **The operator 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.**
- D. A variance to sanitary facility requirements that is granted pursuant to COMAR 13A.16.05.08C does not apply to any subsequent additions or enlargements to the center.**



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.01 Definitions.

In this chapter, the following terms have the meanings indicated:

- A. "Confirmed complaint" means a determination by the Department or office after an investigation that the violation of a regulation of this subtitle which was alleged in the complaint has occurred or is occurring.
- B. "Custodian of record" means an authorized individual employed by the Department or office who has physical custody and control of licensing records.
- C. "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 licensing of a child care center to provide child care.
- D. "Official custodian of record" means the Superintendent or the Superintendent's designee who is responsible for the maintenance, care, and storage of licensing records.
- E. "Requester" means an individual, business, corporation, partnership, association, organization, or governmental agency which requests inspection of, or information from, licensing records.
- F. "Sociological information" means any of the following information about a licensee or employee of a licensee:
 - (1) Social Security number;
 - (2) Personal address;
 - (3) Personal phone number;
 - (4) Information regarding marital status, dependents, or relatives; and
 - (5) Information regarding employment status, including employment application.
- G. "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 licensed child care centers;
 - (2) Record of complaint forms pertaining to confirmed or unsubstantiated complaints;

- (3) **Copies of child care licenses, including those on provisional or conditional status;**
- (4) **Variances;**
- (5) **Correspondence and documents requiring abatement of instances 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 licensee or a child care center, including denial letters, sanctions, emergency suspensions, and revocations; and**
- (7) **Any correspondence regarding requests for inspection of licensing records under this chapter.**

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.

- B. Except as provided by other law, the custodian of record shall permit the licensee, or an authorized representative of the licensee, to inspect the licensee's own record.**

INTENT: Except for records that are prohibited by law from release (for example, child abuse and neglect records), the facility operator may inspect the contents of the operator's own licensing file.

- C. 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 operator 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:**
 - (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. This Chapter of the child care center licensing regulations identifies what other information from the record may be released, and under which circumstances.*

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.01 Scope.

- A. This chapter applies to hearings concerning actions taken by the Office of Child Care which adversely impact child care center licenses and letters of compliance. These actions include denials, suspensions, or revocations of licenses or letters of compliance, reductions in capacity or limitations on the ages or numbers of children who may be admitted to the child care center, and employment exclusions pursuant to COMAR 13A.16.06.03A or B.**
- 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 the actions listed in §A of this regulation. A decision by an administrative law judge of the Office of Administrative Hearings in a child care center 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 center 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 license or letter of compliance to operate a child care center. (4) "Capacity" means the number of day care children who may be present at a child care center at the same time.**
 - (4) "Days" means calendar days.**
 - (5) "Department" means the State Department of Education.**
 - (6) Emergency Action.**
 - (7) "Emergency action" means an action which is effective immediately because of danger to children's health or safety.**
 - (a) "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, an employment exclusion pursuant to COMAR 13A.16.06.03A or B.**
 - (b) "Filed" is received in writing by the Office of Child Care.**
 - (8) "Filing date" is the date a hearing request is received by the Office of Child Care.**

- (9) **"Letter of compliance"** means a letter issued by the Department to a religious organization which meets the requirements of Family Law Article, §5-573, Annotated Code of Maryland.
- (10) **"License"** means a document issued to a person by the Department which gives permission to operate a child care center in accordance with State regulations.
- (11) **"Licensee"** means an individual or a partnership group, association, cooperative, or corporation which has the legal authority and responsibility for the governing and operating of a child care center and which has been issued a license by the Department.
- (12) **"Office"** means the central office or a regional office of the Office of Child Care.
- (13) **"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.
- (14) **"Party"** means the appellant and the Office of Child Care.
- (15) **"Superintendent"** means the State Superintendent of Schools.

.03 Hearing Requests.

A. A hearing shall be held when an applicant, licensee, or holder of a letter of compliance requests a hearing to contest:

- (1) **The denial of an application for a license or letter of compliance;**
- (2) **A revocation or suspension of a license or letter of compliance; or**
- (3) **Any other action that adversely impacts on the licensee or holder of the letter of compliance, including, but not limited to:**
 - (a) **The setting of 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 center.**

B. Non-emergency Action Hearing Requests.

- (1) **All non-emergency action hearing requests shall be forwarded in writing to the Office and shall state the name and address of the licensee or holder of the letter of compliance, 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 within 90 days of the filing date.**
- (5) **Any non-emergency action is stayed if a hearing request is timely filed, unless the action is:**
 - (a) **A revocation that immediately follows an emergency suspension period; or**
 - (b) **A denial which follows the expiration of the provisional period of a license 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 licensee or holder of the letter of compliance, 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 request shall not stay an emergency action.
- (4) A hearing shall be conducted within 7 days of the filing date of the hearing request.
- (5) A decision by the administrative law judge shall be rendered within 7 days after the conclusion of the hearing.

.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 and the appellant.
- 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 licensee or holder of the letter of compliance; 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 non-emergency action 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 action 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 Non-emergency 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) 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 licensing 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 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 the Office reached the Office's 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.**



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.01 Complaints.

The office shall investigate both written and oral complaints that relate to a violation of a regulation, including anonymous complaints, and prepare a written report of the findings.

***INTENT:** As the agency responsible for regulating child care centers and assessing their compliance with licensing regulations, the Office must investigate all complaints of regulatory violations and prepare a written record of findings. Any person may file a complaint, and the complaint may be verbal or written.*

***Notes:** Complaints alleging a violation of child care center licensing laws or regulations are handled in the following manner:*

- *The Regional Office accepts complaints that are filed in person, telephonically, or in writing by letter, fax, or e-mail.*
- *A complainant does not need to identify him/herself. Anonymous complaints are accepted.*
- *At the time it is received at the Regional Office, each complaint is classified as “Priority One” or “Priority Two”, based on the seriousness of the complaint allegations.*
 - *Investigation of Priority 1 complaints must be initiated within 48 hours.*
 - *Investigation of Priority 2 complaints must be initiated within ten (10) business days.*
- *Complaints are recorded by the Regional Office on a Complaint Intake form in the Child Care Administrative Tracking System (CCATS). An operator may review a Complaint Intake form completed for a complaint filed against the center (although all material, if any, related to Child Protective Services must be redacted by the Regional Office).*
- *Complaint inspection/investigation results are recorded by the Regional Office in the Electronic Licensing Inspection System (ELIS).*
- *After the complaint investigation is finished, the complaint and the investigation findings are summarized on a Record of Complaint form in the Child Care Administrative Tracking System (CCATS).*
- *Upon receipt of a written Public Information Act (PIA) request, the summary of an unconfirmed or confirmed complaint may be released to:*
 - *The person making the complaint,*
 - *A parent whose child was enrolled at the child care center, or*

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- *A parent or business that currently uses (or is considering using) the child care center.*
- *Any information related to Child Protective Services must be redacted by the Regional Office prior to releasing the Record of Complaint in response to a PIA request.*
- *Complex PIA requests or PIA requests from Attorneys must be referred to the Office of the Attorney General for processing.*

.02 Inspections.

A. An operator shall permit inspection of all areas of the center by an agency representative during the center's hours of operation.

INTENT: Maryland law requires the Office to inspect each licensed center to determine if the center is complying with all applicable requirements. As a condition of licensing, the center operator must allow Office licensing personnel to conduct an inspection at any time during the center's approved operating hours.

Notes:

- *Except as noted under §D of this regulation, if the operator does not permit inspection of the center during approved operating hours, the center license may be suspended or revoked. If entry to the center is refused, the Licensing Specialist must immediately notify the Regional Manager, and the Regional Manager must immediately notify the OCC Legal Enforcement Unit.*
- *If children are heard or seen on the premises and the operator refuses entry of OCC staff, the Licensing Specialist must call the local police.*
- *All inspection must be conducted in a manner exhibiting good customer service. (see **“Customer Service – Referenced in Manual”**)*
- *All findings of compliance and noncompliance must be noted by the Licensing Specialist in ELIS.*
- *“Non-compliances” and “Discussed” items are automatically summarized in the “Summary of Findings” in ELIS.*
- *The entire inspection report consists of the completed “Inspection Report” form and the “Summary of Findings.”*

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- *The “Summary of Findings” (non-compliances and discussed items) are reviewed with the operator, and the operator may request a “Review of Findings” if there is any disagreement with the findings.*
- *The inspection report is signed by the operator and the Licensing Specialist.*
- *The inspection report is emailed or mailed to the operator.*

B. An agency representative may make inspections without prior notice to an operator.

INTENT: To determine if all children in care continue to be safe and are receiving ongoing proper care and supervision, Office licensing personnel may make an unannounced inspection of the center at any time during the center’s approved hours of operation.

C. Upon request, an operator shall make the records required by this subtitle available to an agency representative for inspection and copying.

INTENT: The operator must allow Office licensing personnel to inspect all records maintained in connection with the center license and, if necessary, to temporarily remove any such record from the center in order to copy it.

D. An operator may request satisfactory identification from an agency representative before admitting the agency representative for an inspection.

INTENT: For the protection of center personnel and the children in care, the operator may ask Office licensing personnel for identification before permitting entry to the center.

Notes:

- *At all times while on duty, each Office licensing staff member shall carry and be prepared to display valid State of Maryland employee identification.*
- *If an Office staff member cannot or will not produce valid State of Maryland employee identification, the operator may deny the staff member entry to the center.*

E. An agency representative shall inspect each center:

- (1) **On an announced basis before the office issues an initial license or a continuing license; and**

- (2) **On an unannounced basis, at least once within each 12-month period after the date that an initial license or a continuing license was issued.**

INTENT:

- *To validate compliance with the child care center licensing regulations, the Regional Office will conduct an announced inspection before an initial or continuing license is issued.*
- *To validate ongoing compliance with the child care center licensing regulations, the Office will conduct an unannounced inspection at least once every 12 months after the issuance of an initial or continuing license and at least 30 days prior to the anniversary date.*

Note:

- *An announced conversion inspection may be conducted on the same day as the 2nd 12-month "initial license" unannounced inspection; however, a separate ELIS report must be completed for each type of inspection. See **"Establishing Anniversary Dates and Coordinating Inspections"**.*
- *Routine unannounced inspections may be "piggybacked" onto monitoring visits as well as complaint investigations; however, a separate ELIS report must be completed for each type of inspection. See **"Establishing Anniversary Dates and Coordinating Inspections"**.*
- *During unannounced visits, oftentimes a facility may not be available for inspection due to the absence of the provider, the provider is not currently providing care, or the facility is simply closed. For guidance in addressing these issues, see **"Non Responsive Providers and Providers Not Providing Care"**.*

- F. An operator may contest a finding of noncompliance with this subtitle by requesting a review of findings by the regional office or the central office of the Agency.**

INTENT: *If the operator believes that a finding of noncompliance was wrong or unfair, the operator may ask for a review of that finding by OCC management staff.*

Notes:

The following are the steps for appealing a finding of noncompliance:

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1. *Upon completion of the inspection, the Operator checks the box on the first page of the ELIS "Summary of Findings," indicating that a review of findings is requested, or make the request to the Regional Office, via writing or email, within 30 days of the inspection.*
2. *The Licensing Specialist notifies the Regional Manager/designee of the request.*
3. *The Regional Manager/designee reviews the inspection data in ELIS and sends a letter to the operator outlining the findings of the review.*
 - *If the operator requests a meeting and at that meeting the issues are not resolved, the Regional Manager/designee contacts the Program Manager of the OCC Licensing Branch.*
 - *Instead of agreeing to meet with the Regional Manager/designee, the operator may choose to contact the Licensing Branch Program Manager directly. In this event, the Regional Manager/designee shall:*
 - *Give the operator the name and telephone number of the Program Manager, and*
 - *Call the Program Manager to summarize the situation, provide pertinent background information, and present the recommendation of the Regional Office.*

.03 Intermediate Sanctions.

- A. Upon a determination that an operator has violated the regulations in this subtitle, placing the health, safety, or welfare of children in care at risk, the office may:**
- (1) Restrict the ages or number of new children enrolled;**
 - (2) Reduce the number of children in care;**
 - (3) Require the operator or center staff to participate in training in a specified content area;**
 - (4) Increase the frequency of monitoring of the center during a specified period of time;**
 - (5) Enter into an agreement with the operator detailing requirements for remedying violations and achieving compliance; and**
 - (6) Notify, or require the operator to notify, a parent of a child who may be affected by the situation for which an intermediate sanction has been imposed.**

***INTENT:** As an alternative to suspending or revoking the center's license, the Regional Office may pursue an intermediate sanction which places certain limits or conditions on center operations. An intermediate sanction should be seen as an opportunity for the*

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Regional Office to work closely with the operator to help bring the center into satisfactory compliance.

Notes:

- *An intermediate sanction may be voluntary on the part of the operator, or involuntary:*
 - *Voluntary – for example, a compliance agreement*
 - *Involuntary – for example, the Regional Office imposes a reduction in center capacity or a limitation on the number or ages of children approved for care*
- *Involuntary sanctions carry appeal rights, but voluntary sanctions do not. For additional information on “appeals” refer to the following:*
 - ***“Request for Hearing/Appeal” form, OCC 1281***
 - *COMAR 13A.16.18, Administrative Hearings (Chapter 18 of this Manual)*
- *A limitation on admission of children or a reduction in capacity may be imposed immediately on an emergency basis if deemed necessary to protect children from imminent harm.*
- *A voluntary compliance agreement must be in writing, signed by the operator and the Regional Office representative, and include a statement of:*
 - *Facts about the noncompliant situation that resulted in the agreement,*
 - *The respective responsibilities of the operator and the Regional Office under the agreement, and*
 - *The consequences to the operator of failing to observe the terms of the agreement.*
 - *The timeframe in which the compliance agreement will be in effect.*

B. If the office determines that an operator has violated a condition or requirement of the sanction, the office may suspend or revoke the operator's license.

INTENT: The operator must abide by all the terms of the agreement. Failure to do so may result in suspension or revocation of the center's license.

.04 Suspension.

A. The office may suspend an operator's license for a period of not more than 60 calendar days:

- (1) **Upon determining that the:**
 - (a) **Regulations in this subtitle have been violated; and**
 - (b) **Health, safety, or welfare of children in the center is threatened; or**
- (2) **If the license is a continuing license that was placed on conditional status, and the:**

- (a) **Conditional status has lapsed; and**
- (b) **Operator has failed to meet the requirements for reinstatement of the continuing license.**

***INTENT:** The Office of Child care may suspend a center license for up to 60 days if there are regulatory non-compliances that create a risk to children in care, or if the terms under which a conditional license was issued have not been satisfied.*

B. The office shall notify the operator in writing of the license suspension by certified mail 20 calendar days in advance, and the notice shall specify:

- (1) **The effective date and period of the suspension;**
- (2) **The reason for suspension;**
- (3) **The regulatory violation which is the basis for the suspension;**
- (4) **That the operator shall stop providing child care on the effective date of the suspension unless the operator requests a hearing in writing within 20 days of the date of the suspension notice;**
- (5) **That the operator may request a hearing;**
- (6) **That the suspension shall be stayed if a hearing is requested within 20 days of the date of the suspension notice;**
- (7) **That, if the suspension is upheld by the Superintendent following the hearing, the operator shall cease providing child care until the office determines that the health, safety, or welfare of a child in the center no longer is threatened;**
- (8) **That the suspension may lead to revocation; and**
- (9) **That the operator is required to surrender the license to the office when the suspension becomes effective.**

***INTENT:** In accordance with due process requirements, the Regional Office must notify the operator about the reason(s) for the suspension, the operator's right to appeal the suspension, and how to exercise that right.*

Notes:

- *If the operator requests a hearing within the required timeframe, the suspension does not begin until after the hearing decision. Until that time, the operator may continue to operate. If the suspension action is upheld, the operator must cease providing care until the Office determines that the children in care are no longer threatened.*
- *For additional information, refer to the following:*
 - ***“Request for Hearing/Appeal” form, OCC 1281***
 - *COMAR 13A.16.18, Administrative Hearings (Chapter 18 of this Manual)*

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

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INTENT: *Parents need to know about the suspension so they can make an informed decision about whether to leave their children in care at the center if it continues to operate pending an appeal hearing. They must also be notified so that they have an opportunity to make alternate child care arrangements as they deem necessary.*

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

- (1) **Reinstate the license and return it to the operator; or**
- (2) **Revoke the license.**

INTENT: *The Regional Office has until the end of the suspension period to determine if the violation(s) leading to the suspension have been sufficiently corrected. Based on that determination, the Office must either permit the operator to re-open the center or move to revoke the center's license.*

.05 Emergency Suspension.

- A. The office may suspend an operator's license on an emergency basis if it is determined that this action is required to protect the health, safety, or welfare of a child in the center.**
- B. The office shall hand deliver written notice of the emergency suspension to the operator stating:**
 - (1) **The regulatory basis for the suspension; and**
 - (2) **That the operator shall immediately stop providing child care;**
 - (3) **That the operator is entitled to a hearing before the Superintendent within 7 calendar days of the operator's request for a hearing;**
 - (4) **That the Superintendent shall issue a decision concerning the emergency suspension within 7 calendar days of the hearing;**
 - (5) **That if the emergency suspension order is upheld, stoppage of child care at the center shall continue until it is determined that the health, safety, or welfare of a child in the center is no longer threatened;**
 - (6) **That the suspension may lead to revocation; and**
 - (7) **That the operator is required to surrender the license to the office when the suspension becomes effective.**

INTENT: *In accordance with due process requirements, the Regional Office must notify the operator about the reason(s) for the suspension, the operator's right to appeal the suspension, and how to exercise that right.*

Note: *For information on the appeals process, refer to the following:*

- *"COMAR 13A.16.18, Administrative Hearings (Chapter 18 of this Manual)*
- ***"Request for Hearing/Appeal" form, OCC 1281.***

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

INTENT: Parents must be notified so that they have an opportunity to make alternate child care arrangements as they deem necessary.

Notes:

- *Once the decision is made to conduct an emergency suspension, the Regional Manager/designee notifies the local Child Care Resource Center (CCRC) of the imminent emergency suspension. This allows the CCRC to be prepared to assist parents in finding alternate child care.*
- *As soon as the suspension action is taken, the Licensing Specialist compiles a list of names and addresses of all the parents of children in care.*
- *The Regional Manager sends a letter by regular mail to each parent reporting that:*
 - *The center license has been suspended,*
 - *The operator may appeal the suspension,*
 - *The center must immediately stop providing care, and*
 - *The parent may contact the local CCRC for assistance.*
- *If the action is appealed, another letter is sent to each parent as soon as the appeal has been decided to let the parent know the outcome of that decision.*

.06 Revocation.

A. The office may revoke a license if:

- (1) **An operator or center is in violation of this subtitle and the health, safety, or welfare of children in the center is threatened;**
- (2) **An operator misrepresented or offered false information on the application or on any form or report required by the office;**
- (3) **An operator interferes with the agency representative in the performance of the duties of the office;**
- (4) **The operator 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.16.06.03A and B and .15C; or**
 - (b) **Child security requirements set forth in COMAR 13A.16.07.06;**
- (5) **The terms or conditions of an intermediate sanction have been violated;**
- (6) **Violations required to be corrected during a period of suspension have not been corrected and the period has ended; or**

- (7) **The license is a continuing license that was placed on conditional status, and the:**
- (a) **Conditional status has lapsed; and**
 - (b) **Operator has failed to meet the requirements for reinstatement of the continuing license.**

***INTENT:** The center license may be revoked if the operator has demonstrated an inability or unwillingness to comply with licensing regulations, or if a situation or condition exists that presents a threat to children in care.*

B. If the office decides to revoke a license, the office shall notify the operator in writing 20 calendar days before the effective date of the revocation, stating:

- (1) **The effective date of the revocation;**
- (2) **The reason for revocation;**
- (3) **The regulatory violation which is the basis for the revocation;**
- (4) **That the operator shall stop providing child care unless a hearing is requested in writing within 20 days of the date of the revocation notice;**
- (5) **That the operator may request a hearing;**
- (6) **That the revocation shall be stayed if a hearing is requested within 20 days of the date of the revocation notice;**
- (7) **That, if the revocation is upheld by the Superintendent following the hearing, the operator shall cease providing child care; and**
- (8) **That the operator is required to surrender the license to the office when the revocation becomes effective.**

***INTENT:** In accordance with due process requirements, the OCC Regional Office must notify the operator of the reason(s) for the revocation, the operator's right to appeal the revocation action, and how that right may be exercised.*

Notes:

- *A revocation becomes effective 20 calendar days after notification of revocation. If the revocation action is appealed, the revocation is stayed and the center may continue to operate until the Office of Administrative Hearings (OAH) has heard the appeal and made a decision. However, if the revocation action follows an emergency suspension, the center must remain closed until OAH has reached a decision on the appeal.*
 - *For the steps involved in filing an appeal, see **“Request for Hearing/Appeal” form, OCC 1281.***
 - *COMAR 13A.16.18, Administrative Hearings (Chapter 18 of this Manual)*
- *For requirements pertaining to the OAH appeal hearing process, see COMAR 13A.16.18, Administrative Hearings (Chapter 18 of this Manual).*

- *If the revocation action is upheld by OAH at the appeal hearing, the operator must immediately surrender the center license to the Regional Office.*

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

INTENT: *Parents need to know about the revocation action so they can make an informed decision about whether to leave their children in care at the center if it is allowed to remain open pending an appeal hearing. They must also be notified so that they have an opportunity to make alternate child care arrangements if they wish to do so.*

Notes: *Parents are notified of the revocation action as follows:*

- *As soon as the revocation action is taken, the Licensing Specialist compiles a list of names and addresses of all the parents of children in care.*
- *The Regional Manager sends a letter by regular mail to each parent reporting that:*
 - *The office has initiated a revocation action to go into effect in 20 days;*
 - *The operator may appeal the revocation; and*
 - *If the operator appeals the revocation action within 20 days, the center may remain in operation until the appeal is concluded.*
- *If the action is appealed, another letter is sent to each parent as soon as the appeal has been decided to let the parent know the outcome of that decision.*
- *If the OCC is upheld, the parent is advised to contact the local CCRC for assistance in finding alternate child care.*

.07 Penalties.

A. Criminal Penalty. A person who operates a child care center without a license, if convicted, is guilty of a misdemeanor and subject to a fine not exceeding:

- (1) **\$1,500 for the first violation; and**
- (2) **\$2,500 for a second or subsequent violation.**

INTENT: *It is against the law to operate a child care facility without a valid license. Illegal operation of a facility is a prosecutable offense.*

B. Civil Penalty.

- (1) **A person who maintains and operates a child care center without a license, or who violates any regulation in this subtitle, is subject to a civil penalty imposed in a civil action of not more than \$1,000 for each violation.**

- (2) **Each day a violation occurs or the child care center operates illegally is considered a separate violation.**
- (3) **The total amount of the civil penalties imposed in a civil action may not exceed \$5,000.**

***INTENT:** Operating a child care facility in violation of the law or of the regulations set forth under COMAR 13A.16 – Child Care Centers may subject the violator to certain civil penalties as well as to any criminal penalties that may apply.*

Child Care Center Licensing Manual

(August 2016)

for use with

COMAR 13A.16 Child Care Centers

(as amended effective 7/20/15)

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.01 Purpose and Scope.

- A. Purpose.** This chapter establishes requirements for approval to operate an educational program in a nonpublic nursery school.
- B. Scope.** This chapter does not apply to an educational program in a nonpublic nursery school operated by:
- (1) The federal government or any State, county, or municipal agency or division of these; or
 - (2) A bona fide church organization that is exempt from holding a certificate of approval by the State Board under Education Article, §2-206, Annotated Code of Maryland.

***INTENT:** With the exception of those educational programs identified in §.01B above, these regulations govern educational programs in nonpublic nursery schools and all matters related to the approval of those programs. Unless operated by a tax-exempt religious organization that holds a Certificate of Approval from MSDE, ongoing compliance with all applicable provisions of COMAR 13A.16 – Child Care Centers is required to maintain approval to operate an educational program in a nonpublic nursery school.*

.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.**
- B. Terms Defined.**
- (1) "AMI" means Association Montessori International.
 - (2) "AMS" means American Montessori Society.
 - (3) "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.
 - (4) "Child care center license" means the document issued by the Department pursuant to COMAR 13A.16 that authorizes the recipient to operate a child care center.
 - (5) "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.
 - (6) "Department" means the State Department of Education.
 - (7) "Department representative" means an individual designated by the Department to determine compliance with this chapter.
 - (8) "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.
 - (9) "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.

- (10) **"Letter of compliance"** means a document issued by the Department pursuant to COMAR 13A.17 that authorizes the recipient to operate a letter of compliance facility.
- (11) **"MACTE"** means Montessori Accreditation Council for Teacher Education.
- (12) **"NAMTA"** means North American Montessori Teachers' Association.
- (13) **"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.
- (14) **"Office"** means the central office or a regional office of the Department's Division of Early Childhood Development, Office of Child Care.
- (15) **"Operator"** means:
- (a) **The nonpublic entity registered as active with the State Department of Assessments and Taxation that is responsible for governing and operating a school;**
 - (b) **The individual or entity to which a child care center license or a letter of compliance has been issued by the Department; or**
 - (c) **A bona fide church organization that is approved by the State Board to operate an educational program.**
- (16) **"State Board"** means the Maryland State Board of Education.
- (17) **"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.**

INTENT: *The purpose of these definitions is to establish a clear and consistent meaning of certain terms used in this Chapter of the regulations. Whenever one of these terms appears in this Chapter of the regulations and in this Manual, it means only what its definition as set forth in §B(1)-(14) of this regulation says it means.*

Notes:

- *"Accreditation" is the term used to describe the process for evaluating the quality of an educational program for the purpose of school improvement. Accreditation is voluntarily sought by a school. The accreditation process is carried out by private accrediting bodies that organize a team of professionals to evaluate a school. The costs associated with the accreditation process are borne by the school. Accreditation is usually based on a self-study by the school prior to the accreditation visit.*
- *"Approval" is the term used for authorization to operate a nonpublic nursery school educational program that was issued by the State Board of Education through the Department's Nonpublic School Approval Branch before July 1, 2007, or through the Department's Division of Early Childhood Development on or after July 1, 2007. Requirements for approval of a nonpublic nursery school educational program were set forth in COMAR 13A.09.09 – Educational Programs in Nonpublic Schools, prior to July 1, 2007. These requirements were*

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amended and re-codified as COMAR 13A.16.16 – Educational Programs in Nonpublic Nursery Schools.

- “Certification” is the term used to describe the issuance of a certificate or document to an individual verifying that specific academic or professional standards have been met.

.03 Approval to Operate an Educational Program — General Requirements.

- A. An individual or entity may operate an educational program in a nonpublic nursery school only if the individual or entity holds a valid child care license or letter of compliance issued by the Department.**

INTENT: Maryland’s Education Article §9.5-401 includes nonpublic nursery schools within the definition of “child care center.” Education Article §9.5-405(a) prohibits the operation of a nonpublic nursery school (child care center) without a valid child care license or letter of compliance.

- B. A bona fide church organization may be approved to operate an educational program without holding a child care center license or a letter of compliance.**

INTENT: Education Article §9.5-405(b) establishes an exemption from licensure as a child care facility for a nonpublic nursery school operated by a tax-exempt religious organization, if the organization has been issued a Certificate of Approval to operate an educational program by MSDE.

***Note:** Every operator of an educational program located in a nursery school that is subject to licensure pursuant to Education Article §9.5-405(a) must comply with all pertinent requirements set forth in Chapter 06, §03 regarding criminal background checks and child abuse/neglect clearances for employees and others connected with the nursery school.*

- C. An entity may operate a Montessori school only if it is certified by a Montessori validating organization.**

- D. The operator of a licensed small center may not be approved to operate an educational program if:**

- (1) **The small center is located in a private residence; and**
- (2) **The program would be operated in the living space of the residence.**

INTENT: Local fire and/or zoning code requirements do not permit the operation of a school in the living area of a private home. The Office may not approve an educational program in a small center.

E. Unless an operator chooses to cease operating an educational program, approval to operate the program, once granted, shall continue as long as the:

- (1) Operator's child care center license or letter of compliance, as applicable and if required, remains in effect;**
- (2) Educational program is operated according to the terms under which approval to operate was granted; and**
- (3) Operator remains in full compliance with all applicable requirements of this chapter.**

INTENT: An approval to operate an educational program is non-expiring as long as the terms and conditions under which it was issued continue to be met by the operator.

F. 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 center license or letter of compliance, as applicable, is suspended or revoked and the operator:

- (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.**

INTENT: An approval to operate an educational program becomes invalid if the Division of Early Childhood Development (DECD) moves to suspend or revoke it (or the child care license or letter of compliance with which it is connected), and the operator either does not appeal the Division's action, or does appeal it, but the appeal is unsuccessful.

***Note:** There will be two different appeals processes for nursery school operators to use depending on whether the Division has initiated suspension or revocation of the educational program approval, or the child care license or letter of compliance. See procedures outlined in §10 of this Chapter.*

G. An operator that has ceased operating an educational program subject to the requirements of this chapter shall promptly return to the office the child care center license, letter of compliance, or other approval document, as applicable, that certifies approval to operate the educational program.

INTENT: A document issued by the State Board or the Division that authorizes operation of a nonpublic nursery school educational program or a child care program is the property of MSDE and must be returned to the appropriate regional office of the DECD Office of Child Care by the program operator as soon as that document becomes invalid.

- H. Any educational program that is solely educational that is approved prior to the effective date of this regulation shall continue to operate under its current certificate of approval in accordance with this chapter.**

INTENT: A nonpublic nursery school educational program approved before July 1, 2007, to operate under COMAR 13A.09.09 may continue to operate under the terms of, and status conferred by that approval, but it must comply with §§.05 - .10 of COMAR 13A.16 – Child Care Centers.

.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) An operator approved to operate an educational program may not apply for approval to operate another educational program if the educational program for which the operator is currently approved is not in full compliance with all applicable requirements of this chapter.**

INTENT: Approval of an application to operate a nonpublic nursery school educational program is contingent on meeting all application requirements and procedures established by the Division of Early Childhood Development (DECD) Office of Child Care. The DECD Office of Child Care will not accept an application for an additional program from an operator who does not maintain full compliance for an existing program.

Notes:

- The “***Application Packet and Instructions for Applying for Approval to Operate an Educational Program in a Nonpublic Nursery School in Maryland***”, is provided to the applicant.
- Approval of an educational program is specific to a particular location. A nursery school operator may not begin operation of another program at a different location unless the Office of Child Care has approved that location. Failure to obtain approval shall result in an order by the Office of Child Care to cease operating at the unapproved location.
- Prior to the anticipated opening of the additional location, the nursery school operator must contact the appropriate regional office of the Office of Child Care for information regarding approval procedures for an additional program

location. Contact should occur as early as possible in order to facilitate the planned opening date at the new location.

- (4) **An application for licensure as a Montessori school may not be approved until the applicant has successfully completed the process of validation, as required at COMAR 13A.09.09.03N, by an approved Montessori validating organization.**
- 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 center license, letter of compliance, or other approval document, as applicable, that certifies approval to operate an educational program.**

INTENT: Once all application requirements, including documentation requirements are met, an on-site inspection will be made to determine compliance.

Notes:

- *Denial procedures are as specified in Education Article §2-206 (f), which states in pertinent part:*
 - (f) Notice of deficiencies; hearing –*
 - (1) If the State Board believes that a noncollegiate educational institution that applies for a certificate of approval does not meet the conditions or standards necessary for the issuance of the certificate, it shall give the institution written notice of the specific deficiencies.*
 - (2) Within 20 days of receipt of a notice of deficiencies, the institution may request a hearing before the Board, and, within 60 days of receipt of the request, the Board shall hold a hearing to determine if the certificate of approval should be issued.*
 - (3) If, within 6 months from the date on which the application for certification was submitted to the State Board, the institution has received neither a certificate of approval under subsection (e) of this section nor written notice of deficiencies under this subsection, it may request, within 20 days, a hearing before the Board to determine if the certificate of approval should be issued.*
 - *On-site monitoring will be conducted by OCC personnel to determine compliance*
- C. The child care center license, letter of compliance, or other approval document, as applicable, 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.**

INTENT: *The terms of approval are included in the approval document so that the program operator and the parents of children enrolled in the program may be fully informed of the conditions and limitations under which the program is authorized to operate.*

Note:

The operating hours of an educational program in a nursery school that is required to be licensed or hold a letter of compliance may not exceed 6 hours per day, as specified in Chapter .01, §02B(39) of these regulations.

D. If the operator intends to change the terms under which approval has been granted, the operator 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 operator.**

INTENT: *Only the Division of Early Childhood Development, through the Office of Child Care, may set the terms and conditions under which an educational program in a nursery school may operate. These terms and conditions are specified on the approval document issued by the Division, and no deviation from those terms or conditions is permitted without prior written approval from the Office of Child Care.*

To allow sufficient time for review and processing of the request, a request for a change in approval terms or conditions must be received by the appropriate regional office of the Office of Child Care at least 60 days before the intended date of that change. The Office of Child Care may deny, on the basis of insufficient notice as required, a request that is received less than 60 days before the date of the intended change

Note: *The changes listed below do not require prior approval, but they must be reported to the Office of Child Care regional office on or before their effective date:*

- *Change in the nursery school's telephone number;*
- *Change in the nursery school's fax number;*
- *Change in the nursery school's e-mail address;*
- *Change in the nursery school's mailing address;*
- *Change in the operator's mailing address and/or telephone number;*

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- *Change in the operator of the nursery school, or the operator's agent, if the nursery school was approved by the Department before July 1, 2007, and is not required to hold a child care center license or letter of compliance; and,*
- *Cessation of operation (see §H of this regulation).*

E. An operator 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 center license, the letter of compliance, or other approval document, as applicable, pursuant to COMAR 13A.15 or COMAR 13A.16; or**
- (4) **A deficiency hearing is pending before the State Board in accordance with Education Article, §2-206, Annotated Code of Maryland.**

INTENT: Except as set forth in §F of this regulation, the Office of Child Care will not consider any request for a change in approval terms or conditions if the educational program or program operator is currently in violation of an applicable regulation, is the subject of a current complaint investigation, or is pending an enforcement or disciplinary action.

F. Notwithstanding the requirement established in §E of this regulation, an operator may seek approval of a change in the terms of the approval if approval of the change is the means for the operator to demonstrate compliance with this chapter.

INTENT: The Office of Child Care may consider a request for a change in approval terms or conditions if that request is for the purpose of enabling the educational program or program operator to achieve or maintain regulatory compliance.

G. An operator may not implement a change in the terms of approval until the office has issued a revised child care center license, letter of compliance, or other approval document, as applicable, that reflects the change.

INTENT: Any change to the terms or conditions of an approval must first be authorized through issuance of a revised approval document from the Office of Child Care. An operator may proceed with a change only upon receipt of that document.

Note: *If an operator implements a change in the terms of approval before receiving a revised approval document, the Office of Child Care may move to suspend or revoke the approval of the operation of the educational program.*

H. An operator shall inform the office in writing at least 30 days before the operator ceases operating an educational program.

INTENT: Advance written notification of closing by the operator to the regional office of the Office of Child Care is required so that the regional office has sufficient time to complete its internal administrative procedures related to educational program closings.

.05 Compliance and Inspections.

A. Continued approval to operate an educational program is conditioned on the operator's maintaining compliance with this chapter.

INTENT: If the operator does not comply at all times with this Chapter (Chapter 16) of COMAR 13A.16 – Child Care Centers, the Division of Early Childhood Development may request the State Board of Education to suspend or revoke the operator's approval.

Note: All enforcement actions, are initiated on behalf of the State Board by the Division's Office of Child Care as set forth in Education Article §2-206 (g) which states in pertinent part:

Order to correct deficiencies –

- (1) If the State Board believes that a non-collegiate educational institution does not meet the conditions or standards on which its certificate of approval was based, it shall give the institution written notice of this belief.*
- (2) The notice shall specify the alleged deficiencies and direct the institution to correct them within a period of not less than 30 days as set by the Board. If the institution requests a hearing within 20 days of the notice, the Board shall hold a hearing to determine the matter.*
- (3) The order to correct the deficiencies shall be stayed until a determination is made after the hearing.*

B. To evaluate compliance with this chapter, the office may inspect the educational program, with or without prior notice to the operator, at any time during the approved hours of operation of the program.

INTENT: Under Maryland law and regulation, the Office of Child Care is required to monitor and assess the compliance status of programs under its jurisdiction. Compliance monitoring and assessment is carried out through announced and unannounced on-site inspections. These inspections may occur at any time during a program's authorized schedule of operation.

Notes:

- *For an educational program with a child care center license, the Office of Child Care shall conduct routine unannounced inspections in accordance with Chapter 17, §02E(2).*
- *For an educational program that is not required to hold a child care center license, the Office of Child Care will conduct routine inspections only on an announced 24-month basis unless the program does not maintain full compliance. In this case, the Office of Child Care may also, at its discretion, institute unannounced inspections.*
- *Every inspection conducted as a follow-up to an earlier inspection where a noncompliance was found shall be unannounced.*
- *For all programs, an on-site inspection conducted in response to a complaint filed against the program shall be unannounced.*
- *The Electronic Licensing Inspection System (ELIS) is used to record compliance with the regulations for all nursery school educational programs requiring a child care center license. See Sample ELIS “**Child Care Center Inspection Report**”.*
- *A manual paper inspection form is used for nursery school educational programs that are not required to hold a child care center license. See “**Monitoring Report – Educational Program in a Nonpublic Nursery School**”.*

- C. During an inspection, the operator 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.**

INTENT: A program operator must make available to the Office of Child Care representative any information needed by the Office of Child Care to fulfill its compliance monitoring and assessment responsibilities.

- D. Following each inspection of the educational program, the office shall provide the operator with a written report of all findings of the inspection.**

INTENT: The operator is made aware of the findings of the inspection that was conducted by the Office of Child Care (OCC) representative.

Notes:

- *During each inspection of an educational program, the OCC representative must record inspection findings using ELIS, or manually using the “Monitoring Report - Educational Program in a Nonpublic Nursery School”, ([Appendix B-22](#)).*
- *At the end of each inspection visit, the OCC representative reviews the inspection summary of findings with the operator.*
- *Both the operator and the OCC representative sign the electronic inspection or manual inspection report.*
- *The ELIS inspection report is subsequently emailed to the operator; or; if a manual report is completed, a copy of the manual report is given to the operator.*

E. If the educational program fails to demonstrate compliance with the requirements of this chapter, the office shall notify the operator 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 operator 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.**

INTENT: *If the Office of Child Care (OCC) finds that the operator is not in compliance with a requirement of this Chapter of the regulations (COMAR 13A.16.16), the OCC shall provide written notice of that noncompliance. The notice shall specify what the noncompliance is, the pertinent provision of COMAR 13A.16.16 – Educational Programs in Nonpublic Nursery Schools, what the operator must do in order to correct the noncompliance, and the deadline by which that correction must occur.*

Notes:

- *If a noncompliance was noted during an Office of Child Care inspection of the program, the statement of noncompliance shall be made as part of the inspection report.*
- *Pursuant to Education Article §2-206(g):*
 - *The specified deadline for correction of a cited noncompliance shall be at least 30 days from the date of the citation;*

- *Within 20 days of receiving the statement of noncompliance, the operator may request a hearing before the State Board to contest the finding; and*
- *If a hearing is requested, the State Board shall hold a hearing to determine whether or not the finding of noncompliance was justified. The order by the Office of Child Care to correct the noncompliance shall be stayed pending the State Board's determination.*

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 may be severable against an educational program located in a licensed child care center or a letter of compliance facility.**

INTENT: *A sanction may be taken against the operator by the Division of Early Childhood Development, through the Office of Child Care, if the operator does not comply with all applicable requirements of COMAR 13A.16.16 – Educational Programs in Nonpublic Nursery Schools.*

If the certificate of approval for an educational program is suspended or revoked, and this program is housed within a child care facility that is required to hold a child care center license or a letter of compliance, the action does not affect the status of the child care center license or letter of compliance. However, if the child care center license or letter of compliance of the facility is revoked or suspended, the educational component may not operate.

Notes:

- *All sanctions to end a program's operation are taken pursuant to Education Article §2-206 (h) which states in pertinent part:*
 - (h) *Order to end operations. —*
 - (1) *The State Board may order a noncollegiate educational institution to end operations if the institution fails to correct the specified deficiencies within the period set by the Board and if:*
 - (i) *A hearing is not requested; or*
 - (ii) *After a hearing, the Board finds that the institution does not meet the conditions or standards.*
 - (2) *The order takes effect 15 days after it is issued.*
- *Factors used by the Division in deciding which type of sanction (restriction, suspension, or revocation) to take include, but are not necessarily limited to, the following:*
 - *Nature and extent of the noncompliance;*
 - *Actual or potential impact of the noncompliance on children enrolled in the program; and*
 - *Compliance history of the program.*

- *If a sanction against the educational program takes effect, the regional office of the Office of Child Care shall issue to the operator a revised license or letter of compliance document that indicates the status of the educational program.*

.06 Personnel Qualifications.

A. Educational Program Administrator.

- (1) **The operator shall have an educational program administrator or director who is responsible for the day-to-day administration of the educational program.**
- (2) **An individual hired as the educational program administrator at a minimum shall meet the standards established in §C(3) of this regulation.**
- (3) **The operator 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.**

***INTENT:** The operator must ensure that the daily operations of the program are planned and directed by a properly qualified person. This person's specific duties and responsibilities must be established in writing. The person must be present enough each day, and the program's daily activities must be staffed and conducted in such a way, as to permit the person to carry out those duties and responsibilities fully and regularly.*

***INSPECTION REPORT ITEM:** "Personnel Qualifications"*

COMPLIANCE CRITERIA:

- *A current program or facility employee has been designated to serve on a continuing daily basis as the program administrator (actual title or equivalent);*
- *The current administrator meets the minimum qualifications requirements set forth in §C(3) of this regulation;*
- *There is a written description of the administrator's duties and responsibilities; and*
- *The administrator's daily program schedule routinely permits the person to be present and able to carry out the specified duties and responsibilities.*

***ASSESSMENT METHOD:** Evaluate compliance through observation, interview, and/or review of program records as appropriate.*

***Notes:** The written position description must include a schedule that shows how the Educational Program Administrator will have sufficient onsite time each day to carry out the duties and responsibilities of the position. Since the regulations do not define*

"sufficient time" or prescribe a specific daily amount of time, the Licensing Specialist should review the position's duties and responsibilities and then ask the administrator to explain how the schedule allows enough time each day to meet those obligations.

B. Director in an Approved Montessori School.

- (1) **To qualify as a director in an approved Montessori school, an individual shall hold a Montessori credential that has been awarded by:**
 - (a) **AMI, AMS, or NAMTA; or**
 - (b) **A Montessori teacher education program that is accredited by MACTE.**

Note: *No other credentials are required.*

- (2) **To qualify as a director in a Montessori school that has been approved by the Department, an individual shall complete approved continued training, at the rate of at least 12 clock hours per full year of employment, that consists of a minimum of 6 clock hours of Montessori education training.**

INTENT: *A Montessori School Director must have sufficient continued training to keep abreast with current early childhood issues.*

INSPECTION REPORT ITEM: *"Personnel Qualification"*

COMPLIANCE CRITERIA: *The Director completes at least 12 clock hours of approved continued training during each full year of employment which include 6 hours of Montessori education training.*

ASSESSMENT METHOD: *Review the Director's completed Professional Development Plan with attached documentation of trainings completed to determine if the Director has completed continued training as required during the previous full year of employment.*

Note: *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. Approved Montessori courses are available. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

C. 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 §C(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.**

***INTENT:** The instructional program in each class must be led by a person designated as the class teacher who meets the minimum qualification and continued training requirements as specified. In addition to possessing specific educational credentials, a nursery school teacher must have sufficient continued training to keep abreast with current early childhood issues.*

INSPECTION REPORT ITEM: “Personnel Qualifications”

COMPLIANCE CRITERIA:

- *Each class is led by a designated teacher.*
- *Each class teacher meets the specified minimum qualification requirements for that class.*
- *Each class teacher completes at least 12 clock hours of approved continued training during each full year of employment.*

ASSESSMENT METHOD:

- *Evaluate compliance through observation, interview, and/or review of program records as appropriate.*
- *Review the teacher’s completed Professional Development Plan with attached documentation of trainings completed to determine if the teacher has completed continued training as required during the previous full year of employment.*

Notes:

- *A person designated as the teacher’s assistant in a class does not have to meet the requirements established by this regulation.*
- *A Maryland teaching certificate is not required for teachers in nonpublic nursery schools.*
- *When reviewing documentation of:*
 - *Bachelor’s degree from an Institution of Higher Education (IHE):*
 - ❖ *Compare name on transcript to name of individual (he/she may now have a different last name).*

- ❖ *Look for “Date degree conferred” on the transcript.*
 - ❖ *If unsure whether the degree was awarded from an IHE, contact the Teacher Certification Branch of the MSDE Division of Certification and Accreditation at 410-767-0412 to verify if the institution is an Institution of Higher Education.*
 - *120 semester hours of college credit from an IHE:*
 - ❖ *Compare name on transcript(s) to name of individual (may have a different last name).*
 - ❖ *Look for “Total credits earned” or indication of total credits on each transcript. Disregard the “credits attempted” columns.*
 - ❖ *Do not count only early childhood or education credits/courses.*
 - ❖ *If it is unclear how many credits have been awarded, ask the applicant to highlight all credits awarded and indicate the total number of credits earned.*
 - ❖ *Confirm the total credits awarded (double check).*
 - *Foreign Credentials:*
 - ❖ *Require the applicant to submit a copy of the evaluation of the foreign credential that has been done by a recognized foreign credential evaluation agency.*
 - ❖ *Ensure that the evaluation indicates that the foreign credential is, at a minimum, equivalent to a U. S. Bachelor’s degree.*
 - ❖ *If necessary, refer the applicant to the list of independent evaluation services agencies recognized by the Department to evaluate foreign credentials, or go to the website of the National Association of Credential Evaluation Services at www.naces.org for a current list of official agencies that evaluate foreign credentials.*
- (4) **A teacher employed in a Montessori program shall hold a Montessori diploma or credential for the level of the individual’s assignment that has been awarded by:**
- (a) **AMI, AMS, or NAMTA; or**
 - (b) **A Montessori teacher education program that is accredited by MACTE.**

Note: *No other credentials are required.*

- (5) **If the degree, college credit, or foreign credential required at §C(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 pre-service training; or**

- (b) **Be certified by the Department as a teacher for early childhood in nursery through third grade.**

Notes:

- *A Child Development Credential (CDA) is not acceptable evidence of a Bachelor's degree or 120 semester hours of college credit. The individual may have earned college credit while earning the CDA, but the applicant is required to submit evidence that a Bachelor's degree has been conferred or 120 semester hours of college credit have been awarded to each Educational Program Administrator and each teacher in the nursery school educational program.*
 - *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*
- (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) **Effective July 1, 2010, 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.**

***INTENT:** A nursery school teacher must have sufficient continued training to keep abreast with current early childhood issues.*

***INSPECTION REPORT ITEM:** "Personnel Qualifications"*

***COMPLIANCE CRITERIA:** The nursery school teacher completes at least 12 clock hours of approved continued training during each full year of employment.*

***ASSESSMENT METHOD:** Review the teacher's completed Professional Development Plan with attached documentation of trainings completed to determine if the teacher has completed continued training as required during the previous full year of employment.*

Notes:

- *This regulation is met if the individual participates in the OCC Credentialing Program and has a current certificate noting achievement at Level 2 or*

above. Check the expiration date on the credential certificate. If expired, the individual must produce evidence of 12 hours of continued training.

- *If individual states that the certificate is not expired, check with the Credentialing Branch for verification. See “**Checking Staff Continued Training in Child Care Centers Guidelines**”.*
- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

- (8) **A teacher in an approved Montessori school shall complete approved continued training, at the rate of at least 12 clock hours per full year of employment that consists of a minimum of 6 clock hours of Montessori education training.**

INTENT: *A Montessori school teacher must have sufficient continued training to keep abreast with current early childhood issues.*

INSPECTION REPORT ITEM: “Personnel Qualifications”

COMPLIANCE CRITERIA: *The Montessori school teacher completes at least 12 clock hours of approved continued training during each full year of employment which include 6 clock hours of Montessori education training.*

ASSESSMENT METHOD: *Review the teacher’s completed Professional Development Plan with attached documentation of trainings completed to determine if the teacher has completed continued training as required during the previous full year of employment.*

Notes: *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. Approved Montessori courses are available. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

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

E. Written Statement of Teacher Qualifications. An operator 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.

***INTENT:** Written documentation of each educational program teacher's qualifications must be maintained on site for reference by parents. A copy of this documentation must be given to each parent who requests it.*

***INSPECTION REPORT ITEM:** "Personnel Qualifications"*

COMPLIANCE CRITERIA:

- *For each educational program teacher, written documentation of qualifications is present on site.*
- *Upon request, a copy of that documentation is provided to parents or guardians of current or potential program enrollees.*

***ASSESSMENT METHOD:** Evaluate compliance through observation, interview, and/or review of program records as appropriate.*

Notes:

- *The operator may elect to prepare one written statement that references the credentials of each teacher; or may choose to indicate the credentials of each teacher on a separate statement. Often the statement of teacher credentials is included in a school's handbook or other public relations materials. This is also acceptable for assessing compliance.*
- *When reviewing statement of teacher credentials:*
 - *Look for a written statement of the credentials of each teacher in the format that the school will give to parents/legal guardians upon request.*
 - *Ensure that the statement references each teacher who will implement the educational program.*
- *Although not required by regulation, be aware that a school often includes information about other staff members in this statement.*

.07 Educational Program.

A. Program. The operator 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.**

INTENT: *The program must have, and follow, a written educational curriculum in specified cognitive, social, and physical skill domains that is appropriate to the ages and developmental levels of the children served by the program.*

INSPECTION REPORT ITEM: *“Educational Program”*

COMPLIANCE CRITERIA:

- *The program has a written curriculum for each class that addresses each of the listed content areas;*
- *In each class, the curriculum is appropriate to the age and developmental level of the children in that class.*
- *In each class the curriculum is implemented; and*
- *A copy of each class curriculum is kept on site.*

ASSESSMENT METHOD: *Evaluate compliance through observation, interview, and/or review of the written curriculum.*

Notes:

- *There is no single, prescribed curriculum design, format, or presentational method that all approved programs must follow. Instead, each program is free to use any design, format, or presentational method that it chooses as long as the content of the curriculum followed in each class clearly addresses each listed area on a daily basis.*
- *For a mixed-age class, a written curriculum for each age represented in the class must be implemented and maintained.*
- *Various kinds of early childhood curricula may be reviewed at the facility for approval. Examples of acceptable curricula include, but are not limited to, the following:*
 - *Commercial Curricula. There are hundreds of different commercial curricula for early childhood education. Some examples are:*
 - ❖ *The Creative Curriculum for Preschoolers*
 - ❖ *High/Scope*

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- ❖ *The Calvert School curriculum*
- ❖ *The A Beka curriculum*
- *Religious Curricula. There are numerous religious curricula. Some examples are:*
 - ❖ *Christian*
 - ❖ *Catholic*
 - ❖ *Judaic*
 - ❖ *Islamic*
 - ❖ *Lubavitch*
- *Curricula of Different Philosophies. Some curricula adhere to a specific philosophy of education. Some examples are:*
 - ❖ *Montessori*
 - ❖ *Waldorf*
- *Local School System Curriculum:*
 - ❖ *Some operators use the curriculum that a local school system implements for its Early Elementary Education Program (EEEP) for a 4-year-old nursery school program.*
 - ❖ *Some operators adapt a local school system pre-kindergarten curriculum for a 3-year-old or 4-year-old nursery school program.*
- *Independent Curricula:*
 - ❖ *Developed by the specific nursery school.*
 - ❖ *Often curricular areas are developed around themes (My Community, Farm Animals, The Zoo, Weather, Holidays).*
- *Internet sources – limitless resources for curricula*
- *What to look for when reviewing written curricula:*
 - *Ensure that there is a written curriculum for each age group for which approval is sought (2-year-olds, 3-year-olds, and/or 4-year-olds).*
 - *Ensure that each curriculum includes the following areas of instruction:*
 - ❖ *Personal and social development*
 - ❖ *Language and literacy development*
 - ❖ *Mathematical and scientific thinking*
 - ❖ *Social studies*
 - ❖ *The arts*
 - ❖ *Physical development and health*

Note: *Subject titles used by the operator in its written curriculum may not exactly match the subject titles used in the regulations, for example:*

- ❖ *Personal and social development may be titled “All About Me”*

- ❖ *Language and literacy development may be titled “Pre-Reading Skills”*
 - ❖ *Mathematical thinking may be titled “Numeracy” or “Measuring”*
 - ❖ *Scientific thinking may be titled “Discovery”; “How Things Grow”*
 - ❖ *Social studies may be titled “My Community”*
 - ❖ *The arts may be titled “Music and Movement” or “Free Expression”*
 - ❖ *Physical development may be titled “Gross Motor Activities”*
 - ❖ *Health may be titled “Taking Care of My Body”*
- *Regardless of the name or type of curriculum that a nursery school uses, it must, at a minimum, include all of the curricular areas required by §A(1)-(6) of this regulation.*
 - *If you are unsure if all of the required areas of instruction are covered in the curriculum, ask the operator to identify each area of instruction using the curricular areas specified in §A(1)-(6) of this regulation.*
 - *Do not require the operator to change the terms used in the program’s curriculum, because that is the program’s working document. Simply ask the operator to indicate the curricular areas specified in §A(1)-(6) of this regulation to ensure that all required areas are included.*

B. Instructional Materials and Equipment. The operator 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.

***INTENT:** Instructional materials and equipment are items that are provided for use by enrolled children and are needed to implement the curriculum in each class. There must be sufficient items to permit full implementation of the curriculum. To ensure that these items will always be available and ready for use, the operator must own and maintain them on site.*

***INSPECTION REPORT ITEM:** “Educational Program”*

***COMPLIANCE CRITERIA:** All items necessary for implementing the curriculum in each class are:*

- *Owned and maintained on site; and*
- *Present in sufficient quantity for full implementation of the curriculum.*

***ASSESSMENT METHOD:** Evaluate compliance through observation of materials.*

Notes:

- *§B of this regulation does not specify a required number of items the nursery school must have in order to implement the educational program. You should use observation and professional judgment to determine whether the quantity of items is adequate for the curriculum and the number of children enrolled in the program.*
- *When reviewing the list of instructional materials and equipment:*
 - *Ensure that the list of instructional materials and equipment correlates to the specific areas of instruction required by §A(1)-(6) of this regulation:*
 - ❖ *Personal and social development*
 - ❖ *Language and literacy development*
 - ❖ *Mathematical and scientific thinking*
 - ❖ *Social studies*
 - ❖ *The arts*
 - ❖ *Physical development and health*
 - *If the list does not identify the materials and equipment by the instructional areas specified in §A of this regulation, return the list and ask the operator to list the materials and equipment under the curricular areas specified in §A(1)-(6) of this regulation.*
 - *Ask the operator to explain any material and /or equipment item that may be unfamiliar.*
- *If the list does not include items under all of the six areas of instruction required by the regulations, it is incomplete and un-approvable until complete.*

.08 Child Records.

- A. The operator of an educational program in a nonpublic nursery school 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.**

INTENT: *The operator shall maintain a continuing record for each enrolled child that contains information specifically identifying the nursery school and the child, the child's enrollment and attendance dates, and the child's program performance.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: *For each child, a cumulative record is kept on site that contains all of the required information that applies to that child.*

ASSESSMENT METHOD: *Evaluate compliance through review of program's cumulative record form.*

Notes:

- *A cumulative record may be the child's transcript or a combination of the center licensing record together with the cumulative record file on the child as long as the combined records contain all the information in §B of this regulation. The requirement of §A of this regulation to maintain a "cumulative record for each child enrolled" means that the operator must have one record form for each child on which to record specific information for that child for the entire period of time the child is enrolled in the educational program.*
- *The cumulative record is not the same as a progress report (which is sometimes called a "report card" or a "report to parents").*
- *Progress (or performance) information from the report to parents is usually transferred to the cumulative record form that is maintained at the school.*
- *Each child's cumulative record form must be maintained throughout the period of time that a child is enrolled in the educational program.*
- *Since nursery school attendance is not required before entering kindergarten, the cumulative record of a child is usually not requested by a receiving school; however, a parent might request a copy of it when the child leaves the educational program.*
- *Some operators use commercial student record forms. Some operators design their own student record form. Any record form is acceptable as long as it contains spaces, at a minimum, for all of the information required by §B(1)-(12) of this regulation.*

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- *A school's cumulative child record form may require additional information that the operator feels is important to be included.*
- *When reviewing the document submitted as the cumulative record form, check for:*
 - *Accurate, full, official name of the nursery school as reflected on the application form and on the center's license or letter of compliance.*
 - *Complete and accurate location address of the nursery school. (Note: Sometimes an operator with more than one center will submit a record form with the location address of another center.) Ensure that the address on the form is the location address of the nursery school and not a Post Office box address or the address of the corporate or off-site office.*
 - *Ensure that the telephone number is the telephone number of the nursery school and not that of the corporate or off-site office.*
 - *Space for the child's first, middle, and last names (in order preferred by the operator)*
 - *Space for the child's month, day, and year of birth.*
 - *Space for the child's home address.*
 - *Space for the month, day, and year the child initially entered the educational program.*
 - *Space to record the age of the child upon enrollment in the educational program.*
 - *Space for the month, day, and year of the child's withdrawal (promotion, graduation, etc.) from the educational program.*
 - *Space for performance information in each curricular area for each school year.*
 - *Code for the meaning of the performance information. (Some operators use a narrative format for performance information for early childhood programs. Operators who use this format can indicate "narrative" for the code.*
 - *Space for the total number of days the child was present for the educational program in each school year.*
- *If the form submitted as the cumulative record form does not provide for one or more of the items referenced in §B(1)-(12) of this regulation, or if it contains inaccurate identifying information, it is not approvable.*
- *If the form contains fields to record information that does not apply to the nursery school (such as elementary or secondary school subjects, local school system identifying code, name or location address of another school), it is not approvable.*

- C. In a licensed child care center or a letter of compliance facility, the requirements of §B(1)—(8) of this regulation are met by compliance with child record requirements set forth at COMAR 13A.16.03.04 or COMAR 13A.17.03.04, as applicable.**

INTENT: In order to hold a child care center license or letter of compliance, the operator of an educational program located in a licensed center or letter of compliance facility has already met most of the child record-keeping requirements listed under §B of this regulation. Records maintained for licensing compliance purposes may also be used for educational program compliance purposes.

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.**

INTENT: To be enrolled during a given school year, a child must have reached the age of 3 years or 4 years by the start of that school year. Exceptions allow a 2 year old child to be admitted early to a program for 3 year old children, or a 3 year old to a program for 4 year old children, upon approval of the program following request from the child's parent.

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA:

- *Except under early admission, each child in a 3-year-old program or a 4-year-old program became 3-years-old or 4-years-old, respectively, by September 1 of the current school year.*
- *For each 2-year-old child in a 3-year-old program, and each 3-year-old child in a 4-year-old program:*
 - *The child's parent has made a request for the child's early admission; and*
 - *The operator has determined that early admission is developmentally appropriate for the child.*

.09 Health, Fire Safety, and Zoning.

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

INTENT: *The property of the nursery school must be safe for children and must comply with all applicable State and local codes. The nursery school operator must obtain all necessary health, fire, and zoning certifications and keep records of those certifications.*

INSPECTION REPORT ITEM: *“Health, Fire Safety, and Zoning”*

COMPLIANCE CRITERIA: *Documentation is maintained on site showing that the nursery school is in full current compliance with all applicable State and local codes.*

ASSESSMENT METHOD: *Inspect the nursery school files to verify that documentation of current compliance is present.*

- B. In a licensed child care center or a letter of compliance facility, the requirements of §A of this regulation are met by complying with pertinent health, fire safety, and zoning requirements set forth under COMAR 13A.16 or COMAR 13A.17, as applicable.**

INTENT: *In order to hold a child care center license or letter of compliance, the operator of an educational program located in a licensed center or letter of compliance facility has already met all applicable State and local code requirements. Relevant documentation obtained in connection with a license or letter of compliance may also be used for educational program approval purposes.*

.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.

INTENT: *The State Board, through The Division of Early Childhood Development’s Office of Child Care, may move to sanction an educational program for noncompliance with the requirements of COMAR 13A.16 – Child Care Centers, as set forth in Education Article §2-206.*

Notes:

- *Suspension or revocation of the educational program approval. If the Division moves to suspend or revoke the approval of the educational program of a nursery school operator and the operator wishes to appeal that action, the appeal will be heard by the State Board of Education.*
 - *The DECD Office of Child Care shall provide to the operator a written notice of the action that also contains a statement of the operator’s right to appeal to the State Board.*

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- *The operator shall have a period of 20 days to file a written request for appeal with the State Board.*
 - *If the operator does not request an appeal within 20 days after the notice of action, the action becomes effective 15 days later.*
 - *If a timely appeal request is made to the State Board, the State Board shall hold a hearing within 60 days to decide to approve or to deny the action by the Office of Child Care.*
 - *If the action is approved by the State Board, it shall take effect 15 days after the date of the State Board's determination unless the operator files for judicial review of the State Board's determination. The operator's right to judicial review is fully set forth under Maryland's Administrative Procedures Act, State Government Article §10-222.*
- *Suspension or revocation of a child care license or letter of compliance. If the Division initiates suspension or revocation of the child care license or letter of compliance of a nursery school that contains an approved educational program, the operator may appeal the action before the Office of Administrative Hearings (OAH).*
 - *An educational program located in a nursery school that is required to have a license or letter of compliance is prohibited from operating if that license or letter of compliance is suspended or revoked.*
 - *Even though approval to operate the educational program is automatically affected if the license enforcement action is upheld, an operator does not have a separate appeal right before the State Board for continued operation of the educational program once the license enforcement action is upheld.*



Child Care Center Licensing Manual

(August 2016)


for use with

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

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.01 License Permitted.

An office may issue a license to a drop-in center.

.02 Scope of Care.

A drop-in center shall provide care exclusively to children on an intermittent and occasional basis for less than 4 hours a day while parents are not on the same premises or not immediately available, or both. Drop-in centers include child care centers located in shopping malls or shopping centers for the occasional use of customers, child care centers located in resorts for vacationers, and similar settings.

.03 Applicability of Subtitle.

An applicant for a drop-in center license shall meet the requirements of this subtitle with the exception of:

- A. COMAR 13A.16.03.02 concerning admission to care;**
- B. COMAR 13A.16.05.12 concerning outdoor activity area;**
- C. COMAR 13A.16.09.01A(7) concerning outdoor play;**
- D. COMAR 13A.16.09.03B(1) and (2) concerning materials and equipment;**
- E. COMAR 13A.16.10.01A(2)(c) concerning emergency evacuation and disaster drills for children; and**
- F. COMAR 13A.16.12.01 concerning food service.**

.04 Plan of Operation.

- A. An applicant for a drop-in center license shall:**
 - (1) Submit to and receive prior approval from the office of a written plan of operation for the center; and**
 - (2) Operate according to the approved plan.**
- B. An applicant shall include in the written plan of operation:**
 - (1) The ages, numbers, and groupings of children to be served;**
 - (2) The space, materials, equipment, and furnishings to be used at the center;**
 - (3) The hours, days, and months of operation;**
 - (4) The activity program of the center; and**
 - (5) A method for ensuring that children are released only to their parents or other persons authorized by parents to pick up children who are properly identified to the center.**

***INTENT:** A drop-in center is intended solely to provide temporary, occasional child care while parents shop, visit, sightsee, or engage in similar activities. As such, a drop-in center is exempt from certain licensing requirements that are appropriate or feasible only for programs that provide care to the same children on a regular or extended basis. Nevertheless, the center must comply with basic child health and safety requirements of COMAR 13A.16 – Child Care Centers, and must operate according to an approved*

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service plan that ensures appropriate physical facilities, child supervision, activities, and child protection.

INSPECTION REPORT ITEM: *"Plan of Operation"*

COMPLIANCE CRITERIA: *The center:*

- *Complies with all applicable requirements of COMAR 13A.16 – Child Care Centers, and*
- *Operates in full accordance with its approved plan of operations.*

ASSESSMENT METHOD: *Observe and, as necessary, review facility documentation to determine if the center complies with all applicable requirements of COMAR 13A.16 – Child Care Centers, and with the provisions of its approved plan of operation.*

Note: *A facility that operates a drop-in program in addition to a regular program must have two licenses. Also, the drop-in program must be contained within its own space; however, this does not apply to a facility that accepts drop-in children with all the emergency and admission records required under Chapter .03, §.02 – Admission to Care, and Chapter 03, §.04C(1)-(9) – Child Records.*

.05 Special Variances.

An applicant may request variances for COMAR 13A.16.05.03A concerning indoor space requirements, and COMAR 13A.16.08.03 concerning group size and staffing.

INTENT: *Because of the temporary nature of the care provided and the transient nature of the child population served, OCC may grant a space or group size and staffing variance that would not be available to a regular center.*

.06 Admission Requirements.

A. A child younger than 2 years old may not be admitted to a drop-in center.

INTENT: *Infants and toddlers require a more intensive level of care and supervision than a drop-in center can reasonably be expected to provide.*

INSPECTION REPORT ITEMS: *"Admission Requirements"*

COMPLIANCE CRITERIA: *The center serves only children who are at least 2-years-old.*

ASSESSMENT METHOD: *Review center admission records to determine if each child is at least 2-years-old.*

B. The operator shall:

- (1) **Require the parent of each child to complete and sign an emergency card and health history form on the child before the child's admission to the center; and**
- (2) **Ensure that the emergency card and health history form are signed and updated, if necessary, by the parent each time the child is dropped off at the center.**

***INTENT:** Center staff must know how to contact a child's parent in the event of an emergency and must know if the child has a health or physical condition that may require particular attention. Because a drop-in center is not supposed to provide care to any child on a regular basis, this information must be reviewed each day that a given child is present.*

***INSPECTION REPORT ITEM:** "Admission Requirements"*

COMPLIANCE CRITERIA:

- *An "Emergency Form", OCC form 1214, (Appendix B-5); and a "Health History Form For Use in Drop-In Child Care Centers", OCC form 1285, (Appendix B-20), are on file for each child admitted to care.*
- *On each day that a given child is in care, the child's parent signs and dates the child's Emergency Form and Health History Form.*

***ASSESSMENT METHOD:** Review center records to determine if, for each day that a child is present, the child's parent has signed and dated an Emergency Form and a Health History form.*



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.01 Requirements for Approval.

An applicant for a center offering care to children attending a middle school or a junior high school shall:

- A. Meet the requirements of this subtitle; or**
- B. Do both of the following:**
 - (1) Submit to and receive prior approval from the office of a written plan of operation for the center that meets the intent of the requirements of this subtitle; and**
 - (2) Operate according to the approved plan.**

.02 Plan of Operation.

A plan of operation submitted pursuant to Regulation .01 of this chapter shall include:

- A. A definition of the population to be served and the criteria for admission;**
- B. Center staffing information and a staffing pattern for the program at the center;**
- C. The space, materials, equipment, and furnishings to be used at the center;**
- D. The days and hours of operation;**
- E. Locations other than the center which will be used for activities;**
- F. Activities to be held at locations other than the center;**
- G. A method of accounting for children's whereabouts;**
- H. A method for assuring parental approval for activities held at locations other than the center;**
- I. A method for having a consistent staff member available to each child;**
- J. A transportation plan, if necessary; and**
- K. A nutritional plan as required.**

***INTENT:** A facility established to serve adolescent children must address the particular developmental needs, challenges, and support requirements of that age-group. To accomplish this, the facility must either meet all applicable requirements of COMAR 13A.16 – Child Care Centers, or operate on the basis of an approved service plan that meets the Chapter’s health, safety, and welfare requirements as they apply to an older population.*

***INSPECTION REPORT ITEM:** “Plan of Operation”*

***COMPLIANCE CRITERIA:** The facility:*

- Meets all applicable requirements of this Chapter, or*
- Has an approved plan of operation and operates in full accordance with it.*

***ASSESSMENT METHOD:** Observe and, as necessary, review facility documentation to determine if:*

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- *The facility complies with all applicable requirements of this Chapter, or*
- *The facility's space, staffing, supervision, equipment, activities, procedures, and support services are fully consistent with the approved plan of operation.*



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.01 Location of Center.

An office may issue a license for a room in a child care center or for an entire center offering care to children with acute illness.

.02 Applicability of Subtitle.

An applicant for a center offering care under this chapter shall meet the requirements of this subtitle with the exception of:

- A. COMAR 13A.16.05.12 concerning outdoor activity areas;**
- B. COMAR 13A.16.09.01 concerning schedule of daily activities for all children;**
- C. COMAR 13A.16.09.03B(1) and (2) concerning activity materials and equipment;**
- D. COMAR 13A.16.09.05A concerning carriages and strollers, if care is provided to children younger than 2 years old;**
- E. COMAR 13A.16.10.01A(2)(c) concerning emergency evacuation and disaster drills for children; and**
- F. COMAR 13A.16.11.01 concerning exclusion for acute illness.**

.03 Plan of Operation.

- A. An applicant for a center offering care under this chapter shall:**
 - (1) Submit to and receive prior approval from the office, in consultation with the Department of Health and Mental Hygiene and the health officer, of a written plan of operation for the center, including provision for health assessment of ill children; and**
 - (2) Operate according to the approved plan.**
- B. An applicant shall include in the written plan of operation:**
 - (1) Procedures to prevent the spread of disease, including general infection control procedures and methods of preventing the spread of airborne diseases, such as chicken pox and measles;**
 - (2) Staff training requirements in the areas of prevention and control of communicable diseases and care of ill children;**
 - (3) Staff education and experience in the health care field;**
 - (4) Staff orientation in pediatric first aid, infection control, and facility policies;**
 - (5) Staff/child ratios;**
 - (6) The identity of an on-call health consultant;**
 - (7) A definition of the population to be served and the criteria for admission, including exclusion policies;**
 - (8) Procedures for preparing a written plan of care for each child upon admission to include instructions for care in emergencies, medications, and special medical and nonmedical treatments;**
 - (9) Procedures for periodic reassessment of the child;**

- (10) **Methods for establishing an individualized program of daily activities for each child;**
- (11) **Staff information, including a staffing pattern;**
- (12) **A list of materials, equipment, and furnishings; and**
- (13) **Identification of buildings and rooms to be used for the program.**

***INTENT:** A facility or facility component established to serve children with acute illnesses is exempt from certain licensing requirements either because those requirements are appropriate only with regard to the care of healthy children, or because compliance with them could actually be detrimental to acutely ill children. Instead, a program for acutely ill children must operate on the basis of a service plan, to meet the health needs of those children, that has been approved by appropriate health officials.*

***INSPECTION REPORT ITEM:** "Plan of Operation"*

***COMPLIANCE CRITERIA:** The facility or facility component operates according to the approved plan of operation.*

***ASSESSMENT METHOD:** Observe and, as necessary, review facility documentation to determine if care, supervision, staffing levels and staff qualifications, activities, procedures, equipment, and environment are fully consistent with the approved plan of operation.*

Notes:

- *Staff who care for ill children should not also care for well children.*
- *After issuance of the license, the Licensing Specialist should conduct periodic monitoring inspections of the facility or facility component to ascertain if it is operating according to the approved plan. To assist in this, consultation with the local health department or other health care professional may be required.*

.04 Director Requirements.

The director in a center for children with acute illness shall:

- A. Meet the requirements of COMAR 13A.16.06.05, .06, .07, or .08, as applicable; and**
- B. Have completed at least 40 hours of training in a college level course in prevention and control of communicable diseases and care of ill children.**

***INTENT:** Because of the particular needs of ill children and the obvious risks associated with those needs, the Director must complete additional specialized training in pediatric illness and disease prevention and control.*

***INSPECTION REPORT ITEM:** "Director Requirements"*

COMPLIANCE CRITERIA: *The Director has completed the required additional training.*

ASSESSMENT METHOD: *Review facility documentation to determine if the additional training has been completed.*

.05 Use of Health Consultant.

An operator shall use a health consultant who is a registered nurse, a pediatric or family nurse practitioner, or a pediatrician to develop written policies and procedures and to supervise and instruct staff on performing procedures.

INTENT: *Because of the specialized nature of a child care program for children with acute illnesses, the operator must arrange for a pediatric health professional to develop and oversee the implementation program's policies and procedures.*

INSPECTION REPORT ITEM: *"Use of Health Consultant"*

COMPLIANCE CRITERIA: *The facility has the required arrangement with a qualified pediatric health professional.*

ASSESSMENT METHOD: *Review facility records for documentation that substantiates the existence of the arrangement as required.*



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.01 Food Service.

A. Food and Beverages.

- (1) **Food and beverages that are furnished by an operator 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.**

***INTENT:** Each child in care needs adequate nutrition for proper growth and development. To help ensure that this occurs, all meals and snacks furnished by the facility must meet specified nutritional guidelines for the child's age.*

***INSPECTION REPORT ITEM:** "Food Service"*

***COMPLIANCE CRITERIA:** Each meal and snack furnished by the facility to a child meets the guidelines of the Child and Adult Care Food Program (CACFP) for the child's age.*

ASSESSMENT METHOD:

- *Observe the items and amounts served at mealtime or snack time to determine if they meet CACFP guidelines.*
- *If observation is not possible, review the facility's current menu and interview staff as necessary to determine the contents of meals and snacks served.*

***Note:** Refer to the **"USDA/CACFP Child Care Meal Pattern Guidelines"**, for meal and snack portion sizes of various food groups recommended by the CACFP for various age groups.*

- (2) **For children in care, the operator shall furnish:**
- (a) **All beverages, including beverages for meals and snacks; and (b) Milk with all meals.**
- (3) **A beverage furnished by the operator may not contain an added sweetener or caffeine, except for:**
- (a) **Infant formula; or**
 - (b) **A beverage prescribed for a child by a health care provider.**

***Note for (3) above:** This regulation does not apply to beverages supplied by parents.*

- (4) **If a child is:**
- (a) **Younger than 2 years old, milk furnished to the child shall be supplied or approved by the child's parent; or**

- (b) **2 years old or older, milk furnished to the child by the operator shall be 1% fat milk or nonfat milk, unless otherwise ordered by a health care provider or requested by the parent.**
- (5) **The operator may arrange with a child's parent to furnish milk of a type that is different from the milk ordinarily furnished by the operator.**
- (6) **The operator shall keep a supply of nutritious food on hand in order to provide food to a child whose parent has not supplied:**
 - (a) **Food for meals or snacks; or**
 - (b) **Sufficient food to meet the standards of the Child and Adult Care Food Program of the U.S. Department of Agriculture.**

B. Hours of Operation. If a center operates:

- (1) **4 or more consecutive hours a day, the operator shall furnish either:**
 - (a) **All meals and snacks; or**
 - (b) **Snacks; or**
- (2) **Less than 4 consecutive hours a day, the operator shall either:**
 - (a) **Furnish food and beverages for meals or snacks, or both; or**
 - (b) **Make arrangements with the parent of a child to provide food and beverages for meals or snacks, or both.**

***INTENT:** Children need enough wholesome food and drink each day to ensure their proper growth and development. Depending on the length of the daily program, the operator must either provide these items directly and/or make arrangements for parents to provide the items.*

***INSPECTION REPORT ITEM:** "Food Service"*

COMPLIANCE CRITERIA:

- *If operating for at least 4 consecutive hours per day, the center provides all meals and snacks, or all snacks.*
- *If operating less than 4 consecutive hours per day, the center either provides meals and/or snacks or has arranged for parents to do so.*

***ASSESSMENT METHOD:** Determine the number of consecutive operating hours, then interview facility staff to determine whether meals, or snacks, or both are provided by the center or by parents.*

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

If a child is at a center for:	The child shall receive at least:
Less than 4 consecutive hours	1 snack
4 to 7 consecutive hours	1 meal and 1 snack

7 to 11 consecutive hours	1 meal and 2 snacks or 2 meals and 1 snack
11 to 14 consecutive hours	2 meals and 2 snacks or 3 meals and 1 snack

INTENT: *Growing children burn a lot of energy, so their energy levels must constantly be restored through frequent meals and snacks.*

INSPECTION REPORT ITEM: *"Food Service"*

COMPLIANCE CRITERIA: *Each child receives the appropriate number of meal(s) and/or snack(s) based on the length of a child's daily attendance.*

ASSESSMENT METHOD: *Review child attendance records to determine how long children are in care daily, and cross-reference those records with the facility's meal/snack schedule to determine if children are getting the appropriate number of meals and/or snacks.*

D. If an operator chooses not to provide meals, the operator shall make arrangements with the parent of each child to provide food for meals.

INTENT: *While a child is in attendance, the operator is responsible for the child's appropriate nutrition. Part of this responsibility is making sure that the child receives foods that meet USDA/CACFP (United States Department of Agriculture/Child and Adult Care Food Program) guidelines. This responsibility is met by either providing the foods that meet the USDA/CACFP guidelines, or encouraging the parent to provide those meals.*

INSPECTION REPORT ITEM: *"Food Service"*

COMPLIANCE CRITERIA: *For each child, meals are provided by either the operator or the parent.*

ASSESSMENT METHOD: *If the facility does not provide meals:*

- *Interview facility staff to determine if and how children are fed while in attendance, and*
- *If available, review facility contracts or service agreements with parents to determine if arrangements have been made for parents to provide meals.*

E. Menus. An operator shall:

- (1) **Post in a conspicuous place a weekly planned menu of foods and beverages furnished by the center for meals and snacks; and**
- (2) **Keep a dated record of food actually served in the center, and to each child on a modified diet, on file for at least 4 weeks, correcting the planned menu if necessary.**

INTENT: Proper menu planning is critical to ensuring that children in care get nutritional and appropriate amounts of food and beverages each day. Parents have a right to know what food is being served to their children and when. A menu provides them with this knowledge. For the same reason, and because last-minute changes to planned menus are sometimes necessary, a record of food actually served must be kept for a reasonable period of time.

INSPECTION REPORT ITEM: "Food Service"

COMPLIANCE CRITERIA:

- *A menu for the current week is posted where it is readily visible to parents.*
- *A dated record of food actually is served is maintained on file for at least 4 weeks after the corresponding menu date.*

ASSESSMENT METHOD: *Observe to determine if a current menu is posted and if dated records of food served are on file for the required time.*

.02 Modified Diet.

If an operator agrees to accept a child who requires a modified diet for:

- A. Medical reasons, the operator shall obtain from the child's parent a written prescription for the diet signed and dated by the child's licensed health practitioner within the previous 6 months; or**
- B. Cultural or religious reasons, the operator shall obtain written, dated instructions for the diet signed by the child's parent.**

INTENT: A modified diet, whether it is for medical, cultural, or religious reasons, requires a child to eat certain items and/or to avoid eating certain items. By accepting the child for care, the operator agrees to observe these requirements. The child's parent is responsible for communicating those specific requirements in writing.

INSPECTION REPORT ITEM: "Modified Diet"

COMPLIANCE CRITERIA:

- *For each child who is on a modified diet for medical reasons, there is in the child's facility record a signed and dated prescription for the diet that is no more than 6 months old.*
- *For each child who is on a modified diet for non-medical reasons, there are in the child's facility record signed and dated diet instructions from the child's parent.*

ASSESSMENT METHOD: *Determine if there are any children in care who require modified diets. If there are, determine whether these diets are for medical or non-medical reasons. Then review the children's facility records to determine if the necessary prescriptions or parent instructions, as applicable, are present.*

.03 Food Sources.

- A. An operator shall furnish food at the center 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.**

INTENT: *All food furnished by the center must be fit for consumption and must be procured only from legitimate commercial food vendors.*

INSPECTION REPORT ITEM: *"Food Sources"*

COMPLIANCE CRITERIA: *All food present at the facility:*

- *Is fit for consumption, and*
- *Has come from legitimate commercial sources.*

ASSESSMENT METHOD: *Observe food items to assess their fitness for consumption and determine their sources. As necessary, interview facility staff for additional information about where food used for meals and snacks comes from.*

- B. If an operator contracts to have food furnished from an outside source, such as a catering service, the operator shall ensure that the food:**

- (1) **Has been prepared and processed in a licensed food service facility or in a licensed food processing plant; or**
- (2) **Consists of a snack or party food which is not potentially hazardous and does not present a significant risk of transmitting food-borne disease.**

INTENT: *An outside food service may be used only if it is properly licensed or if the food items provided by the service do not require special handling or processing.*

INSPECTION REPORT ITEM: "Food Sources"

COMPLIANCE CRITERIA: *The outside food service is either duly licensed or provides low-risk food.*

ASSESSMENT METHOD: *Review the contract or service agreement with the outside food service to determine:*

- *The nature of the food items to be provided by the service, and*
- *If the items are not low-risk, whether the service is duly licensed.*

C. An operator may not provide to the children home-canned goods or any other hermetically sealed food prepared in a place other than a licensed food processing establishment.

INTENT: *Because they carry a high risk of food-borne illness if not processed correctly, canned or jarred foods may not be used unless they come from a properly licensed commercial source.*

INSPECTION REPORT ITEM: "Food Sources"

COMPLIANCE CRITERIA: *All canned and jarred food items come from a licensed commercial source.*

ASSESSMENT METHOD: *Observe canned and jarred food items to determine their sources.*

D. An operator:

- (1) **Shall provide only fluid milk and fluid milk products that are:**
 - (a) **Pasteurized Grade A;**
 - (a) **Except as provided by §D(3) of this regulation, served from the original container; and**
 - (b) **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.**

INTENT: *Milk and milk products are classified as "potentially hazardous food" because they are especially susceptible to contamination and spoilage. Milk or a fluid milk product may not be served if it is 4 days beyond its "sell-by" date. Fluid milk substitutes*

do not have the same nutritional value as Grade A fluid milk and may not be used for drinking purposes.

INSPECTION REPORT ITEM: "Food Sources"

COMPLIANCE CRITERIA:

- *Only pasteurized Grade A milk and fluid milk products are used for direct consumption.*
- *No milk or fluid milk product present at the facility is more than 4 days beyond its "sell-by" date.*

ASSESSMENT METHOD:

- *Observe mealtime to determine if only proper milk and fluid milk products are used for direct consumption. If observation is not possible, interview facility staff to determine what type of milk is used.*
- *Observe milk and fluid milk containers to determine if any are more than 4 days after the "sell-by" date.*

Notes:

- *Maryland Health Department regulations, COMAR 10.15.06.03D, require that milk and milk products be consumed within no more than 4 days after the "sell-by" date in "eating and drinking establishments, hospitals, schools, institutions, and similar places where milk is consumed on the premises."*
- *Milk is classified as a "potentially hazardous food" as defined in Chapter .01, §.02B(44)(a), because its high protein content supports rapid growth of bacteria. The operator must ensure that milk is served immediately after pouring and that the container with any remaining milk is re-refrigerated immediately. The shelf life of milk decreases rapidly if not kept at or below a temperature of 45° F. When opening a milk container, care must be taken to avoid contaminating the container's lip or spout. If possible during a facility inspection, the Licensing Specialist should assess the proper handling and storage of milk containers that have been opened for use.*

.04 Food Storage and Preparation.

A. An operator 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.**

INTENT: *Potential contamination of food must be prevented through safe and sanitary storage, handling, preparation, and service. If contaminated food is consumed, serious illness or death may result.*

INSPECTION REPORT ITEM: *"Food Storage and Preparation"*

COMPLIANCE CRITERIA:

- *Food items that are stored until use are protected during storage from contamination and infestation.*
- *Food is handled, prepared, and served in a sanitary manner.*
- *Food storage areas are:*
 - *Large enough to accommodate all stored items without damaging them,*
 - *Clean and dry,*
 - *Cool and well-ventilated enough to retard spoilage of stored items,*
 - *Sufficiently well-organized and well-lit to permit easy identification and retrieval of stored items, and*
 - *Equipped to keep all stored items at least 6 inches from the floor.*

ASSESSMENT METHOD:

- *Observe all food storage areas to determine their appropriateness and cleanliness.*
- *Observe stored food items to determine their condition and accessibility.*
- *Observe food preparation and service to determine if safe and sanitary procedures are used. If observation is not possible, interview facility staff to determine what procedures are used for handling and serving food.*

B. There shall be sufficient storage areas for all food brought from home and all food held in reserve for service by the operator.

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) **At least 6 inches off the floor to facilitate cleaning.**

D. In a small center, food may be stored:

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

INTENT: *In a facility that is located in a residence, OCC may not inspect the area used for family food storage unless food used for program purposes is also stored there.*

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

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

***INTENT:** Because of the risk of accidental contamination and the mixing up of food items, re-packaging of food is permitted only if the new food receptacles keep their contents safe and wholesome, and are clearly marked.*

***INSPECTION REPORT ITEM:** "Food Storage and Preparation"*

***COMPLIANCE CRITERIA:** All secondary food containers in use are safe, hygienic, tightly closable, and properly labeled as to contents.*

***ASSESSMENT METHOD:** Observe secondary food containers in use to determine their appropriateness, condition, and marking.*

***Note:** Plastic food storage bags may not be re-used and should be discarded after they are empty.*

F. The operator:

- (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.**

***INTENT:** An overhead waste line may leak, contaminating any food stored below it. "Potentially hazardous food", which is defined in Chapter .01, §.02B(44)(a), is food that is susceptible to rapid bacterial growth. If it is not kept for serving at a sufficiently high temperature or refrigerated or frozen at a sufficiently low temperature, it presents a significant risk of food-borne illness.*

***INSPECTION REPORT ITEM:** "Food Storage and Preparation"*

COMPLIANCE CRITERIA:

- *All food is stored away from waste lines.*

COMAR 13A.16.12 Nutrition

- *All potentially hazardous food is served or stored at the proper temperature.*

ASSESSMENT METHOD:

- *Observe where food is stored in relation to waste lines.*
- *Observe to determine if food is kept hot for serving and refrigerated or frozen, as appropriate, at sufficiently cold temperatures.*
- *If observation of food service is not possible, interview facility staff to determine how cooked food is kept ready for service.*

Notes:

- *The temperature storage requirements apply to food brought from home by children as well as to food provided or prepared on-site at the center.*
- *§F(2)(3) and (4) of this regulation address the storage of food at proper temperatures. The ability of a refrigerator or freezer to achieve and maintain the proper temperature is addressed under §.05 C and D of this Chapter.*

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.**

INTENT: *Single service items are not meant to be re-used, so they are not made of materials that allow them to be properly cleaned and sanitized after use.*

INSPECTION REPORT ITEM: *"Food Storage and Preparation"*

COMPLIANCE CRITERIA: *All single service items are:*

- *Protected from contamination until use, and*
- *Discarded after use.*

ASSESSMENT METHOD: *Observe to determine how single service items are maintained until use and if they are discarded after use. If observation is not possible, interview facility staff to determine how these items are maintained and used.*

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.

INTENT: *Food preparation activities can be fun-filled learning opportunities for children, but they also carry increased risk for cuts, burns, and other injuries and for food-borne illness. At all times during these activities, children must be closely supervised and sanitary practices must be maintained.*

INSPECTION REPORT ITEM: *"Food Storage and Preparation"*

COMPLIANCE CRITERIA: *At all times:*

- *Each child is closely supervised,*
- *Safe and sanitary food handling practices are followed, and*
- *Proper handwashing procedures are followed.*

ASSESSMENT METHOD:

- *Observe to determine if:*
 - *Proper child supervision is occurring; and*
 - *Appropriate food handling practices and handwashing procedures are being followed by both staff and children.*
- *If observation is not possible, interview facility staff to determine if and how safety and health practices are being followed.*

I. The operator 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.**

INTENT: *Food that may be spoiled or contaminated poses a potential health risk and must be discarded right away to prevent it from being eaten or possibly contaminating other food. Leftover food that has been in contact with a child's mouth or with a utensil used by the child has been contaminated by microorganisms in the child's saliva and must be discarded.*

INSPECTION REPORT ITEM: "Food Storage and Preparation"

COMPLIANCE CRITERIA:

- *Spoiled or contaminated food is not present.*
- *Any mouthed or partially consumed food item or beverage is discarded.*

ASSESSMENT METHOD:

- *Observe food items to determine if any are spoiled or contaminated.*
- *Observe to determine which leftover food items, if any, are retained and which are discarded.*
- *If observation is not possible, interview facility staff to determine which leftovers are kept and which ones are thrown away.*

J. The operator shall send home or discard at the end of each day all opened containers of food brought from home for a child.

INTENT: Opened food brought from home may not have been prepared or contained in a sanitary manner and may harbor microorganisms that will contaminate other foods with which it is stored. In addition, if kept at the facility it may inadvertently be served the next day to a different child.

INSPECTION REPORT ITEM: "Food Storage and Preparation"

COMPLIANCE CRITERIA: *Food from home that has been opened or partly consumed either is discarded or goes back home with the child at the end of the day.*

ASSESSMENT METHOD:

- *Observe facility food storage units (pantry, refrigerator, freezer, etc.) to determine if home-brought food containers are present.*
- *Interview facility staff to determine what happens to these items, and when.*

.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.**

***INTENT:** All food preparation appliances and equipment must be operable, safe, and sanitary.*

***INSPECTION REPORT ITEM:** "Food Preparation Area and Equipment"*

***COMPLIANCE CRITERIA:** All appliances and equipment are clean, sanitary, and operate safely and properly.*

***ASSESSMENT METHOD:** Observe and, as necessary, test food preparation appliances and equipment to assess their cleanliness, safety, and operability.*

B. Food contact surfaces shall be nontoxic, smooth, in good repair, and free of breaks, open seams, cracks, pits, and similar imperfections.

***INTENT:** To prevent food contamination, food preparation surfaces must be safe and in good condition.*

***INSPECTION REPORT ITEM:** "Food Preparation Area and Equipment"*

***COMPLIANCE CRITERIA:** All food contact surfaces are safe and suitable for use in food preparation.*

***ASSESSMENT METHOD:** Observe food contact surfaces to assess their condition and suitability for safe food preparation.*

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.**

***INTENT:** Refrigeration equipment must be large enough to meet the facility's food refrigeration needs and able to maintain a proper temperature.*

***INSPECTION REPORT ITEM:** "Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA:

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- *Refrigeration equipment safely accommodates all items requiring refrigeration.*
- *Refrigeration equipment maintains a temperature of 40° F or less.*
- *Each refrigeration unit has a proper indicating thermometer.*

ASSESSMENT METHOD: *Observe the refrigeration equipment to determine if:*

- *There is sufficient safe capacity,*
- *The required temperature is maintained, and*
- *A proper indicating thermometer is present.*

D. All frozen food units shall be operated at 0° F or less, and shall be provided with an indicating thermometer.

INTENT: *Food freezers maintain proper freeze temperatures.*

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA: *Each freezer unit:*

- *Maintains a temperature of 0° F or less, and*
- *Has a proper indicating thermometer.*

ASSESSMENT METHOD: *Observe freezer units to determine if:*

- *The required temperature is maintained, and*
- *A proper indicating thermometer is present.*

E. Centers operating more than 4 consecutive hours shall provide refrigeration.

INTENT: *Since a center operating for 4 or more consecutive hours must provide meals and/or snacks (see §.12.01 Food Service), the center must be able to refrigerate food.*

INSPECTION REPORT ITEM: *"Food Preparation Area and Equipment"*

COMPLIANCE CRITERIA: *Suitable refrigeration equipment is present.*

ASSESSMENT METHOD: *Observe to determine if suitable refrigeration equipment is present.*

- F. Except in a small center or when only snacks are provided by the operator, a separate handwashing sink which is equipped with soap and paper towels shall be provided in or adjacent to each food preparation area. Food preparation and utensil washing sinks may not be used for handwashing.**

INTENT: If meals are prepared, there must be a separate, suitably equipped sink for handwashing that is not used for food preparation clean-up.

INSPECTION REPORT ITEM: "Food Preparation Area and Equipment"

COMPLIANCE CRITERIA: There is a separate sink for handwashing that is equipped with soap and paper towels.

ASSESSMENT METHOD: Observe to determine if a properly equipped handwashing sink is present.

- G. A cooking exhaust hood shall be provided when routine cleaning does not eliminate condensation or greasy film.**

INTENT: Condensation and grease provide unsafe and unsanitary conditions. If these cannot be eliminated by routine clean-up procedures after cooking, then a stove exhaust hood must be provided that will prevent condensation and grease residue from forming.

INSPECTION REPORT ITEM: "Food Preparation Area and Equipment"

COMPLIANCE CRITERIA: Either exterior stove surfaces are free of condensation and grease residue, or a cooking exhaust hood is present.

ASSESSMENT METHOD: Observe to determine if there is condensation or grease residue on exterior stove surfaces.

- H. 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.**

INTENT: Items used to prepare and serve food and drink must be cleaned and stored in a manner that prevents the growth of disease-producing organisms.

INSPECTION REPORT ITEM: "Food Preparation Area and Equipment"

COMPLIANCE CRITERIA: Equipment and utensils are cleaned and stored as required.

ASSESSMENT METHOD: Observe cleaning and storage procedures to determine if they meet OCC guidelines. If observation is not possible, interview facility staff to determine what procedures are used.

Note: Food preparation and service equipment and utensils should be cleaned and sanitized according to **OCC's "General Sanitation Guidelines"**.

.06 Infant Feeding.

A. The operator shall ensure that the written feeding schedule for an infant or toddler, as required by COMAR 13A.16.03.02D(1), is:

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

INTENT: At the time of admission of a child under 2-years-old, the operator must establish a written feeding regimen for the child in consultation with the parent. The regimen must include feeding times, types and amounts of food, and food progression and must address any medical recommendations regarding feeding. The established regimen must be followed, and it must be re-evaluated at least every 3 months or more often as necessary.

INSPECTION REPORT ITEM: "Infant Feeding"

COMPLIANCE CRITERIA: For each child under 2-years-old, a written feeding regimen:

- *Is established at the child's admission in consultation with the parent;*
- *Addresses all the required elements;*
- *Is implemented during each day that the child is in attendance; and*
- *Is re-evaluated in consultation with the parent at least every 3 months or more often as necessary.*

ASSESSMENT METHOD: Review the file of each child in care who is under 2-years-old to determine if a written feeding regimen is present that meets all listed compliance criteria.

Note: See Chapter .03, §.04K for guidance on maintaining records of infant and toddler feedings.

B. Infant Self-Feeding.

- (1) An infant shall be held for each bottle feeding except when the infant or toddler is developmentally able and insistent upon self-feeding.**
- (2) When an infant or toddler holds the bottle, the infant or toddler may do so only:**
 - (a) When seated; and**
 - (b) If the bottle is made of unbreakable material.**

INTENT: *Each infant must be held for feeding unless the child wants to self-feed and can do so safely. An infant may self-feed only when seated inside a crib or playpen and only if using an intact, non-breakable bottle.*

INSPECTION REPORT ITEM: "Infant Feeding"

COMPLIANCE CRITERIA:

- *Each infant is held for feeding unless the child wants to self-feed and can do so safely.*
- *Each self-feeding infant is seated inside a crib or playpen and uses only an intact, non-breakable bottle.*

ASSESSMENT METHOD:

- *Observe how, and by whom, each infant is fed.*
- *For each self-feeding infant, observe the infant's location and the type of bottle the infant is using.*

Note: *Microwave ovens may not be used to heat bottled formula because they heat liquids unevenly, which creates a scalding risk for infants.*

C. Except as specified by §D of this regulation, an operator may serve an infant or toddler 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 operator or the parent that are consumed the same day.**

INTENT: *A child who is under 2-years-old may only be served developmentally appropriate food and drink. Except for pre-bottled formula and pre-bottled breast milk, juice, or water provided by the child's parent, food must either be consumed by the child on the same day it is served.*

INSPECTION REPORT ITEM: "Infant Feeding"

COMPLIANCE CRITERIA:

- *Each child under 2-years-old receives only developmentally appropriate food and drink.*
- *Except for pre-bottled formula and pre-bottled breast milk, juice, or water from the infant's parent, served food is either consumed on the same day or discarded.*

ASSESSMENT METHOD

:

- *Observe the food and drink served to each child who is under 2-years-old to assess its developmental appropriateness.*

D. Only whole, pasteurized milk will be served to an infant or toddler 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. An operator shall ensure that:

- (1) **All infant foods and bottles are labeled with the infant'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 center;**
 - (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 infants and toddlers 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.**

INTENT: *Food consumed by infants is typically very rich in protein and therefore potentially hazardous if not prepared or stored properly. The operator must store all infant food promptly at proper temperatures, label and date all food intended for a given infant, ensure that bottle nipples are protected from contamination, and return reusable feeding equipment to each infant's parent every day. Food items that carry a high choking risk may not be served.*

INSPECTION REPORT ITEM: "Infant Feeding"

COMPLIANCE CRITERIA:

- *All food items kept for each under-2 child are dated and labeled with the infant's name.*
- *Potentially hazardous food is refrigerated promptly at 40° F or below, and is not warmed to consumption temperature until immediately before feeding.*
- *Bottle nipples are protected from contamination before use;*
- *Reusable nipples and bottles are rinsed and returned daily to the parent;*
- *Food items that carry a high choking risk are not be served.*

ASSESSMENT METHOD:

- *Observe infant food kept at the facility to determine if items are labeled, stored, and protected from contamination as required.*
- *Evaluate food items for choking risks.*

Notes:

- *Breast milk from one mother may be used only with that mother's own infant.*
- *Expressed breast milk should be discarded if it has been left unrefrigerated for an hour or more or used for a feeding that exceeds one hour from the start of the feeding. Unused expressed milk should be discarded after being refrigerated for 48 hours or after being frozen at 0° F for 3 months. Unused expressed milk that has been thawed in the refrigerator should be used within 24 hours. Frozen expressed milk should be thawed in a refrigerator or under cold running water.*



Child Care Center Licensing Manual

(August 2016)


for use with

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

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.01 Exclusion for Acute Illness.

A. Child care staff shall:

- (1) **Monitor a child 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.**

***INTENT:** To prevent the spread of illness and to protect all the children in care, facility staff must observe children for any signs of acute illness and promptly notify a child's parent if the child appears to be ill. A child in attendance who becomes acutely ill must be kept away from the other children and constantly monitored by facility staff until the child's parent can take the child home.*

***INSPECTION REPORT ITEMS:** "Exclusion for Acute Illness"*

COMPLIANCE CRITERIA:

- *Parental notification:*
 - *Each child is monitored throughout the day for signs of illness.*
 - *If a child shows any signs of acute illness, the child's parent or other authorized adult is promptly notified and requested to take the child home.*
- *Isolation area:*
 - *An acutely ill child is isolated in a suitable area away from the other children and kept under sight-and-sound staff monitoring.*

***ASSESSMENT METHOD:** If the facility has a procedure regarding acutely ill children, review it to determine whether it reflects the requirements of this regulation. As needed, interview facility staff to determine how acute illness situations are handled and where the isolation area is located. If acute illness episodes have occurred, review applicable child records for evidence of parent notification.*

B. Except in centers for children with acute illness, an operator may not admit a child to care or allow a child to remain in care when the child is exhibiting symptoms of acute illness.

***INTENT:** An acutely ill child requires closer observation and care and may be a source of contagion for other children in care; therefore, the operator may not allow a sick child to attend care unless OCC has approved the facility to provide care for acutely ill children. (See Chapter .13 in this Manual for requirements regarding approval of centers for children with acute illness).*

INSPECTION REPORT ITEM: *“Exclusion for Acute Illness”*

COMPLIANCE CRITERIA:

- *There are no acutely ill children in attendance, or*
- *If in attendance, an acutely ill child is separated from the other children, closely monitored by a responsible adult, and is waiting to be picked by the child’s parent or other authorized adult.*

ASSESSMENT METHOD:

- *Observe to determine if any acutely ill child is present.*
- *If an acutely ill child is present, observe to determine if the child is maintained separate from the other children.*

Notes:

- *For help in identifying signs of acute illness, see **“Signs of Illness in Children”**.*
- *A history of seizures that are not related to acute illness is not grounds for exclusion from care.*
- *It is recommended that the operator inform parents at the time children are enrolled and again at the time they are first admitted of the requirement to exclude children for acute illness. The operator is encouraged to include a statement to that effect in whatever written agreement or service contract is used for child enrollment purposes.*

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.

INTENT: *An illness requiring a child to be kept out of care for 3 or more days is serious enough to require a written statement that the child is well enough to return to care. This requirement helps protect the facility operator and staff as well as the other children in care.*

INSPECTION REPORT ITEM: *“Exclusion for Acute Illness”*

COMPLIANCE CRITERIA: *For each occurrence of a child’s absence for at least 3 days due to illness, there is a written statement from the child’s parent or physician that the child is well enough to return to regular care.*

ASSESSMENT METHOD: Interview facility staff to determine if any children have been re-admitted after illness absences of 3 or more days, then review applicable child records to determine if the required statements have been submitted.

.02 Infectious and Communicable Diseases.

- A. An operator 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.**

INTENT: A “reportable communicable disease” is any one of a group of highly infectious or contagious illnesses classified by the Maryland Department of Health and Mental Hygiene (DHMH) as serious threats to public health that must be identified, isolated, and treated immediately. For this reason, any incidence of these diseases must be reported to the local health department immediately.

INSPECTION REPORT ITEM: “Infectious and Communicable Diseases”

COMPLIANCE CRITERIA: Immediately upon learning that a child enrolled in care or a facility employee has or may have a reportable disease, the operator contacts the local health department.

ASSESSMENT METHOD: Interview facility staff as necessary to determine if there has been an incidence of a reportable disease, then review facility records for evidence that the required report was made.

Notes:

- There are currently almost seventy diseases classified by DHMH as “reportable.” The occurrence of any of these diseases must be reported immediately to the local health department, and some of them must be reported telephonically. A complete list of reportable diseases and the reporting requirements pertinent to facility operators are set forth in **“COMAR 10.06.01 – Communicable Diseases and Related Conditions of Public Health Importance”**.
- Operators may obtain additional information about reportable diseases and reporting requirements from the DHMH Epidemiology and Disease Control Program website, www.edcp.org – click on the “Reportable Diseases” tab, or by calling the local health department.

- B. Except in centers for children with acute illness, an operator 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.

INTENT: *Exclusion from care for a specified period due to having a specified communicable disease is necessary to protect the health of other children in care.*

INSPECTION REPORT ITEM: *“Infectious and Communicable Diseases”*

COMPLIANCE CRITERIA: *Unless approved in writing by a physician to return to care sooner, no child with one of a specified group of communicable diseases is returned to care until the recommended period of exclusion from care has been completed.*

ASSESSMENT METHOD:

- *Observe to determine if any child with signs of a transmissible infection or communicable disease is in attendance.*
- *Interview facility staff to determine if and how a child known or believed to be in the communicable stage of an infection or disease is kept out of care.*
- *Review facility records to determine if a copy of the **DHMH “Communicable Disease Summary”** is present for facility staff reference.*

Notes:

- *Under the Americans with Disabilities Act (ADA) of 1990, persons with certain health/medical conditions (e.g., HIV/AIDS) are considered to have a disability and may not be denied admission to care, or continuation in care solely on the basis of that disability. For more information about ADA requirements as they may apply to the facility, refer to **“Child Care and the ADA”**.*
- *Confidentiality should be maintained at all times. The child’s physician is not required to disclose information to any caregiver without written release of information from a parent or guardian.*
- *Facility staff should always take appropriate precautions whenever coming into contact with blood or other bodily fluids or excretions, or with items that have been contaminated with such substances.*
- *For infection control precautions and measures that OCC expects all child care programs to use, see **“General Sanitation Guidelines”**.*

.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 a center employee, volunteer, or 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.**

***INTENT:** To prevent the spread of infection and illness, adults and children must wash their hands properly after touching potentially contaminated items or substances.*

***INSPECTION REPORT ITEM:** "Preventing Spread of Disease"*

COMPLIANCE CRITERIA:

- *Each employee and each child practices frequent handwashing.*
- *Soap and warm running water are used to wash hands, when available; or, a hand sanitizer is used for children who are 2-years-old or older.*
- *Staff members wash the hands of children who are not capable of washing their own hands, as required, using soap and warm running water.*
- *Staff members always wash their hands after changing diapers.*
- *No one washes hands in a food service/preparation sink to keep germs away from food.*
- *Facility personnel always follow OCC's approved handwashing procedure (see "**Handwashing Procedure**").*

***ASSESSMENT METHOD:** Observe how and when hands are washed. If observation is not possible, interview facility personnel to determine how, when, and where handwashing is done.*

Notes:

- *Animals, including pets, are a potential source of disease. Not only must hands be washed after handling animals, the center must take precautions to prevent the occurrence of disease through animal-related contamination of food areas and the lack of proper pet sanitation. See "**Animals in Child Care Facilities**" for guidance on maintaining pets and other animals in a child care facility.*

- *Hand sanitizing gels may be used only during off-site activities and similar situations when soap and water are not available. Ethyl alcohol is the active ingredient in most sanitizing gels. The gels often have more than 80% alcohol content, which is higher than normally found in hard liquors. Hand sanitizing gels, therefore, have the potential for toxicity in very young children and infants who explore their world through hand-mouth activities. Because children frequently place their hands in their mouths, they could be poisoned through the ingestion of even small amounts of hand sanitizers. Ingestion of as little as an ounce or two by a small child could be fatal, so hand sanitizers must be kept out of the reach of children and used with great caution.*

C. Diapering shall be performed in accordance with a written diapering procedure approved by the office.

***INTENT:** Diapering is an obvious source of contamination that presents risk of disease. To reduce this risk, hygienic diapering procedures must be followed at all times.*

***INSPECTION REPORT ITEM:** “Preventing Spread of Disease”*

COMPLIANCE CRITERIA:

- *OCC’s approved diapering procedure, **“Procedure for Diapering a Child”**, is posted above or near each diapering area; and*
- *Facility staff always follow the approved procedure.*

ASSESSMENT METHOD:

- *Observe diapering to determine if it is done according to the approved procedure.*
- *If observation is not possible, interview facility staff to determine the procedure used for diapering.*

Notes:

- *To help prevent the spread of disease, it is recommended that facility staff wear single-use disposable gloves during diapering. The gloves should be discarded immediately after diapering, and hands should be washed according to the approved handwashing procedure.*
- *Since some people are sensitive to latex, consideration should be given to using disposable vinyl gloves.*

.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 at the center before the medication is administered; and**
 - (b) **A licensed health practitioner has approved the administration of the medication and the medication dosage.**

INTENT: To prevent the unnecessary and inappropriate administration of prescription and nonprescription medication.

INSPECTION REPORT ITEM: "Medication Administration and Storage"

COMPLIANCE CRITERIA: Unless exempted or approved, a nonprescription medication is given only once per illness.

ASSESSMENT METHOD: Observe how nonprescription medication is administered. Review medication administration records to determine if the nonprescription medication is administered according instructions and that the first dose has not been administered while child was in care.

Note:

Nonprescription medication is over-the-counter medication that is prescribed by a physician to be administered to a child. "Over-the-counter Medication" are products found on store shelves which may be purchased by the general public without a prescription from a physician. For example, a physician may prescribe "Tylenol" for a child which is over-the-counter medication purchased by the general public.

- (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";**

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- (h) **The duration of the prescription; and**
- (i) **An expiration date that states when the medication is no longer useable.**

INTENT:

- *Medication may be administered to a child only if there is prior written, signed permission from the child's parent.*
- *Prescription medication may be administered only if the medication is properly labeled and has not expired, and the parent has already given the medication to the child to be sure that the child will not have an adverse reaction.*

INSPECTION REPORT ITEM: *"Medication Administration and Storage"*

COMPLIANCE CRITERIA:

- *Before giving medication to a child, the facility has on file for that child a completed, signed **"Medication Authorization Form", OCC form 1216**, or an equivalent document which contains all information as required on the OCC form 1216.*
- *Each prescription medication:*
 - *Is properly labeled by a physician or pharmacy and is current, and*
 - *Has already been given to the child by the parent.*

ASSESSMENT METHOD:

- *For each child receiving medication, review the child's file to determine if a "Medication Authorization Form" (or an equivalent document) is present and when it was received.*
- *For each child receiving prescription medication:*
 - *Examine the medication to determine if the medication is properly labeled and not expired.*
 - *Review the child's file for evidence of initial administration by the parent.*

Notes:

- *If the prescription medication is properly labeled, the Medication Administration form does not have to be completed or signed by the physician. The information from the medication label could be noted on the medication administration form in the "Prescribers" section, with the parent/guardian completing the "Parent/Guardian Authorization" portion*

of the form. Or, the provider could create a form to note the prescription information and parental authorization.

- *While there is a place for a child's picture on the Medication Administration form, the child's picture is not required.*

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.

Notes:

- *Diaper rash products, sunscreen, and insect repellent are considered "Basic Care Products" not nonprescription medications. They are referred to as "Topical Applications" because they are applied on the child's skin and not taken internally. An individual does not need to have taken "Medication Administration" training to apply basic care/topical products on a child.*
- *A parent may not give a provider a "home-made" product to use on the child. The product must be clearly labeled with a product name and instruction for use.*

C. Medication shall be administered according to the instructions on the label of the medication container or a licensed health practitioner's written instructions, whichever are more recently dated.

INTENT: Because a child's medication dosage or schedule may change, the medication must be given according to the most recent written instructions.

INSPECTION REPORT ITEM: "Medication Administration and Storage"

COMPLIANCE CRITERIA: Each medication is given according to current instructions.

ASSESSMENT METHOD: Observe to determine if medication is given as instructed. If observation is not possible, review the child's file and medication to determine if the medication is being given according to the written instructions.

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.**

INTENT: Each time medication is given, a record must be made of what was given, who gave it, and when. The staff member trained in medication administration who

administered the medication, must complete the log attached to the **“Medication Authorization Form”, OCC form 1216.**

INSPECTION REPORT ITEM: “Medication Administration and Storage”

COMPLIANCE CRITERIA: For each child receiving medication, a complete entry is made in the child’s file each time medication is given.

ASSESSMENT METHOD: Review of the child’s file to determine if complete entries have been made.

Note: Child care staff must document each instance of a child self-administering medication. Using the Medication Administration Log, document the date, time and reason the medication was administered.

- (2) **Application of a diaper rash product, sunscreen, or insect repellent supplied by a child's parent shall be recorded in the child’s record.**

Notes:

- A topical basic care product brought in by the parent **does not have to be recorded each time it is applied on the child’s body.** For example, the product could be recorded in the child’s record upon receipt from the parent/guardian, noting the date and the name of the product, and stating how the product is used, i.e., “The product is applied daily on the child”. If the parent/guardian changes the product, note in the child’s record, the name of the new product, the date received and how it is used.
- The “Medication Administration Log” should not be used for this purpose.
- Any method most convenient for the child care provider to record the application of topical products in the child’s record is acceptable.

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 employee designated by the operator to administer medication.**

***INTENT:** In addition to keeping medications inaccessible to children, the operator must ensure that all child medications are stored properly.*

***INSPECTION REPORT ITEM:** “Medication Administration and Storage”*

***COMPLIANCE CRITERIA:** Child medications are stored to maintain their potency.*

***ASSESSMENT METHOD:** Observe to determine if medications are stored according to the medication’s label instructions.*

Note: Medications requiring refrigeration must be stored in the center’s refrigerator.

F. Effective July 1, 2011:

- (1) **Whenever children in care are present, there shall be at least one center employee present who has completed medication administration training approved by the office.**
- (2) **Medication may be administered to a child in care only by an employee who has completed approved medication training.**

***INTENT:** Only individuals who have received approved medication administration training may administer medication to a child in care and there must be at least one such individual present at the center when enrolled children are present.*

***INSPECTION REPORT ITEM:** “Medication Administration and Storage”*

***COMPLIANCE CRITERIA:** The only staff members who administer medication to children in care are those individuals who have completed medication administration training that has been approved by the office and at least one such trained staff member is present at the center when children in care are present.*

ASSESSMENT METHOD:

- *Review staff training documentation to determine which staff members have completed an approved medication administration training.*
- *Review the center’s Staffing Pattern to determine if at least one such trained staff member is scheduled to be present during the operational hours of the center.*

- *Whenever possible, observe the administration of medicine to a child and verify if the individual administering the medication has had the approved medication administration training.*

Note: *If at any time, a life threatening medical crisis occurs, such as a child having an asthma or allergy attack, and a staff person who has taken medication administration is not available, the appropriate medication may be administered by a staff person to save the child's life.*

G. Section F of this regulation shall not apply if:

- (1) **The center employs a registered nurse, licensed 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 center employee 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, the operator 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;**

INTENT: *To allow school-age children only who use inhalers and epi-pens to self-carry and self-administer these medications. No other medications may be self-administered.*

Note: *The **"Asthma Action Plan"** and/or the **"Allergy Action Plan"** may be used in lieu of the OCC 1216 Medication Administration Authorization Form for children who will self-carry/self-administer medication for asthma and/or allergies.*

- (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.**

INTENT: *Once the parent and provider develop the procedures, the provider must authorize the child to self-administer the medication.*

- (2) **Revocation of Authorization to Self-Administer.**
 - (a) **An operator 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 operator shall notify the child's parent of that revocation.**
 - (c) **The operator shall document the revocation of authorization to self-administer and the notification to the child's parent in the child's record.**

INTENT: *If a child does not follow the procedures appropriately, a provider may revoke the authorization and must note the reasons for the revocation in the child's record. If authorization is revoked, the provider must take responsibility for having the medication administered to the child.*

.05 Smoking.

A. Except as specified in §B of this regulation, smoking is prohibited:

- (1) **At all times in any indoor area of a child care center; and**
- (2) **During the center's hours of operation, in any outdoor area of the center which is approved for child care use.**

INTENT for (1) and (2) above: *Inhalation of second-hand smoke is a health hazard for children.*

INSPECTION REPORT ITEM: "Smoking"

COMPLIANCE CRITERIA:

- *There is no smoking inside the facility at any time by any person.*
- *During the hours of operation, there is no smoking by any person in any outdoor area approved for child care or any off-site area where a program activity is occurring.*

ASSESSMENT METHOD: *Observe for any sign that smoking inside the facility or outside in any approved area may be occurring or has occurred. Interview facility staff to obtain information about smoking at off-site areas.*

B. In a small center located in a private residence, smoking is prohibited during the center's hours of operation in any indoor or outdoor area approved for child care use.

INTENT: *Inhalation of second-hand smoke is a health hazard for children.*

INSPECTION REPORT ITEM: "Smoking"

COMPLIANCE CRITERIA: *During the hours of operation, there is no smoking by any person in any indoor or outdoor area approved for child care or where a program activity is occurring.*

ASSESSMENT METHOD: *Observe for any sign that smoking inside the facility or outside in any approved area may be occurring or has occurred. Interview facility staff to obtain information about smoking at off-site areas.*

.06 Alcohol and Drugs.

An operator may not allow the consumption of alcoholic beverages or use of illegal or non-prescribed controlled dangerous substances:

- A. On the center premises during the center's hours of operation; or**
- B. By an employee or a volunteer during an off-site program activity.**

***INTENT:** The operator is responsible for ensuring the health, safety, and welfare of each child in attendance. Consumption of alcohol or drugs is likely to impair a person's ability to provide safe and appropriate child care. Consumption of any such substance by any person on the center premises during the facility's operating hours, or during any off-site program activity, is strictly prohibited.*

***INSPECTION REPORT ITEM:** "Alcohol and Drugs"*

***COMPLIANCE CRITERIA:** There is no consumption of alcohol or drugs by any person during the hours of operation, whether on facility premises or off-site during a program activity.*

***ASSESSMENT METHOD:** Observe for any sign that may indicate the consumption of alcohol or drugs during operating hours. Interview facility staff to obtain additional information, as needed.*



Child Care Center Licensing Manual

(August 2016)


for use with

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

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.01 Emergency Safety Requirements.

A. Emergency and Disaster Plan.

- (1) **At least one center employee 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 center.**
- (2) **The operator 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 center, 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 center.**

***INTENT:** In case of an emergency or a disaster, an approved emergency disaster plan must be in place with emergency escape route floor plans posted throughout the facility. Evacuation drills must occur regularly so that all staff and children can evacuate promptly and safely and proceed to an alternate sheltered location.*

***INSPECTION REPORT ITEM:** "Emergency Escape Route Posted"*

COMPLIANCE CRITERIA:

- *Emergency disaster plan*

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- *The facility has an emergency disaster plan that has been approved by the training organization.*
- *The plan specifies an alternate sheltered location.*
- *The plan is practiced by staff and children at least twice a year.*
- *Fire evacuation plan*
 - *Fire evacuation escape route is posted.*
 - *A written log or similar document is maintained that records the date and time of each fire evacuation drill.*
 - *Fire evacuation drills occur at least monthly.*

ASSESSMENT METHOD:

- *Verify that the facility has an approved emergency plan that is signed by the training organization.*
- *Observe to determine if the fire evacuation route is posted.*
- *Review facility records for evidence that disaster and fire evacuation drills are practiced as required.*

Note: *See sample log to document fire evacuation drills, “**Fire Drill Record**”.*

- (5) **Each employee 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 operator 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 center and determine the presence of each child currently in attendance.**

INTENT: *Facility staff must be able to verify after a facility evacuation that all children in attendance are present and accounted for.*

INSPECTION REPORT ITEM: *“Emergency Safety Requirements”*

COMPLIANCE CRITERIA: *During each facility evacuation, a staff member brings along the current child attendance record.*

ASSESSMENT METHOD: *Observe an evacuation to determine if attendance records are brought along. If observation of an evacuation is not possible, interview facility staff as necessary to determine if the records are brought along.*

- B. If the child care center is included within a comprehensive emergency and disaster plan, the center operator 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.**
- C. An operator shall post, immediately accessible to each telephone in the center, a notice stating the:**
- (1) 9-1-1 emergency telephone number to summon fire, police, and rescue services;**
 - (2) Center'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.16.08.02D(3); and**
 - (7) Telephone number of the office.**

***INTENT:** Written emergency contact information must be posted by each telephone so that it is immediately available for reference by facility staff in the event of an emergency.*

***INSPECTION REPORT ITEM:** "Emergency Contact Information"*

***COMPLIANCE CRITERIA:** The required contact information is posted by each telephone, easily visible, and legible.*

***ASSESSMENT METHOD:** Observe to determine if and where the required information is posted.*

***Note:** See sample emergency contact information form, "**Center and Other Emergency Numbers**".*

.02 First Aid and CPR.

- A. At all times, including during an off-site activity, at least one child care teacher or the director 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 center 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 center is approved.**

INTENT: *A child care center must be prepared at all times to give appropriate emergency assistance to a child in care who becomes injured or needs resuscitation.*

INSPECTION REPORT ITEM: *“First Aid and CPR”*

COMPLIANCE CRITERIA:

- *There is at least one center employee present at all times who is currently certified in approved first aid and CPR. (See list of approved sources under Notes below).*
- *Both certifications are appropriate to all ages of children approved for care in the center.*
- *The CPR certificate states “successful completion” of requirements.*

ASSESSMENT METHOD:

- *Identify the certified employee(s) present at the time of inspection and verify that both of the person's certifications are current and appropriate.*
- *Review the current staffing pattern and activity schedule to determine whether a properly certified employee is present at all other times (including during off-site activities).*

Notes:

The approved first aid and CPR certification sources shown below were current as of the date this Manual was completed. It is possible that additional certification sources may have been approved since then. If an operator is considering enrolling one or more center employees in a first aid or CPR course that is certified by a source not listed below, the operator should first check with the OCC Regional Office to determine if that source is approved by OCC.

- *First aid training – currently approved certification sources include the following:*
 - *American Lifeguard Association*
 - *American Red Cross*
 - *American Safety and Health Institute*
 - *Anne Arundel Community College*
 - *E.M.S Safety Services*
 - *EMT Certification*

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- *Medic First Aid*
- *National Safety Council*
- *URSUS Lifesavers and Aquatics*
- *CPR training – currently approved certification sources include the following:*
 - *American Heart Association*
 - *American Lifeguard Association*
 - *American Red Cross*
 - *American Safety and Health Institute*
 - *E.M.S. Safety Services*
 - *EMT Certification*
 - *Medic First Aid*
 - *National Safety Council*
 - *URSUS Lifesavers and Aquatics*

See a composite list of ***“Approved CPR/First Aid Training”***.

- B. A center with an approved capacity of more than 20 children shall have in attendance, in a ratio of at least one staff member for every 20 children present, staff members who are currently certified in approved first aid and CPR as specified at §A of this regulation.**

INTENT: *Larger numbers of children increase the likelihood that two or more children may experience an emergency at the same time; therefore, it is necessary to have a sufficient number of properly certified staff present to ensure that multiple emergencies can be attended to immediately.*

INSPECTION REPORT ITEM: *“First Aid and CPR”*

COMPLIANCE CRITERIA: *In a center with an approved capacity of more than 20 children, there is at least one properly certified staff member for every 20 children present (including children participating in an off-site activity), or fraction thereof.*

ASSESSMENT METHOD: *After identifying the certified staff member(s), observe to verify that the required ratio is met. If observation is not possible, review the staffing pattern and activity chart to verify that the required ratio is met.*

- C. Whenever a child in care is being transported under center auspices to or from the center, 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.**

INTENT: *The greater the number of active preschoolers, the greater the chance of an accidental child injury. The presence of a properly certified adult allows the child to be attended to immediately while the other adult maintains supervision of the other children.*

INSPECTION REPORT ITEM: *“First Aid and CPR”*

COMPLIANCE CRITERIA: *There is at least one properly certified adult present as required when children are in care are being transported.*

ASSESSMENT METHOD: *Review facility records (staffing pattern, activity schedule, personnel list, CPR/First Aid certifications, etc.) and interview staff as necessary to determine the assignment of properly certified staff to transportation events involving more than eight more preschoolers.*

Note: *Whenever a CPR/first aid-certified adult is required to be present in the vehicle, there should also be a properly equipped first-aid kit in 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 center operator to assist in transporting children in care.**
- E. An operator shall maintain first aid supplies as required by the office, conveniently accessible for each group of children at the center and at an off-site activity.**

INTENT: *There must be an adequate supply of appropriate first aid supplies immediately available at all times for use in the event of injury to a child.*

INSPECTION REPORT ITEM: *“First Aid and CPR”*

COMPLIANCE CRITERIA:

- *There is a first aid kit maintained at the center which contains all items required by the office and which is readily accessible to center staff.*
- *Either this kit is portable for off-site activity use, or there is another similarly equipped kit for off-site use.*

ASSESSMENT METHOD:

- *Observe to verify the existence of the first aid kit, the appropriateness of its contents, and its accessibility to center staff.*
- *If a similar kit is maintained for off-site use, conduct similar observations with regard to that kit.*

Notes:

- Items required by the office are specified in the **"First Aid Supply List"**.
- Syrup of ipecac should not be maintained at the facility and may not be given to a child to encourage vomiting after swallowing a poisonous substance. Vomiting will usually not help a child who may have been poisoned. Also, syrup of ipecac may interfere with the effectiveness of other anti-poisoning treatments currently used in many hospital emergency rooms.
- If a child ingests a toxic substance, center staff should immediately call the Maryland Poison Control Center (1-800-222-1222).
- If a child is convulsing, has stopped breathing, or has become unconscious, center staff should immediately call 911.

.03 Safe Use of Materials and Equipment.

The operator 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 employee and each child in attendance; and
- B. As applicable, in accordance with manufacturer instructions or recommendations.

INTENT: To ensure safeguards and minimize injury to children in care, indoor and outdoor furnishings, activity materials, and equipment must be used in a safe manner according to manufacturer's instructions and recommendations.

INSPECTION REPORT ITEM: "Safe Use of Materials and Equipment"

COMPLIANCE CRITERIA: All indoor and outdoor furnishings, activity materials, and equipment are used by staff and children in a safe manner and in accordance with manufacturer's instructions and recommendations.

ASSESSMENT METHOD: Observe to determine if staff and children use indoor and outdoor furnishings, activity materials, and equipment in a safe manner and follow manufacturer's instructions and recommendations.

Note: For expanded information regarding playground safety, (including fall zones, swing spacing, potential head entrapment hazards, and playground maintenance), see **"Playground Safety"**, and **"Playground and Water Safety Guidelines"**.

.04 Potentially Hazardous Items.

- A. An operator 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.**

***INTENT:** To help protect children in care from accidental harm, the operator must ensure that they do not have access to potentially hazardous items.*

***INSPECTION REPORT ITEM:** “Potentially Hazardous Items”*

***COMPLIANCE CRITERIA:** If kept in or near the approved child care area, potentially hazardous items such as, but not limited to, the items cited in §B-E of this regulation are stored in a way that prevents each child in care from gaining access to them.*

***ASSESSMENT METHOD:** Observe how and where potentially harmful items are stored to determine if they are accessible to any child.*

***Note:** Potentially harmful items may not be stored on or with children's equipment or activity Items.*

- B. Petroleum and flammable products shall be stored in an approved manner.**

***INTENT:** Flammable products are an obvious source of risk and must be stored properly to prevent accidental injury or death. They must be secured from child access at all times.*

***INSPECTION REPORT ITEM:** “Potentially Hazardous Items”*

***COMPLIANCE CRITERIA:** All petroleum and flammable products are stored in appropriate containers that are secured from access by children.*

***ASSESSMENT METHOD:** Observe how and where petroleum and flammable products are stored.*

***Note:** Questions related to appropriate containers and locations for storing petroleum and flammable products should be directed to the local fire authority.*

- C. Cleaning and sanitizing agents and poisonous products shall be stored apart from food and beverages.**

***INTENT:** Cleaning agents and other toxic substances are an obvious source of risk and must be stored properly to prevent accidental poisoning. They must be kept apart from food and beverages and secured from child access at all times.*

INSPECTION REPORT ITEM: “Potentially Hazardous Items”

COMPLIANCE CRITERIA: All cleaning agents and poisonous products are stored away from food, in original labeled containers, and out of the reach of children.

ASSESSMENT METHOD: Observe how and where cleaning agents and other toxic substances are stored.

D. Containers of poisonous products may not be kept on the premises unless they are labeled clearly as to nature, content, and approved purposes.

INTENT: Toxic products and substances are prohibited from the premises unless they are clearly and specifically labeled.

INSPECTION REPORT ITEM: “Potentially Hazardous Items”

COMPLIANCE CRITERIA: Each container of a toxic product or substance that is present is legibly labeled as to nature, content, and approved purposes

ASSESSMENT METHOD: Determine if toxic products are maintained on-site. If they are, observe their containers to determine if and how they are labeled.

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.**

INTENT: Pesticides are extremely toxic substances that present an obvious risk to safety and health. They are prohibited from the facility unless EPA-approved and used as directed by the manufacturer. A pesticide may never be used when children in care are in attendance. All pesticides must be stored separately, and must be secured from access by children.

INSPECTION REPORT ITEMS: “Potentially Hazardous Items”

COMPLIANCE CRITERIA:

- *No pesticide is used or present unless it is EPA-approved.*
- *A pesticide is used only when no children are in attendance.*

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- *Any pesticide maintained on-site is stored apart from all food, beverages, and related preparation or service items (pots and pans, dishes, utensils, etc.) and apart from all chemical products such as cleaning agents.*
- *Any pesticide maintained on-site is stored away from approved care areas and in a manner that secures it from access by children.*

ASSESSMENT METHOD:

- *Interview the Director and facility staff as needed to determine if, how, and when pesticides are used.*
- *Observe to determine if, how, and where pesticides are stored.*

F. Each electrical socket that is accessible to children in care shall be plugged or capped as required by the applicable fire code.

***INTENT:** To prevent inquisitive young children from serious injury or death from electrical shock, each electrical socket within reach of any child under 5-years-old must be suitably capped or covered.*

***INSPECTION REPORT ITEM:** “Potentially Hazardous Items”*

***COMPLIANCE CRITERIA:** Each electrical socket within reach of any child under 5 years old is capped or covered.*

***ASSESSMENT METHOD:** Observation of each socket in each area approved for care of children less than 5 years old.*

G. Except in a small center located in a residence, a firearm may not be kept on the premises.

H. In a small center located in a residence where a firearm is maintained, 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.**

***INTENT:** Unless the facility is housed within a private dwelling, the presence of a firearm anywhere on the premises is strictly prohibited. In a residence-based small center, a firearm may not be located anywhere in the approved care area. It must be stored in a manner that secures it from unauthorized access and prevents it from being accidentally discharged.*

***INSPECTION REPORT ITEM:** “Potentially Hazardous Items”*

COMPLIANCE CRITERIA:

- *No firearm is present on the premises of a facility that is not a residence-based small center.*
- *If a firearm is maintained on the premises of a residence-based small center, it is unloaded, partially disassembled, and kept in a locked container that is outside of the approved care area of the residence.*
- *Ammunition is stored apart from the firearm and is kept in a locked container that is also located away from the approved care area.*

ASSESSMENT METHOD:

- *In any facility, ask the Director if there is a firearm on the premises.*
- *In a residence-based small center, if the operator or Director reports that a firearm is present, interview the person to determine how and where the firearm and its ammunition are stored.*

I. 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.**

INTENT: To eliminate the choking hazard presented by unsecured cords, beads, ropes, or strings that may be attached to window coverings, such hazardous items must be secured, if present in the child care facility.

INSPECTION REPORT ITEM: “Potentially Hazardous Items”

COMPLIANCE CRITERIA:

- *There are no unsecured cords, beads, ropes, or strings attached to window coverings in the child care facility.*
- *All window coverings installed after October 1, 2010 are cordless.*

ASSESSMENT METHOD:

- *Observe all window coverings to determine if any cords, beads, ropes, or strings attached to window coverings are secured.*
- *Observe all window coverings installed after October 1, 2010 to determine if they are cordless.*

Note: For examples of securing window coverings see **“Window Covering Guidelines”**

.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.**

INTENT: Young infants and children who cannot roll themselves over are at increased risk of smothering or Sudden Infant Death Syndrome (SIDS) if they are allowed to sleep on their stomachs; therefore, they must be placed on their backs for sleep.

INSPECTION REPORT ITEM: "Rest Time Safety"

COMPLIANCE CRITERIA: Unless the center has written instructions to the contrary from a child's physician, each child is placed on his/her back for sleep if the child:

- Is younger than 12-months-old, or
- Cannot roll over without assistance.

ASSESSMENT METHOD: Observe the sleep position of each child who is less than 12-months-old or who cannot roll over without assistance. If observation is not possible, interview facility staff to determine how children are placed 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.**

INTENT: Any device that restricts a child's movement during sleep is a potential safety hazard for the child and is prohibited unless medically required.

INSPECTION REPORT ITEM: "Rest Time Safety"

COMPLIANCE CRITERIA: A movement-restricting positioning device is not used with any resting child without written authorization from the child's physician.

ASSESSMENT METHOD: Observe resting children to determine if any restrictive device is being used. If such a device is in use, review the applicable child's facility record to determine if written medical authorization is present.

Note: OCC construes "portable crib" to mean only "non-full sized crib." Collapsible cribs (such as those with mesh siding) may not be used due to child safety risks.

.06 Transportation.

- A. **Unless being transported in a licensed 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.**

***INTENT:** Whenever transporting children in vehicles other than a school bus or contract motor coach, the operator must ensure that each child is properly secured as required by Maryland's Child Passenger Safety Law.*

***INSPECTION REPORT ITEM:** "Transportation"*

***COMPLIANCE CRITERIA:** The vehicle used to transport children must be equipped with seat belts and age-appropriate car seats as specified by Maryland law (see Notes below).*

***ASSESSMENT METHOD:** Observe the vehicle(s) used for transportation to ensure that seat belts and safety seats are present as required. As needed, interview facility staff to determine whether the seats and belts are used as required.*

Notes:

- Maryland's Child Passenger Safety Law, §22-412 of the Transportation Article, Annotated Code of Maryland, requires that:
 - Each child must be secured in a child safety seat if the child:
 - ❖ Is younger than 6-years-old, regardless of the child's weight; or
 - ❖ Weighs 40 pounds or less, regardless of the child's age.
 - If the child is younger than 16-years-old and weighs more than 40 pounds, he or she must be secured in a child safety seat or seat belt.
 - Child safety seats must be installed in accordance with the safety seat and vehicle manufacturer's instructions.
 - The child is considered "secured" only if the safety seat or seat belt is used in accordance with the instructions of the safety seat manufacturer or the vehicle manufacturer.
 - A safety seat or seat belt may not be used to secure more than one child at a time.
- OCC strongly discourages purchasing child safety seats at yard sales, garage sales, flea markets, etc., because there is no way of determining if the seats function properly, or have been damaged in some way that would make them unsafe for use.

- For information about choosing and using child safety seats, refer to ***“Maryland Kids in Safety Seats (K.I.S.S.)”***; ***“One Minute Safety Seat Checklist”***; and, ***“Maryland’s Child Passenger Safety Law”***.
- Call Maryland Kids in Safety Seats (***Maryland KISS***) at ***410-767-6016*** or ***1-800-370-SEAT***, or log on to **www.mdkiss.org** to obtain additional information on selecting or using child safety seats.

B. A vehicle used to transport a child in care shall comply with all applicable State and federal safety requirements.



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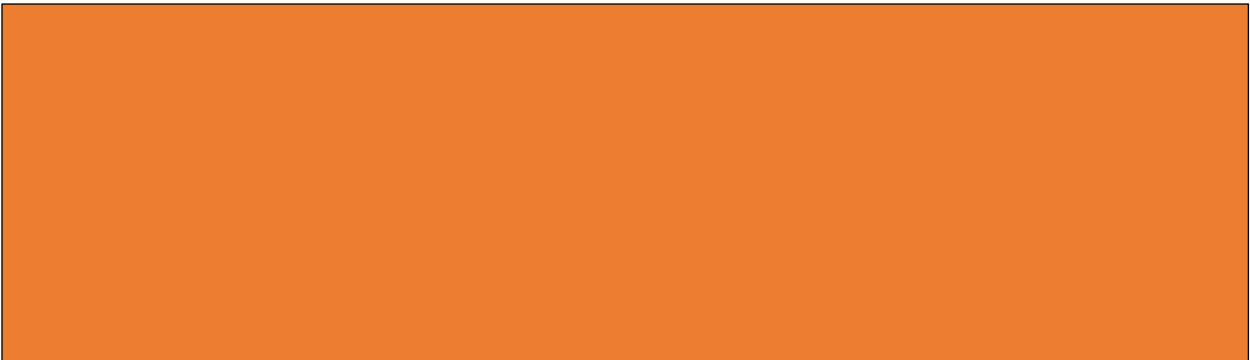
COMAR 13A.16. Child Care Centers

(as amended effective 7/20/15)

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.01 Schedule of Daily Activities for All Children.

A. The operator 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.**

INTENT: *For each care day, the center must have a written schedule that provides activities that meet each child's individual and developmental needs while also allowing the child to engage in spontaneous activities and relationships.*

INSPECTION REPORT ITEM: *"Schedule of Daily Activities"*

COMPLIANCE CRITERIA:

- *A written daily activity schedule is posted in each room or group.*
- *The schedule includes time periods for activities that:*
 - *Promote social, intellectual, emotional, and physical growth (see details below under Notes),*
 - *Provide activity choice and activity balance (see details below under Notes), and*
 - *Unless precluded by bad weather, include twice-daily outdoor periods.*

ASSESSMENT METHOD:

Observe to determine if:

- *A current, written activity schedule is posted, and*
- *The schedule includes time periods for activities that meet the compliance criteria listed above.*

Notes:

- *Each child develops at his or her own pace; however, there are general developmental characteristics that children typically demonstrate at certain age levels. See "**Developmental Characteristics**", for information about these age*

levels, and for some suggestions regarding toys and equipment appropriate to each age grouping.

- A resource of activities designed to promote child development is included. See ***“Suggested Daily Activities”***.
- It is the responsibility of the parents to make sure their children have proper clothing. However, it is the operator's responsibility to ensure the health, safety, and welfare of each child at all times while the child is in care. This responsibility includes ensuring the child's physical comfort with respect to temperature and activity. Although the center is not required to furnish clothing items to children in care, the operator is encouraged to keep a variety of spare clothing items on hand in case children's clothes get wet or soiled. If a child arrives at the center without proper or adequate clothing, the Director should:
 - Arrange some alternate activity until the child has obtained the proper clothing,
 - Discuss the matter of proper clothing with the child's parent at the earliest opportunity, and
 - Consider specifying clothing responsibilities in the service contract or agreement the center has with the child's parent.

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.

INTENT: Because an instructional program includes activities intended to address a child's need for intellectual growth and stimulation, a before-school and after-school program may be permitted flexibility with respect to these areas of activity programming. The activities provided should complement the instructional day by primarily providing opportunities geared to the children's social, emotional, and physical needs.

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:**
- **Passive or interactive technology during a meal or a snack; or**
 - **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.**

INTENT: *Screen time is limited because it is important for infants and young children to:*

- *Have positive interactions with people and not sit in front of a screen that takes time away from social interaction with caregivers/teachers;*
- *Participate in activities that promote brain development such as talking, playing, singing, and reading together; and*
- *Participate in creative play, physical activity, hands-on exploration, outdoor experiences, social interactions, and other developmentally appropriate learning activities.*

INSPECTION REPORT ITEM: *"Screen Time Activities"*

COMPLIANCE CRITERIA:

- *Children younger than 2 years old are not permitted to view any passive technology;*
- *Children 2 years old or older are not permitted to view more than 30 minutes of age-appropriate, educational passive technology per week;*

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- *No child is permitted to view any passive or interactive technology during a meal or a snack;*
- *No child is permitted to view media with brand placement or advertising for unhealthy or sugary food or beverages;*
- *If an exception to the weekly passive technology viewing limit is made, a written record of the exception is on file; and*
- *The parent of each enrolled child received a written screen time policy that addresses the use of passive and interactive technology during child care hours.*

ASSESSMENT METHOD:

- *Observe to determine if a current, written activity schedule is posted, and*
- *The schedule include screen time periods that meet the compliance criteria listed above.*
- *Check provider file for written exceptions to screen time for special events or projects;*
- *Ask the Director to produce the center's written screen time policy that addresses the use of passive and interactive technology during child care hours, and show evidence that the parents (of each child enrolled) received the screen time policy.*

Notes:

- *See "**Developmental Characteristics**", for information, and for some suggestions regarding toys and equipment appropriate to various age groups.*
- *A resource of activities designed to promote child development is included. See "**Suggested Daily Activities**"*

.02 Activity Plans for Infants and Toddlers.

- A. An operator shall assign one staff member primary responsibility for each infant or toddler in care during each staff shift.**

***INTENT:** During a given work shift, each infant and each toddler in attendance must have a specified staff member designated as the infant's or toddler's primary caregiver.*

***INSPECTION REPORT ITEM:** "Activity Plans for Infants and Toddlers"*

***COMPLIANCE CRITERIA:** During each work shift, a primary staff member is assigned to each infant and each toddler present during that work shift.*

***ASSESSMENT METHOD:** For each infant and each toddler in care, review the infant's and toddler's current activity plan to identify the primary staff member assigned to each infant and each toddler. Review the current "**Staffing Pattern**" form, **OCC 1206**, to determine if that person is assigned to the infant's or toddler's group.*

B. Upon enrollment of an infant or toddler, the operator shall arrange for the director or senior staff, in consultation with the parent of the child, to 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.**

***INTENT:** When an infant or toddler is enrolled in care, the operator must ensure that a written individualized activity plan for the infant or toddler is developed jointly by the infant's or toddler's parent and a qualified staff member. This plan must address in detail what the infant's or toddler's individual needs are and how they will be met. This plan must also identify the qualified staff member who will have responsibility during each work shift for implementing the plan and ensuring that the infant or toddler receives appropriate care.*

***INSPECTION REPORT ITEM:** "Activity Plans for Infants and Toddlers"*

COMPLIANCE CRITERIA:

- *For each infant and toddler enrolled in care, there is a written individualized activity plan that was jointly developed by qualified staff and the parent at the time of the infant's or toddler's admission to care.*
- *The written plan details:*
 - *The infant's or toddler's normal eating, sleeping, and other activity patterns and specifies how the facility will accommodate those patterns;*
 - *How the infant or toddler will receive consistent and appropriate stimulation;*
 - *Diapering; and*
 - *Assignment per shift of a qualified primary caregiver.*

***ASSESSMENT METHOD:** Review each infant's and each toddler's record to determine if a written plan is present and if it meets the compliance criteria.*

C. For an infant or toddler, the written activity plan required at the time of the child's admission to care shall be:

- (1) **Posted for reference in the space used by the child's group;**
- (2) **Implemented by each staff member having responsibility for care of the child;**

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- (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.**

***INTENT:** The activity plan of each infant or toddler must be available for reference in the infant's or toddler's care area; routinely used as the basis for the infant's or toddler's care; reviewed and updated at least every 3 months; and modified at other times as necessary in consultation with the infant's or toddler's parent.*

***INSPECTION REPORT ITEM:** "Activity Plans for Infants and Toddlers"*

***COMPLIANCE CRITERIA:** Each infant's and each toddler's activity plan is:*

- *Posted in the each infant's and each toddler's care area;*
- *Used as the basis for care each day the infant and toddler is present;*
- *Current to within the last 3 months; and*
- *Re-evaluated at least every 3 months and modified as needed jointly with the parent.*

ASSESSMENT METHOD:

- *Observe to determine if and where each infant's and each toddler's activity plan is posted.*
- *Review each infant's and each toddler's plan for evidence of re-evaluation conducted at least every 3 months, for modifications as needed, and for evidence of the parent's participation in these reviews.*
- *Observe each infant's and each toddler's actual care activities to determine if they are consistent with the current activity plan. If necessary, identify and interview the infant's and the toddler's designated primary caregiver to obtain additional information in this regard.*

***Notes:** The needs of infants and toddlers may change rapidly and frequently, and center staff members are expected to be alert to these changes. While a pre-planned individual activity schedule is necessary and appropriate, the center must be flexible and prepared to revise the plan, in consultation with the parent, according to observed changes in the infant's and the toddler's behavior and needs.*

.03 Activity Materials, Equipment, and Furnishings.

- A. For indoor and outdoor activities, an operator 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.**

***INTENT:** There must be enough appropriate indoor and outdoor activity-related items to accommodate all of the children in each activity group.*

***INSPECTION REPORT ITEM:** “Activity Materials, Equipment, and Furnishings”*

***COMPLIANCE CRITERIA:** In each activity group, there are enough age-appropriate activity-related items to allow each child in the group to participate fully and successfully in the activity.*

***ASSESSMENT METHOD:** Observe each activity group to determine the sufficiency and age-appropriateness of activity-related items available to the group.*

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;

***INTENT:** Activity materials must be available to encourage and stimulate child growth in physical, cognitive, emotional, and social domains.*

***INSPECTION REPORT ITEM:** “Activity Materials, Equipment, and Furnishings”*

***COMPLIANCE CRITERIA:** Available materials are suited to the activity areas specified in this regulation.*

***ASSESSMENT METHOD:** Observe the activity materials available to each group to determine if they are suited to the listed activity areas.*

***Note:** See “**Program Requirements – Curriculum Easy as ABC, 123**”.*

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- (3) **Easily accessible to each child for whose use they are intended; and**
- (4) **In good repair, clean, nontoxic, and free from hazards including lead paint.**

***INTENT:** Each activity material or equipment item used by a child must be safe, clean, fully operational, and developmentally appropriate for that child.*

***INSPECTION REPORT ITEM:** “Activity Materials, Equipment, and Furnishings”*

***COMPLIANCE CRITERIA:** Each activity and equipment item is safe, suitable, clean, and in proper working condition.*

ASSESSMENT METHOD:

- *Observe the condition of activity and equipment items.*
- *If items have manufacturer labels, check these labels to determine if any item contains lead, lead paint, or another toxic substance.*

Note:

- *Hazards commonly found in activity materials and equipment include, but are not limited to:*
 - *Sharp, pointed, or serrated edges*
 - *Splinters*
 - *Protruding nails, screws, bolts, boards, etc.*
 - *Choking hazards such as small removable pieces*
 - *Strings, cords, and hooks that can catch on a child’s clothing or hair*
- *Some materials and equipment in Montessori programs may appear to be hazardous, but are an important part of the Montessori curriculum.*

- 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.**

***INTENT:** Because an instructional program addresses a child's need for growth and stimulation across all major developmental domains, a before-school and after-school program may be permitted more flexibility in the range of equipment and activity materials it makes available.*

- D. Furnishings used by a child shall be scaled in proportion to the child's size.**
- E. The operator shall provide multipurpose tables and chairs for children who are 2 years old or older.**

***INTENT for D. and E. above:** Furnishings intended for use by children must be sized according to those children so that they can use the furnishings without assistance or risk*

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of injury. At a minimum, the center must maintain suitable, age-appropriate, and appropriately-sized furniture for sitting, participating in tabletop activities, and resting or sleeping.

INSPECTION REPORT ITEM: “Activity Materials, Equipment, and Furnishings”

COMPLIANCE CRITERIA:

- *Each child can easily and successfully access all furnishings used in his/her activities.*
- *Multipurpose tables and chairs are present in the indoor activity area.*

ASSESSMENT METHOD: *Observe the number, type, and location of activity furnishings to determine if they meet the above compliance criteria.*

Note: *For each child, there must be table space and an appropriately sized chair so that the child can sit to play and eat in a comfortable position: knees should not bump the table apron; feet should touch the floor; and chin should not be close to the table top.*

.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 center for more than 4 hours, and for children 5 years old or older who regularly take rest periods in the center;**
- (2) **A suitable bed for each child who is 12 months old or older and who is present in the center 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 center; and**
- (4) **A crib with a snugly fitting mattress, moisture-proof mattress covering, and tight fitting sheet for each child in the center who is:**
 - (a) **Younger than 12 months old; or**
 - (b) **An infant 12 months old or older or a toddler, if the child's parent requests a crib.**

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 shall meet the standards of the U.S. Consumer Product Safety Commission.

D. Stackable cribs may not be used.

E. Each crib in use shall be placed so that:

- (1) **It presents at least one long side without a wall, plexiglass panel, or other solid barrier;**
- (2) **Unless separated from an adjacent crib by a solid barrier, it does not rest against the other crib; and**
- (3) **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 that are not separated by a solid barrier.**

INTENT: All rest furnishings used by children in care must be safe and age-appropriate. Cribs must meet national safety standards and must be placed so as to allow easy access to, and prompt evacuation of their occupants in the event of an emergency.

INSPECTION REPORT ITEM: “Rest Furnishings”

COMPLIANCE CRITERIA:

- *For each child younger than 12-months-old approved for care, there is a crib that meets Consumer Product Safety Commission (CPSC) standards (see bulleted item under Notes below regarding presence of cribs, etc.).*
- *For each child 12-months-old or older whose parent has requested a crib, a crib is available.*
- *Suitably sized rest furniture is available as required.*
- *Adequate clean bedding is available to each child who takes rest periods.*
- *All rest furniture is spaced to facilitate safe and prompt evacuation.*

ASSESSMENT METHOD:

- *Observe to determine the number, type, and safety of rest equipment items that are present for enrolled children who are 12-months-old or younger.*

Notes:

- *Either an individually labeled cot/bed/mat is provided for each child 12-months-old or older for whom rest is required, or if cots/beds/mats are used by different children, they are cleaned by an OCC-approved method between uses.*
- *“Bedding” means a washable cover on the cot/bed/mat and other covers as needed for warmth and comfort. Bedding may be provided by the facility or by parents. Bedding should be laundered at least weekly, or more often if necessary.*

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- *Double-decker bunk beds may not be used as rest furniture.*
- *To help ensure adequate ventilation and reduce the potential for transmission of disease, it is recommended that there be at least 3 feet between each cot/bed/mat, or at least 18 inches apart if children's napping positions are alternately head to foot.*
- *If the center is approved to care for children under 12-months-old, but the current enrollment of that age-group is below the total approved capacity, OCC licensing staff still need to verify that the required number of cribs are present in the center and available for use, and that they meet Consumer Product Safety Commission (CPSC) standards.*
- *Drop-side cribs may no longer be used.*
- *To help make sure that cribs used in the center are safe, refer to "**Crib Safety Tips**,"*
- *A CPSC resource guide, "**Child Care Providers – Your Guide to New Crib Standards**", is included for reference.*
- *More safety information concerning specific types of cribs is available online at the CPSC website (www.cpsc.gov).*

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.

***INTENT:** When used with very young children, soft bedding items pose a potential suffocation hazard and have been linked to the incidence of Sudden Infant Death Syndrome (SIDS); therefore, they are not permitted.*

***INSPECTION REPORT ITEM:** "No Soft Bedding with Cribs"*

***COMPLIANCE CRITERIA:** Soft bedding items are not used with any child younger than 18-months-old.*

***ASSESSMENT METHOD:** Observe all rest furnishings used by infants to determine if any soft bedding items are used.*

Notes:

- *The prohibition of soft bedding extends to any bedding item that may pose a risk of suffocation when used with children younger than 18-months-old. In addition to the items cited in §F above, prohibited items include soft surfaces such as non-firm or saggy mattresses, cushions, sleeping bags, and thick or fluffy blankets. A*

thin blanket may be used if it is tucked securely around the mattress and does not cover the infant beyond the infant's chest.

- *For infants, the National Institute of Child Health and Human Development has recommended using a sleeper instead of a blanket, with no other covering.*
- *Information and downloadable brochures in English and Spanish on helping to prevent SIDS is available online at the website of the National Institute of Child Health and Human Development at www.nichd.nih.gov/sids.*

.05 Infant-Toddler Equipment.

- A. A sufficient number of strollers or carriages with appropriate restraints shall be available to accommodate all non-walking infants present in care.**
- B. The use of walkers is prohibited.**

INTENT: Adequate, appropriate, and safe individual transportation must be available for each non-walking infant in attendance. Walkers are prohibited because they are a risk to infant safety.

INSPECTION REPORT ITEM: "Infant and Toddler Equipment"

COMPLIANCE CRITERIA:

- *For each non-walking infant in attendance, there is a stroller or carriage with appropriate restraints.*
- *Walkers are not used by the facility.*

ASSESSMENT METHOD:

- *Identify the number of non-walking infants in attendance, and then count the number of strollers and carriages on hand to determine if there are enough for all the non-walkers.*
- *Interview the Director and other center staff as necessary to verify that walkers are not used.*

- C. The center shall have furnishings that allow the safe and easy feeding of children younger than 2 years old, including but not limited to high chairs, toddler tables, 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.**

INTENT: *High chairs must be properly equipped with restraints to keep infants and toddlers from slipping or falling out of the chairs. Extreme caution must be used to make sure that the restraints are fitted and applied properly so that they do not present a strangulation risk.*

INSPECTION REPORT ITEM: *"Infant and Toddler Equipment"*

COMPLIANCE CRITERIA:

- *Each high chair is equipped with age-appropriate restraints.*
- *Restraints are used properly with each child.*

ASSESSMENT METHOD:

- *Examine each high chair to determine if it is equipped as required.*
- *Observe high chair feedings to determine if a restraint is properly used with each child. If observation is not possible, interview facility staff as necessary to determine if and how restraints are used.*

.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.**

INTENT: *The center must provide adequate and appropriate storage for materials and equipment that will facilitate the children's program and their choice of activities. Each child must have an individual storage space to prevent the spread of communicable disease and to foster a sense of independence and self-esteem. Children's individual storage spaces must be free of hazards.*

INSPECTION REPORT ITEM: *"Storage"*

COMPLIANCE CRITERIA:

- *All center-owned activity materials and equipment are stored so that they do not present a safety risk to any child in care;*
- *Materials and equipment for children's use are easily accessible to the children who will use those items;*

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- *Child rest-related items are stored to prevent contamination and minimize potential transmission of disease; and*
- *All child-owned items are stored separately according to their respective owners and are easily accessible to those owners.*

ASSESSMENT METHOD: *Observe storage locations to assess their safety, suitability, and accessibility.*

Notes:

- *Storage for materials routinely used by children should be arranged so that the materials may be easily identified, maintained, and accessed by the children without undue conflict or confusion. Materials for children 2 to 5 years old should be on low, open shelves; materials for school-age children may be in clearly labeled cupboards.*
- *Cots/beds/mats must be stored so as to reduce the potential for spreading communicable diseases.*
- *Bedding must be stored either folded on the cot/bed/mat or in an individual, safe container labeled with each child's name. Mats must be stacked or hung so they are not touching and there is room for ventilation.*
- *Portable equipment for outdoor use, materials/furnishings/supplies held in reserve, and cots/beds/mats when not in use must be stored so that they do not interfere with the program or activities, create fire or safety hazards, or detract from the usable square footage of activity area.*
- *Examples of appropriate individual storage space for children's clothes and possessions include, but are not limited to, cubbies, lockers, baskets, and shelves.*
- *Because coat hooks are a potential safety hazard, if they are used in the children's individual storage space areas, an additional space must be provided for each child.*

Child Care Center Licensing Manual

(August 2016)

for use with

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

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.01 Individualized Attention and Care.

An operator 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 a child 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 service on the facility premises as specified in the child's individualized education plan, individualized 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 operator to provide supervision and care; and**
 - (b) **Appropriate to the individual age, needs, and capabilities of the child;**

***INTENT:** Proper supervision and care are the most important factors in safeguarding the health, safety, and welfare of children and in helping ensure their successful growth and development. Individual children may vary widely in their particular supervision and care needs. Adequacy and appropriateness of supervision and care means that those needs are substantially met at all times.*

***INSPECTION REPORT ITEM:** "Child Supervision"*

COMPLIANCE CRITERIA:

- *Supervision at all times:*
 - *No child is left unattended;*
 - *Each staff member is attentive and responsive to each child under the staff member's supervision and is able to intervene immediately on behalf of the child; and*
 - *Each individual supervising or providing care to a child has been assigned supervision or care responsibilities by appropriate facility personnel.*
- *Appropriate to individual needs:*
 - *Each child is given a level and type of supervision and care that is consistent with the child's age, needs, and developmental status.*

ASSESSMENT METHODS:

- *Observe to determine:*

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- *The location of each child relative to person(s) with assigned supervision or care responsibilities; and,*
- *The level of staff attentiveness and responsiveness to each child.*
- *If needed, interview director or staff as appropriate and/or review facility records (staffing pattern, personnel list, etc.) to verify that observed supervision and care responsibilities have been duly assigned.*

Note:

- *In a facility approved for evening or overnight care, proper supervision may involve additional responsibilities.*

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;**

***INTENT:** Each staff member must be fully oriented to, and ready to meet the care needs of each assigned child. Information on children and child records must be accessible to staff so that they can use that information to help provide appropriate child care and supervision based on individual child needs.*

***INSPECTION REPORT ITEM:** "Individual Attention and Care"*

***COMPLIANCE CRITERIA:** Each staff member has been oriented to the individual needs of children assigned and is prepared to meet the individual care needs of assigned children.*

ASSESSMENT METHOD:

- *Determine if and how staff members have been oriented to the individual needs of assigned children.*
- *Observe activity groups to determine if, and to what extent, individual needs are being addressed. If observation is not feasible, interview the director and facility staff as needed to determine how individual needs recorded in the children's files are addressed by assigned staff.*

- 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 by the operator 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**

COMAR 13A.16.08 Child Supervision

INTENT: Injury resulting from children's use of potentially dangerous activity materials is minimized through close supervision by staff.

INSPECTION REPORT ITEM: "Individual Attention and Care"

COMPLIANCE CRITERIA: Staff members provide close and continuous supervision of children using potentially dangerous activity materials.

ASSESSMENT METHOD: Observe groups to determine if staff members provide close and continuous supervision of children using potentially dangerous activity materials.

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 operator agree in writing that the child can travel safely without adult supervision.**

INTENT: Kindergarten children may never be allowed to walk to school or the bus stop without adult supervision. A child enrolled in first grade who is younger than 6 years old may be allowed to travel unsupervised between the facility and school or a school bus stop only if the facility operator and the child's parent have agreed that the child is mature and responsible to do so and the route is safe enough for the child to travel alone.

INSPECTION REPORT ITEM: "Individual Attention and Care"

COMPLIANCE CRITERIA: Documentation is on file at the facility showing that, before allowing the child to travel alone, the operator and the child's parent have:

- determined that the child is ready to walk alone,
- agreed to that travel, and
- established a safe travel route for the child.

ASSESSMENT METHOD: Review of the child's file to determine if a prior written agreement is present.

.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 an individual who:

- (1) **Meets the requirements of COMAR 13A.16.06.09 or .10, depending on the age composition of the group; or**
- (2) **Has received a variance, issued by the Office, from the requirements of COMAR 13A.16.06.09 or .10 in order to serve as a teacher for the purpose of providing**

instruction to the group in a specific discipline such as, but not limited to, karate, dance, or music.

INTENT: *To accommodate programs that provide instruction in specific disciplines such as, karate, dance, music, gymnastics and other sports, etc. Individuals providing these types of services, for limited (1-2 hours) time periods per day or on an intermittent basis (such as a few days a week), may be considered qualified to serve as “Teacher” during that time period.*

INSPECTION REPORT ITEM: *“Supervision by Qualified Staff”*

COMPLIANCE CRITERIA: *The group of children is supervised by an individual approved by the Office through the “Variance” process in accordance with A (2) of this regulation.*

ASSESSMENT METHOD: *Review the program file for an approved “Variance”.*

Note:

- *This process was recommended by the 2013 School-age/Out of School Time Workgroup.*
- *The individuals providing the services must have criminal background checks and child abuse and neglect clearances.*
- *Parents must provide approval for children to participate in the service.*

B. The operator 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.

INTENT: *To ensure proper child supervision and instruction, it is essential that only properly qualified staff members are permitted to be in charge of children.*

INSPECTION REPORT ITEM: *“Qualified Staff in Charge of Groups”*

COMPLIANCE CRITERIA: *Each group of children is under the charge of a staff member who is qualified to supervise the age-range(s) of those children.*

ASSESSMENT METHOD: *Review the facility’s current staffing pattern and personnel list and then observe each group of children to determine if a properly qualified staff member is in charge of the group.*

C. An infant or toddler may be handled or fed only by an individual designated to do so by the center operator.

D. Staff Availability.

- (1) **An operator shall designate a child care teacher to be present and in charge of the center in case of the director's temporary absence from the center.**

***INTENT:** At any given time, there must be an individual on-site who is specifically identified as the person immediately responsible for the operation of the facility at that time. In the absence of the director, a properly qualified staff member must be designated as that person.*

***INSPECTION REPORT ITEM:** “Supervision by Qualified Staff”*

***COMPLIANCE CRITERIA:** Whenever the director is absent, the facility is in the designated charge of a properly qualified staff member.*

***ASSESSMENT METHOD:** Interview the director to determine who is in charge of the center when the director is not there. If necessary, interview other center personnel to determine if and how they know who is in charge when the director is absent.*

- (2) **If a preschool child care teacher or a school age child care teacher, as applicable, is not available for assignment to a group of children, the center director may supervise the group until a child care teacher becomes available for assignment.**
- (3) **If the only children in attendance at the center are:**
- (a) **Younger than 2 years old and only one staff member is needed to meet staff/child ratio requirements, the operator shall ensure that an additional staff member or another adult, who has successfully passed a federal and State criminal background check and a review of child and adult abuse and neglect records, is available in the center; or**
 - (b) **2 years old or older and only one staff member is needed to meet staff/child ratio requirements, the operator 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 center within 15 minutes of notification.**

Note: See **“On Call Agreement”** form.

.03 Group Size and Staffing.

- A. Assignment of Staff.** One or more 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:

Child Ages	Staff/Child Ratio	Maximum Group Size
2 years old	1 to 6	12
3 or 4 years old	1 to 10	20
5 years old and older	1 to 15	30

***INTENT:** Research has repeatedly shown that staff/child ratios and child group sizes are among the most important determinants of child safety and the quality of care. Minimum staff/child ratios and maximum group sizes are established to help ensure:*

- Proper child supervision,*
- Adequate attention to each child's needs,*
- Positive and successful child-child and child-adult interactions,*
- Safe and manageable activities, and*
- An environment conducive to each child's ability to develop self-esteem and to learn and master new skills.*

***INSPECTION REPORT ITEM:** “Group Size and Staffing”*

***COMPLIANCE CRITERIA:** In each same-age group of children:*

- The appropriate minimum staff/child ratio is maintained at all times, and*
- The number of children remains at all times within the applicable maximum group size.*

***ASSESSMENT METHOD:** For each same-age group of children:*

- Count and document the number of children present,*
- Verify the ages of the children by reviewing the children's records,*
- Review the daily attendance records to verify compliance with group size and age levels, and*
- Review the center’s Employment Record and the “**Staffing Pattern**”, form **OCC 1206**, to determine if the number of staff are adequate and present as assigned.*

Note:

- For a visual guide to staffing and group size requirements, see "**Staff/Child Ratio – Group Size Charts**".

D. Mixed-Age Groups.

- (1) A mixed age group with infants or toddlers, the following minimum staffing levels apply:

Group Composition	Maximum Group Size	Minimum Staffing Level
Group includes 1 or 2 infants	9	2 staff members
Group includes 3 or more infants	6	2 staff members
Group includes 1 or 2 toddlers	12	2 staff members
Group includes 3 toddlers	9	2 staff members
Group includes 4 or more toddlers	9	3 staff members
Group includes no infants, 1 or 2 toddlers, and 6 or more 2 year olds	12	3 staff members

- (2) In a mixed-age group with preschool children:

- (a) The group size may not exceed 20 children;
- (b) If the group contains preschool children 3 years old or older, the staff-to-child ratio is 1 to 10;
- (c) If the group size is 13 to 20 children, the group may not contain more than six 2-year-olds; and
- (d) If the group contains children who are 2 years old and the group size varies, the following minimum staffing levels apply:

Group Composition	Group Size	Minimum Staffing Level
Group includes one to three 2 year old children	7 to 10	1 staff member
Group includes four or more 2 year old children	7 to 10	2 staff members
Group includes one to three 2 year old children	13 to 20	2 staff members
Group includes four to six 2 year old children	13 to 20	3 staff members

INTENT: Refer to the "Intent" statement under §C. above. In addition, staff/child ratio and group size requirements for a mixed-age group are based on the proportions of individual child ages within the group. Because younger children are more vulnerable and require closer attention, a higher proportion of younger children reduces the maximum allowable group size and requires a closer staff/child ratio.

INSPECTION REPORT ITEM: "Group Size and Staffing"

COMPLIANCE CRITERIA: In each mixed-age group of children:

- The appropriate minimum staff/child ratio is maintained at all times, and
- The number of children remains at all times within the applicable maximum group size.

ASSESSMENT METHOD: For each mixed-age group of children:

- Count and document the number of children present,
- Verify the ages of the children by reviewing the children's records,
- Review the daily attendance records to verify compliance with group size and age levels, and
- Review the Employment Record and **Staffing Pattern, form OCC 1206**, to determine if the number of staff are adequate and present as assigned.

(3) **School-Age Groups.** In a group where 3-year-old and 4-year-old children, enrolled in a public or nonpublic school, are mixed with school-age children, the following minimum staffing levels and maximum group size requirements apply:

Group Composition	Maximum Group Size	Minimum Staffing Level
Group includes up to five children 3 or 4 years old	30	1 school-age teacher and 1 assistant or aide
Group includes 6 to 9 children 3 or 4 years old	30	1 school-age teacher and 2 assistants or 1 school-age teacher, 1 assistant and 1 aide
Group includes 6 to 9 children 3 or 4 years old	25	1 school-age teacher and 1 assistant or aide
Group includes 10 or more children 3 or 4 years old	20	1 preschool teacher and 1 assistant or aide

E. 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:**

Child Age Group	Staff/Child Ratio	Maximum Group Size
2 years old	1 to 6	12
3 or 4 years old	1 to 12	24
5 years old or older	1 to 15	30

- (2) **A nursery school may not exceed a staff/child ratio or group size requirement set forth at §E(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.**

INTENT: *In an instructional program operating under an MSDE Certificate of Approval, each class complies with the program's specified teacher-student ratio and class size established for the purpose of that Certificate.*

INSPECTION REPORT ITEM: "Group Size and Staffing"

COMPLIANCE CRITERIA: *During the approved hours of instruction, each class meets the applicable staff/child (teacher/student) ratio and does not exceed the applicable maximum class size.*

ASSESSMENT METHOD: *For each class, review daily attendance records and observe the number of staff (teachers) and children (students) present to determine if they meet applicable ratio and group size requirements.*

Note: *Requirements for nonpublic school approvals (K-12) are set forth in COMAR 13A.09.09. Under those regulations, an approved instructional program must operate in accordance with the school's written statement that specifies the ratio of students to teachers or the average class size for the implementation of the school's educational program.*

.04 Variations in Group Size.

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

INTENT: During outdoor play or certain recreational activities, it may not be practical or appropriate to the nature of the activity to adhere rigidly to the group size requirements specified in §.03 of this Chapter. Under these limited circumstances, the ordinary group size maximum may be exceeded, but only if the applicable minimum staff/child ratio is maintained at all times.

INSPECTION REPORT ITEM: “Variations in Group Size”

COMPLIANCE CRITERIA:

- *A group size maximum is exceeded only during outdoor play or a recreational activity where it is not feasible or appropriate to keep the children separated into discrete, identifiable groups.*
- *If the group size maximum is being exceeded under this provision, the applicable staff/child ratio is maintained at all times.*

ASSESSMENT METHOD:

- *Referring as necessary to the center's personnel list and staffing patterns, observe outdoor play groups and special recreational groups to determine if the required staff/child ratios are being maintained.*
- *If observation is not possible, interview the center director and other staff members as necessary to determine if and how maintenance of minimum ratios during outdoor play, off-site activities, etc., is ensured.*

- B. Groups containing only school age children may be of any size, pursuant to a plan approved by the office, if the staff/child ratios required by this chapter are maintained.**

INTENT: School age children are capable of more self-direction than preschoolers, and their developmental needs and interests are more often met by participation in highly interactive, large-group activities. For these reasons, OCC may approve a written plan by an operator to organize school-age activities on a regular basis without regard to maximum group size, but only if the minimum staff/child ratio for school-aged children required by §.03 of this Chapter is maintained at all times during those activities.

INSPECTION REPORT ITEM: “Variations in Group Size”

COMPLIANCE CRITERIA: *If the center has been approved by the Regional Office to have school-age groups larger than those permitted under §.03 of this Chapter, the center maintains the required staff/child ratio in each of those groups at all times.*

ASSESSMENT METHOD:

- Referring as necessary to the center's personnel list and staffing patterns, observe school-age activity groups to determine if the required staff/child ratios are being maintained.
- If observation is not possible, interview the center director and other staff members as necessary to determine if and how maintenance of minimum ratios during school-age activity groups is ensured.

.05 Supervision during Water Activities.

- A. An operator shall have prior written approval from a child's parent for the child's participation in a water activity.**

INTENT: *Swimming or wading involves potential safety risks, particularly for young children. The operator must obtain prior written permission from each child's parent before allowing the child to swim or wade.*

INSPECTION REPORT ITEM: “Supervision During Water Activities”

COMPLIANCE CRITERIA: *If swimming/wading activities are conducted, there is a “Swimming/Wading Activity Permission” slip, or equivalent written authorization, from each child's parent in the child's file.*

ASSESSMENT METHOD: *Review of child files.*

Note: See “**Playground and Water Safety Guidelines**”.

- 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.**

INTENT: *Any water activity, including wading, is potentially dangerous, especially for small children; therefore, the operator must ensure that each child is appropriately supervised and constantly monitored whenever the child is in the water. The operator is responsible for each child's safety at all times while the child is in care.*

INSPECTION REPORT ITEM: “Supervision During Water Activities”

COMPLIANCE CRITERIA: *Each child is supervised as required and monitored constantly by facility staff throughout a water activity.*

ASSESSMENT METHOD: *If possible, observe to determine if and how each child is being monitored and supervised; otherwise, interview facility staff to determine how the children are monitored and supervised during a water activity.*

Notes:

- *The operator may not permit a child in care to use a wading 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. Stagnant (uncirculated) pool water is a potential health hazard because it contaminates quickly; therefore, children may only use wading pools that have an approved and working circulation system.*
- *See “**Playground and Water Safety Guidelines**”.*

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.**

INTENT: *A body of water deeper than 4 feet may not be used for a water activity unless at least one properly certified lifeguard is present and on duty.*

INSPECTION REPORT ITEM: *“Supervision during Water Activities”*

COMPLIANCE CRITERIA: *If water exceeds 4 ft. in depth, a person with current, approved lifesaving certification is present.*

ASSESSMENT METHOD: *If possible, observation to verify that a certified lifeguard is present and on-duty; otherwise, interview facility staff to determine if and how proper lifeguard coverage is assured.*

Notes:

- *Even when a certified lifeguard is present, the operator is responsible for maintaining continued monitoring and appropriate supervision of children during a water activity and while at the body of water.*
- *See “**Playground and Water Safety Guidelines**”.*

- 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.**

***INTENT:** Drowning or near-drowning can occur in seconds. For each non-swimming child who is in water over his or her chest, a staff member must also be in the water within arm's-length reach of the child.*

***INSPECTION REPORT ITEM:** "Supervision during Water Activities"*

***COMPLIANCE CRITERIA:** For each non-swimming child in water over his/her chest, there is a staff member in the water right next to the child.*

***ASSESSMENT METHOD:** If possible, observation to verify that one-on-one in-water supervision is occurring; otherwise, interview facility staff to determine if and how that level of supervision is assured.*

***Note:** See "**Playground and Water Safety Guidelines**".*

.06 Supervision During Transportation.

When child transportation is conducted to or from:

- A. The center by the center operator, 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 center employee; or**
 - (b) **The parent of a child in care who is authorized by the operator to assist in transporting children in care; or**
- B. An off-site activity by an independent contractor or a local school district and at least one child in care is being transported, the center operator shall ensure that there is at least one adult other than the driver present in the vehicle.**

***INTENT:** Having to supervise a sizable group of preschoolers alone while driving can easily distract the driver, thus creating a significant safety risk for everyone in the vehicle. Having an additional adult present to supervise the children allows the driver to concentrate fully on driving.*

***INSPECTION REPORT ITEM:** "Supervision During Transportation"*

***COMPLIANCE CRITERIA:** There is at least one additional adult present whenever more than eight (i.e., at least nine) preschoolers are being transported.*

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ASSESSMENT METHOD: Review facility records (activity schedule, personnel list, etc.) and interview staff as necessary to determine staff transportation assignments in relation to transportation events involving more than eight preschoolers.

.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**

INTENT: To maximize safeguards and protection of children while on the playground and during outdoor activities, all children must be supervised at all times.

INSPECTION REPORT ITEM: “Playground Supervision”

COMPLIANCE CRITERIA: During playground and other outdoor activities, staff station themselves among the children so that they can supervise the children and intervene as necessary.

ASSESSMENT METHOD: Observe outdoor activities to determine if staff position themselves in a manner which enables them to be immediately available to intervene as necessary.

Note: See “**Playground and Water Safety Guidelines**”.

- 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.**

INTENT: To ensure that children who appear to experience discomfort due to outdoor activities and other outdoor factors are immediately attended to and the discomfort is alleviated by staff.

INSPECTION REPORT ITEM: “Playground Supervision”

COMPLIANCE CRITERIA: During playground and other outdoor activities, staff immediately act to alleviate a child’s discomfort due to over-activity, temperature or weather conditions, or other physical or environmental factors.

ASSESSMENT METHOD: Observe outdoor activities to determine if staff immediately act to alleviate a child’s discomfort if a child shows signs of discomfort due to over-activity, temperature or weather conditions, or other physical or environmental factors.

.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.**

***INTENT:** Because of the vulnerability of infants and toddlers, during naptime or rest periods in classrooms with children who are younger than 2-years-old, the required staff/child ratio may not be relaxed.*

***INSPECTION REPORT ITEM:** “Rest Time Supervision”*

***COMPLIANCE CRITERIA:** During naptime or rest periods in classrooms with children who are younger than 2-years-old or older, the staff/child ratio required by §.03 of this Chapter is in effect.*

***ASSESSMENT METHOD:** Observe staff/child ratios during naptime or rest periods in classrooms with children who are younger than 2-years-old to determine if the staff/child ratios established in §.03 of this Chapter are in effect.*

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.**

***INTENT:** During naptime or rest periods, certain staff/child ratio requirements may be modified with regard to children who are at least 2-years-old.*

***INSPECTION REPORT ITEM:** “Rest Time Supervision”*

***COMPLIANCE CRITERIA:** During naptime or rest periods in classrooms with children who are 2-years-old or older, staff supervision complies with the specifics of the regulation.*

***ASSESSMENT METHOD:** Observe staff/child ratios during naptime or rest periods in classrooms with children who are 2-years-old or older are napping or resting, to determine if at least one child care teacher or aide remains in the room; and, if this is the case, the other staff members assigned to the group remain on the premises within hearing range of the classroom.*



Child Care Center Licensing Manual

(August 2016)

for use with

COMAR 13A.16 Child Care Centers

(as amended effective 7/20/15)

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

An operator, employee, substitute, volunteer, individual residing on the premises of the center, or other individual connected with the center may not subject a child to abuse, neglect, mental injury, or injurious treatment.

***INTENT:** No person connected with the center may subject a child (or allow a child be subjected) to abuse, neglect, or injurious treatment.*

***INSPECTION REPORT ITEM:** “Prohibition of Abuse, Neglect, and Injurious Treatment”*

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

ASSESSMENT METHODS:

- *Observe the interactions between center staff and children to determine whether abuse or neglect are suspected, or injurious treatment is occurring.*
- *If child abuse or neglect is suspected, contact CPS for a determination.*
- *If injurious treatment is occurring, document and follow established procedures.*

Notes:

- *“Abuse”, “neglect,” and “injurious treatment” are defined in Chapter .01 § .02B(1), (38), and (32), respectively.*
- *If CPS has determined that abuse or neglect occurred at the center, the Regional Office may move to suspend the center’s license on an emergency basis.*
- *If licensing staff has determined that injurious treatment occurred at the center, the Regional Office may move to suspend the center’s license on an emergency basis.*

.02 Abuse/Neglect Reporting.

A. An operator or employee who has reason to believe that a child has been:

(1) Abused, in the center or outside of the center, 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;

(2) Neglected, in the center or outside of the center, 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. An operator shall:

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

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

D. An operator may not require an employee to report through the operator or director, rather than directly to the local department or a law enforcement agency, when the employee has reason to believe that a child has been abused or neglected.

INTENT: An operator, staff member, or other center employee who suspects that a child may have been abused or neglected must report that suspicion directly and only to the local Child Protective Services (CPS) Unit or to local police authorities. If injurious treatment has occurred, the person must report the incident to the Regional Office. In addition, the operator must ensure that each staff member and employee knows how and when to:

- *Check children for signs of abuse or neglect, and*
- *Make a report of suspected abuse or neglect.*

INSPECTION REPORT ITEM: “Abuse and Neglect Reporting”

COMPLIANCE CRITERIA:

- *Suspected:*
 - *Abuse is reported immediately, directly, and only to Child Protective Services or police authorities;*
 - *Neglect is reported immediately, directly, and only to Child Protective Services;*
 - *Injurious treatment is reported immediately to the Regional Office.*
- *All staff members and employees have been instructed on the proper procedures for reporting suspected abuse or neglect.*
- *Center staff members assess the daily appearance and behavior of each child for signs of abuse or neglect. See “**Signs and Symptoms of Child Abuse, Neglect, and Mental Injury**”.*
- *Telephone numbers for the local CPS Unit and police department are posted by each telephone.*

ASSESSMENT METHODS:

- *Interview center staff members and employees to assess their knowledge of proper reporting procedures. If the center maintains documentation of instruction in proper reporting procedures, review that documentation as needed.*
- *Interview center staff members and employees to assess the nature and frequency of monitoring for signs of abuse or neglect.*
- *Observe to determine if CPS and police telephone numbers are posted as required.*

.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 operator 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 operator shall:

- (1) Prepare a written child discipline policy that states the:**
 - (a) Discipline methods used at the center; 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, volunteer, and other individual connected with the center.**

***INTENT:** The center must have a written policy that addresses how children will be disciplined only in a way that is consistent with their health, safety, welfare, and individual developmental levels. This policy must be followed by all center personnel. The written policy must be available for review by parents and the Regional Office.*

***INSPECTION REPORT ITEM:** "Child Discipline"*

COMPLIANCE CRITERIA:

- *The center has a child discipline policy that is set in writing and maintained on file at the center.*
- *The policy is posted, copied, or otherwise readily available for review by parents and Regional Office personnel.*

- *The policy is described in sufficient detail to enable an assessment of whether it is safe, non-harmful, and appropriate for use with children who are at different developmental levels.*

ASSESSMENT METHODS:

- *Review center records to determine if a written discipline policy is present.*
- *Observe to determine if the policy is posted where it can be reviewed by parents, or interview center personnel to determine how it is made available to parents.*
- *Review the contents of the policy to determine if it is safe, non-harmful, and appropriate for use with all of the developmental levels served by the center.*

Note: *Maryland law forbids corporal punishment of a child, in any form, by anyone other than the child's parent or legal guardian. For additional information and guidance on child discipline, see **"Discipline Measures"**.*

.04 Parental Access.

An operator shall permit the parent of a child in care to:

- A. Freely observe all areas of the center used for child care during operating hours; and**
- B. Have access to the parent's child at any time during the center's hours of operation, without appointment.**

INTENT: *Whenever the facility is in operation, parents must have access to their children and to the areas of the facility that are approved for care. The operator is prohibited from requiring parents to give any advance notice of a visit to the facility during operating hours.*

INSPECTION REPORT ITEM: "Parental Access"

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

ASSESSMENT METHOD: *Observe to determine if parents have free and unannounced access. If observation is not possible, interview facility staff to determine how parents are assured free and unannounced access.*

.05 Authorized Release.

An operator shall ensure that a staff member release a child only to the child's parent or to another individual, if directed by the parent, whose identity is verified. 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: *To protect children from harm (and the center from liability), the operator 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 center 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:

Interview center personnel to determine if:

- *There is a child release policy,*
- *Each center staff member and employee is aware of the policy, and*
- *The policy is 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 center 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 operator may release the child only if:*
 - *The parent has specified in writing who is expected to pick the child up, and when the pick up will occur, or*
 - *The parent cannot pick up the child due to unforeseen circumstances (e.g., parent has an accident, is stuck in traffic, etc.), the specified emergency contacts cannot be reached, and the parent calls the center and provides explicit instructions for an alternate person to retrieve the child; and*

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- *Center personnel are able to verify the identity of the person who arrives for the child.*
- *If a parent or legal guardian who shows signs of being intoxicated, or otherwise impaired, arrives to pick up the child, center personnel do not have the right to deny the person access to the child or to prevent the person from taking the child. However, center personnel 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 operator may wish to consider:*
 - *If the person shows signs of being so intoxicated, or otherwise impaired, that the child would be placed at risk of serious and immediate harm by being released to the person, call the police. If the person poses a threat to center personnel or any of the other children, call the police and request immediate assistance. If possible and prudent, center personnel should 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**, center personnel 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, center personnel might suggest using an alternative means of transportation (for example, calling a taxi).*

.06 Child Security.

A. The operator shall ensure the safety and security of each child at all times.

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

B. Whenever an area of the center is being used for a child care activity and children are present, the operator may not permit the area to be used at the same time for any other purpose without prior approval of the office.

INTENT: An area approved for 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 care area, the area is used only for child care-related activities.*

ASSESSMENT METHOD: *Observe 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, if hired on or after October 1, 2005, a review of child abuse and neglect records, 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, if hired on or after October 1, 2005, 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 operator pursuant to COMAR 13A.16.06.14C;**
- (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;**

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

(f) If the center is located at a school, an individual who for compensation is employed to work at the school; and

(2) Unless documentation is on file at the center that an independent contractor performing a service at the center 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.

***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 center, 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 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 center would fall under the definition of independent contractor unless the center is located in a school and the trainer is a school employee. As such, the trainer would have to be "chaperoned" when in the presence of children unless the trainer had completed State and federal CBCs as well as an abuse/neglect clearance.*

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:

(a) An appropriately qualified staff member is present throughout the activity to supervise the children; or

(b) The center is located on the premises of a school and the activity is conducted under school auspices by an individual who for compensation is employed to work at the school.

(2) A child may not participate in the activity unless the center 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 unless the center is located in a school and the "third-party" person is a school employee. 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 center has received written permission from a child's parent before the child participates in a "third-party" activity.*

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.*

Child Care Center Licensing Manual

(August 2016)

for use with

COMAR 13A.16 Child Care Centers

(as amended effective 7/20/15)

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.01 Minimum Staff Age.

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

INTENT: A minimum age of 16 is established to help ensure that a staff member will be mature enough to handle the responsibilities associated with caring for children who are enrolled in the child care center. In addition, to facilitate child supervision in a school-age program, each staff member must be older than the oldest child typically in care.

INSPECTION REPORT ITEM: “Minimum Staff Age”

COMPLIANCE CRITERIA: Each staff member is at least 16 years old.

ASSESSMENT METHOD: Review the facility’s current Employment Record to determine current employees to determine if each staff member is at least 16-years-old. Request operator to produce documentation of the age of staff members.

Documentation may be any of the following:

- *Driver’s license;*
- *Birth certificate;*
- *Age of majority card;*
- *College transcript; or*
- *Other government-issued document (e.g., passport, naturalization papers, green card, etc.)*

.02 Staff Orientation.

On or before assignment, an operator shall document that each employee and 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 evacuation procedures;**
- D. **Identity of the staff members who have first aid and CPR training;**
- E. **Identity of the staff members and other adults who are required to be available to provide emergency coverage pursuant to COMAR 13A.16.08.02D(3);**
- F. **Hand washing procedures;**
- G. **The center'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 content of the most current regulations in this subtitle; and**
- K. **The community resources available to the family of a child who may have special needs.**

INTENT: *In order for staff members to be knowledgeable about facility requirements and procedures pertaining to child health and safety, including child abuse and neglect reporting and child care center licensing requirements, the center must provide written information, as specified in A.- K. of this regulation, to each staff member before the staff member begins his or her work assignment.*

INSPECTION REPORT ITEM: “Staff Orientation”

COMPLIANCE CRITERIA: *No later than the person’s actual start date at the center, each new employee or staff member receives all required child health and safety information in writing.*

ASSESSMENT METHOD: *Review the facility’s records for documentation indicating that each new employee and staff member received the required written information and when it was provided.*

.03 Suitability for Employment.

- A. **A child care center operator may not employ an individual who, as reported on or after October 1, 2005, 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.**

INTENT: *By their very nature, certain criminal offenses involve acts that obviously carry extreme risks for children. An operator is absolutely forbidden to hire, or continue to employ, any person with a criminal history that includes any of the above-referenced offenses.*

INSPECTION REPORT ITEM: “Suitability for Employment”

COMPLIANCE CRITERIA: *The center does not employ any person for whom a criminal background check (CBC) report issued on or after October 1, 2005 reveals a pending charge for, or adjudication on any of the listed offenses.*

ASSESSMENT METHOD: *Review the center's Employment Record/Personnel List in conjunction with OCC's copies of CBC reports received since October 1, 2005 to determine if any individual listed has been charged with, or adjudicated (i.e., been convicted, received a probation before judgment, etc.) for one of the enumerated offenses. Initial CBC requests for employee and subsequent "alerts" are used to determine employability.*

Note: See ***"Guidance – Suitability for Employment Process" and "Verifying Staff Employment During Unannounced Inspections"***.

- B. If, as reported on or after October 1, 2005, 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 center 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.

INTENT: *If a center employee (or employment applicant) has a Child Protective Services (CPS) history of indicated child abuse or neglect or a criminal history that includes certain offenses other than those listed under §A of this regulation, the agency will evaluate that information to determine the person's suitability to work in a child care environment. Based on the results of that evaluation, the agency may find that person to be unsuitable for child care center employment and direct the program operator to deny or terminate the person's employment.*

INSPECTION REPORT ITEM: "Suitability for Employment"

COMPLIANCE CRITERIA: *For any center employee or employment applicant who has a Child Protection Services history of indicated child abuse or neglect or a criminal history that includes certain offenses other than those listed under §A of this*

regulation, such an individual's suitability to work in a child care environment has been evaluated.

If the evaluation by the agency has resulted in a finding of unsuitability for child care program employment, the center has terminated or denied employment of that individual.

ASSESSMENT METHOD: *Review the center's Employment Record to determine if the requirements of this regulation have been met.*

Note: *For a complete listing of the crimes and offenses that may disqualify an individual from employment in a child care center, see "**CJIS List of Offenses – COMAR 12.15.02.07**".*

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 center operator, or any agency or entity cited by the individual or the operator 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 center operator may not permit the individual to begin or to resume employment until the office has notified the operator that the individual may be employed.**

INTENT: *Any person evaluated by OCC as unsuitable for employment may ask for a reconsideration of that evaluation. The agency will agree to conduct a re-evaluation if the request is in writing and includes pertinent documentation explaining why the finding of unsuitability by OCC should be changed, and if OCC has not received a similar request from the person within the past year. As soon as the re-evaluation has been completed, the agency shall notify the person and the center operator of its outcome. If the outcome is favorable to the person, the operator may not allow the person to begin working before receiving permission from OCC to do so.*

D. Notification of Employment Prohibition.

- (1) **If the office, pursuant to this chapter, determines that an individual may not be employed at a center, the office shall notify the individual and the center operator 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.**

***INTENT:** If OCC denies employment on the basis of unsuitability, the agency shall notify the person and the center operator in writing of that decision and the reason for it. The notification to the person shall also include information concerning the person's right to appeal the decision.*

E. Upon notification that an individual may not be employed, the center operator:

- (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 facility except to exercise parental responsibilities with respect to a related child in care.**

***INTENT:** If OCC directs an operator to deny or terminate a person's employment for reasons of unsuitability, the operator must comply immediately. Unless the person appeals OCC's action and the action is overturned, the operator may not attempt to re-hire the person or, unless the person is a parent of a child in care, allow the person to be on the center's premises.*

***INSPECTION REPORT ITEM:** "Suitability for Employment"*

***COMPLIANCE CRITERIA:** Unless OCC's employment prohibition has been overturned on appeal, the center does not:*

- *Employ any person whose employment has been prohibited by OCC, or*
- *Permit the person on the center's premises except as the parent of a child in care.*

***ASSESSMENT METHOD:** If a person should have been terminated from, or denied employment at the center, review the center's current Employment Record to determine if the person's name appears in the record. Interview the Director to determine if there is any other documentation (for example, a denial of employment application letter or a notice of termination) verifying that the person has been terminated from, or denied employment.*

- F. **An operator 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—.12, as applicable, of this chapter, unless the individual is a substitute functioning in accordance with Regulation .13 of this chapter.**

***INTENT:** Center staff must meet employment qualifications and training requirements specified in these regulations in order to hold specific positions and be responsible in whole or in part for the care of enrollees. If an individual does not hold the qualifications and the trainings required by these regulations as specified in §§.05 -.12 of this Chapter, as applicable, such an individual may not be permitted to hold either of those child care positions. Such an individual; however, may serve in the capacity of a substitute if the individual meets the requirements set forth in §.13 of this Chapter.*

***INSPECTION REPORT ITEM:** “Suitability for Employment”*

COMPLIANCE CRITERIA:

- Any staff member who does not meet the qualifications and trainings specified in §§.05 - .12 of this Chapter, as applicable, has not been assigned to or does not serve in one of the positions which require specific qualifications and trainings.
- A staff member with responsibility for care of children, who does not meet the qualifications and trainings required by these regulations, serves as a substitute pursuant to § .13 of this Chapter.

***ASSESSMENT METHOD:** Review the qualifications and trainings of center staff to determine if they meet the requirements for the positions held.*

.04 Staff Health.

A. Medical Evaluation.

- (1) **An operator 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 center, from each prospective:**
 - (a) **Staff member; and**
 - (b) **Except for a health care professional serving as a consultant pursuant to Regulation .14C of this chapter, support staff who will be present at the center while children are in care.**
- (2) **The medical evaluation may transfer directly from one center to another when there has been no gap in employment longer than 3 months.**

***INTENT:** A center employee must be free of any communicable disease that would prohibit the person from working in a child care program. Staff who work with children must be able to participate fully in a program for active youngsters. This*

might include lifting infants and young children, getting up and down from the floor, lively outdoor activities, and moving furniture. It may also include transporting children in a motor vehicle. Therefore, the person must be evaluated for any physical condition that might adversely affect his or her job performance.

INSPECTION REPORT ITEM: “Staff Health”

COMPLIANCE CRITERIA:

- *For each center employee whose job duties require the person to be present when children are in attendance, there is a medical evaluation on file that was completed no more than 6 months before the person began working at the center.*
- *The medical evaluation is documented on a “**Medical Report for Child Care**”, **OCC 1204** form, or on a similar form that has been approved by the Regional Office.*

ASSESSMENT METHOD: *Review employee records on file at the center to determine if the required medical evaluations are present for each employee and determine if these evaluations were completed within 6 months before the employee began work in the center.*

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

INTENT: *Children in care must be protected from exposure to certain infectious and communicable diseases identified by the Maryland Department of Health and Mental Hygiene (DHMH). A center employee who has such a disease and is in its communicable stage may not be permitted to work at the center.*

INSPECTION REPORT ITEM: “Staff Health”

COMPLIANCE CRITERIA: *An employee who has a disease listed in the current **DHMH “Communicable Diseases Summary”** chart, is kept away from work for the period of time stated in that chart.*

ASSESSMENT METHOD: *Interview the Director and other facility staff as necessary to determine if:*

- *The center maintains a copy of the current **DHMH “Communicable Diseases Summary”** chart, and*
- *The center’s policy on staff with infectious and communicable diseases is consistent with the exclusion guidelines stated in the “Communicable Diseases Summary” chart.*

.05 Directors of All Child Care Centers—General Requirements.

- A. **Except when engaged in occasional center-related activities or away on leave, a director shall be present in a center during at least 1/2 of the operating hours of the center 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.**

***INTENT:** The Director is the person designated as responsible for all center operations, staff, and children in care on a regular day-to-day basis. In this capacity, the Director must be on-site during at least half of the center's operating hours in order to exercise adequate oversight and respond to operational issues.*

***INSPECTION REPORT ITEM:** "Directors of all Child Care Centers"*

***COMPLIANCE CRITERIA:** Except when scheduled to be absent for center-related activities or personal reasons, the Director is present for at least half of the center's weekly operating hours.*

***ASSESSMENT METHOD:** Interview the Director and other center staff as necessary to determine the amount of time the Director spends at the facility each week.*

- B. **To qualify as a director of a center, an individual shall:**
- (1) Be at least 21 years old;**
 - (2) Hold a high school diploma or a certificate of high school equivalence, or have successfully completed at least two courses for credit 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;**
 - (b) 3 semester hours or their equivalent of approved administrative training, unless approved as a school age center director in a center authorized to serve only school-age children; and**
 - (c) Effective January 1, 2016, 3 clock hours of approved training in complying with the Americans with Disabilities Act;**
 - (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; and**
 - (5) Within 6 months after date of hire, complete a regulation training to the requirements of this subtitle that is conducted by the office, if hired on or after January 1, 2009.**

INTENT: *A center Director must have sufficient maturity, education, training, and experience to plan and administer a child care program, supervise center personnel, and respond appropriately to a range of operational issues.*

INSPECTION REPORT ITEMS: *“Directors of All Child Care Centers”*

COMPLIANCE CRITERIA:

The Director:

- *Meets the age and education requirements for the position.*
- *If hired on or after January 1, 2009, has completed training on the child care center licensing regulations within 6 months after date of hire.*

ASSESSMENT METHOD:

- *Review the facility’s licensing record to determine if the Director meets the minimum qualifications.*
- *Verify age information by checking it against the Director’s:*
 - *Driver’s license;*
 - *Birth certificate;*
 - *Age of majority card;*
 - *College transcript; or*
 - *Other government-issued document (e.g., passport, naturalization papers, green card, etc.)*
- *Review the facility’s licensing records to determine if the Director has completed regulation training as required.*

Notes:

- *For detailed information about Director Qualifications and how to determine whether an individual meets those qualifications, see **“Maryland Child Care Center – Preschool Director Requirements/School-Age Director Requirements”** chart.*
- *The Regional Office may approve an operator’s request for a variance of the Director qualifications under certain circumstances if certain factors are present that comply with the intent of the regulation. See **OCC form 1213, “Variance Request”**.*
- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

C. A director 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 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**
- (2) **Document completion of the continued training on the professional development plan.**

***INTENT:** A center Director must have sufficient continued training to keep abreast with current early childhood issues.*

***INSPECTION REPORT ITEM:** “Director – Continued Training”*

***COMPLIANCE CRITERIA:** The Director completes at least 12 clock hours of approved continued training during each full year of employment.*

***ASSESSMENT METHOD:** Review the Director’s completed Professional Development Plan with attached documentation of trainings completed to determine if the Director has completed continued training as required during the previous full year of employment.*

Notes:

- *This regulation is met if the individual participates in the OCC Credentialing Program and has a current certificate noting achievement at Level 2 or above. Check the expiration date on the credential certificate. If expired, the individual must produce evidence of 12 hours of continued training.*
- *If individual states that the certificate is not expired, check with the Credentialing Branch for verification. See “**Checking Staff Continued Training in Child Care Centers Guidelines**”.*
- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

.06 Directors of Preschool Centers—Specific Requirements.

- A. **In a preschool center with infants or toddlers in care, a director, in addition to meeting the requirements of §§B—D of this regulation, as applicable, shall have: 3 semester hours of approved training, or the equivalent, related exclusively to the care of infants and toddlers; and Effective January 1, 2016, approved training in supporting breastfeeding practices.**

INTENT: *A Director of a center approved to care for infants, must have specific training regarding the care of infants and toddlers.*

INSPECTION REPORT ITEM: *“Directors – Preschool Centers”*

COMPLIANCE CRITERIA: *The Director of a center that is approved to enroll infants and toddlers must meet the following requirements:*

- *The requirements of §B-D of this regulation; and,*
- *Complete at least 3 semester hours of approved training, or equivalent, related exclusively to the care of infants and toddlers.*

ASSESSMENT METHOD:

- *Review the facility’s licensing record to determine if the Director meets the minimum qualifications.*
- *Review the facility’s licensing record to determine if the Director has completed at least 3 semester hours of approved training, or equivalent, related exclusively to the care of infants and toddlers.*

B. In a preschool center with 20 or fewer children, a director shall have completed 1 year of experience:

- (1) **Working primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or**
- (2) **Caring for preschoolers as a registered family child care provider.**

C. In a preschool center with 21 to 40 children, a director shall have completed:

- (1) **Either:**
 - (a) **30 semester hours of college coursework that has not less than 20 semester hours specifically in early childhood education; or**
 - (b) **60 semester hours from an accredited institution of higher learning; and**
- (2) **2 years of experience:**
 - (a) **Working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or**
 - (b) **Caring for preschoolers as a registered family child care provider.**

D. In a preschool center with more than 40 children, a director shall have:

- (1) **Attained:**
 - (a) **An associate's degree with a minimum of 15 semester hours of approved course work in early childhood education; or**
 - (b) **A bachelor's degree in any field; and**
- (2) **Completed 2 years of experience:**
 - (a) **Working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or**

- (b) **Caring for preschoolers as a registered family child care provider.**
- E. **An individual is considered qualified as a director of any size preschool center when that individual:**
- (1) **Has completed 1 year of experience:**
 - (a) **Working primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting; or**
 - (b) **Caring for preschoolers as a registered family child care provider; and**
 - (2) **Has 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.**

***INTENT of §§ .06B. - E. above:** A Director has a wide range of responsibilities, and these typically become more complex when there are more children in care. As the size of the center increases, more academic training and experience are required to help ensure that the Director has developed the necessary ability and skills to make sound judgments about the center's overall operation.*

***INSPECTION REPORT ITEM:** "Directors – Preschool Centers"*

***COMPLIANCE CRITERIA:** The Director meets the qualification requirements of the size range that includes the center's maximum child capacity.*

***ASSESSMENT METHOD:** Review the facility's licensing record to determine if the Director meets the applicable minimum qualifications.*

Notes:

- *OCC construes the phrase "or similar setting" (which appears under §§ B(1), C(2)(a), D(2)(a), and E(1)(a) of this regulation to mean a similar regulated or officially monitored setting.*
- *For detailed information about Director Qualifications and how to determine whether an individual meets those qualifications, see "**Maryland Child Care Center – Preschool Director Requirements/School-Age Director Requirements**" chart.*
- *The Regional Office may approve an operator's request for a variance of the Director qualifications under certain circumstances if certain factors are present that comply with the intent of the regulation. See **OCC form 1213, "Variance Request"**.*
- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment*

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training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.

- F. **If, as of July 1, 2008, an individual was currently employed at a preschool center for 20 or fewer, 21 to 40, or more than 40 children and qualified as the director of that center, the individual continues to be qualified as the director if continuously employed at the same or another center with the same or greater capacity limitations.**

.07 Directors of School Age Centers—Specific Requirements.

- A. **In a school age center with a capacity of 60 or fewer children, the director shall have completed at least:**
- (1) **400 hours of experience working under supervision primarily with school age children in a licensed child care center, public or private school, or a similar setting; or**
 - (2) **1 year of experience caring for school age children as a registered family child care provider.**
- B. **In a school age center with a capacity of 61 or more children, the director shall have completed at least:**
- (1) **800 hours of experience working under supervision primarily with school age children in a licensed child care center, public or private school, or similar setting; or**
 - (2) **2 years of experience caring for school age children as a registered family child care provider.**
- C. **An individual is considered qualified as a director of a school age center if the individual is certified for kindergarten, nursery school through third grade, or grades 1 through 8 by the Department or by the state board of any other state.**

INTENT of §§.07 A.-C. above: A Director has a wide range of responsibilities, and these typically become more complex when there are more children in care. As the size of the center increases, more academic training and experience are required to help ensure that the Director has developed the necessary ability and skills to make sound judgments about the center's overall operation.

INSPECTION REPORT ITEM: "Directors – School Age Centers"

COMPLIANCE CRITERIA: *The Director meets the qualification requirements of the size range that includes the center's maximum child capacity.*

ASSESSMENT METHOD: *Review the facility's licensing record to determine if the Director meets the applicable minimum qualifications.*

Notes:

- For detailed information about Director qualifications and how to determine whether an individual meets those qualifications, see ***“Maryland Child Care Center – Preschool Director Requirements/School-Age Director Requirements”*** chart.
- The Regional Office may approve an operator’s request for a variance of the Director qualifications under certain circumstances if certain factors are present that comply with the intent of the regulation. See ***OCC form 1213, “Variance Request”***.
- The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.

D. If, as of July 1, 2008, an individual was currently employed at a center serving only school age children and qualified as the director of that center, the individual continues to be qualified as the director if continuously employed at the same or at another school age center.

.08 Specific Requirements for Directors in Combined Preschool and School Age Centers.

- A. A preschool center director may have responsibility for the entire center if the center enrolls both preschoolers and school age children.**
- B. A school age center director may have responsibility for the entire center if the center:**
 - (1) Does not enroll any infants or toddlers; and**
 - (2) Enrolls five or fewer children younger than kindergarten age.**
- C. If a school age center located in a public or nonpublic school enrolls more than five children younger than kindergarten age who are not enrolled in that school, the operator shall provide a director who meets the requirements, based on the total capacity of the center, for both a preschool center director and a school age center director.**

INTENT: *In a center that serves both preschoolers and school age children, a Director who meets preschool training and experience requirements may administer the entire center because that individual has been prepared to address the developmental needs of an age group that needs greater support and direction.*

A school age center Director may administer the center if the predominant child enrollment is of school age and the center does not serve children under the age of two years. However, if preschoolers comprise a significant proportion of total enrollment, or if children less than two-years-old are enrolled, the Director of such a center must be qualified for both preschool and school age, based on the center’s overall capacity.

INSPECTION REPORT ITEM: “Directors – Combined Age Centers”

COMPLIANCE CRITERIA: *The Director meets the qualification requirements pertinent to the center’s age-group composition, based on the center’s total capacity.*

ASSESSMENT METHOD: *Review the facility’s licensing record to determine if the Director meets the applicable minimum qualifications.*

Notes:

- *For detailed information about Director qualifications and how to determine whether an individual meets those qualifications, see “**Maryland Child Care Center – Preschool Director Requirements/School-Age Director Requirements**” chart.*
- *The Regional Office may approve an operator’s request for a variance of the Director qualifications under certain circumstances if certain factors are present that comply with the intent of the regulation. See **OCC form 1213, “Variance Request”**.*
- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

.09 Child Care Teachers in Preschool Centers.

A. To qualify as a child care teacher in a preschool center, an individual shall be 19 years old or older, and meet one of the following criteria:

- (1) The individual holds or has successfully completed:**
 - (a) A high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;**
 - (b) 6 semester hours or 90 clock hours or their equivalent of approved pre-service training, or hold the Child Development Associate Credential issued by the Child Development Associate National Credentialing Program;**
 - (c) 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;**
 - (d) Effective January 1, 2016, 3 clock hours of approved training in complying with the Americans with Disabilities Act; and**
 - (e) At least one of the following:**
 - (i) 1 year of experience working under supervision primarily with preschoolers in a licensed child care center, nursery school, church-operated school, or similar setting, or as a registered family child care provider caring for preschoolers; or**

- (ii) **1 year of college, or a combination of experience and college that together are equivalent to 1 year;**
- (2) **The individual holds an associate's or higher degree with approved courses in early childhood education;**
- (3) **The individual qualified before July 1, 2008, as a child care teacher in a preschool center and has been continuously employed since that time at the same or another preschool center; or**
- (4) **The individual:**
 - (a) **Has been approved as a teacher by the Department for early childhood in nursery school through third grade; or**
 - (b) **Is certified by the Department or by any other state for early childhood in nursery school through third grade.**

***INTENT:** A child care teacher may have sole responsibility for supervising a group of children. That individual must have sufficient maturity, education, training, and experience to plan and administer activities for that group while attending constantly to the needs of each child in that group, as well as to the needs of the group as a whole.*

***INSPECTION REPORT ITEMS:** “Child Care Teachers – Preschool”*

***COMPLIANCE CRITERIA:** The preschool teacher meets the requirements established in §A(1), (2), (3) or (4) of this regulation.*

ASSESSMENT METHOD:

Review the facility’s licensing record to determine if the preschool teachers meet the applicable minimum qualifications.

- *Verify age information by checking it against the teacher’s:*
 - *Driver’s license;*
 - *Birth certificate;*
 - *Age of majority card;*
 - *College transcript; or*
 - *Other government-issued document (e.g., passport, naturalization papers, green card, etc.)*

Notes:

- *For detailed information about Teacher qualifications and how to determine whether an individual meets those qualifications, see “**Maryland Child Care Center Staff Requirements**” chart.*
- *The Regional Office may approve an operator’s request for a variance of the preschool teacher qualifications under certain circumstances if certain factors*

are present that comply with the intent of the regulation. See **OCC form 1213, “Variance Request”**.

- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

B. A child care teacher in a preschool center 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.**

INTENT: *A child care teacher must have sufficient continued training to keep abreast with current early childhood issues.*

INSPECTION REPORT ITEM: *“Preschool Teacher – Continued Training”*

COMPLIANCE CRITERIA: *The child care teacher completes at least 12 clock hours of approved continued training during each full year of employment.*

ASSESSMENT METHOD: *Review the teacher’s completed Professional Development Plan with attached documentation of trainings completed to determine if the teacher has completed continued training as required during the previous full year of employment.*

Notes:

- *This regulation is met if the individual participates in the OCC Credentialing Program and has a current certificate noting achievement at Level 2 or above. Check the expiration date on the credential certificate. If expired, the individual must produce evidence of 12 hours of continued training.*
- *If individual states that the certificate is not expired, check with the Credentialing Branch for verification. See **“Checking Staff Continued Training in Child Care Centers Guidelines”**.*
- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also*

responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.

C. A child care teacher wishing to supervise a group of infants or toddlers shall:

- (1) **Unless qualified by the office before July 1, 2008, to supervise a group of infants or toddlers:**
 - (a) **Meet the requirements of §A of this regulation and have completed 3 semester hours of approved training, or the equivalent, related exclusively to the care of infants and toddlers; or**
 - (b) **Meet the requirements of §A(1)(a), (c), and (d) of this regulation and have completed 6 semester hours of approved training, or the equivalent, related exclusively to the care of infants and toddlers; and**
- (2) **Effective January 1, 2016, have completed approved training in supporting breastfeeding practices.**

***INTENT:** A child care teacher who supervises a group of infants or toddlers must have sufficient maturity and have completed training related exclusively to the care of infants and toddlers.*

***INSPECTION REPORT ITEM:** “Child Care Teachers – Preschool”*

***COMPLIANCE CRITERIA:** The child care teacher who supervises a group of infants or toddlers meets the requirements of this regulation.*

***ASSESSMENT METHOD:** Review the facility’s licensing record to determine if the individual child care teacher who supervises infants and toddlers meets the requirements specified above.*

.10 Child Care Teachers in School Age Centers.

A. To qualify as a child care teacher in a school age center, an individual shall:

- (1) **Be 19 years old or older;**
- (2) **Hold a high school diploma or a certificate of high school equivalence or have successfully completed courses for credit from an accredited college or university; and**
- (3) **Meet the one of the criteria set forth in §B of this regulation.**

B. The individual shall meet one of the following:

- (1) **The individual has successfully completed:**
 - (a) **6 semester hours or 90 clock hours or their equivalent of approved preservice training;**
 - (b) **9 clock hours of approved preservice training in communicating with staff, parents, and the public, or at least one academic college course for credit;**
 - (c) **Effective January 1, 2016, 3 clock hours of training in ADA compliance; and**
- (d) **One of the following:**

- (i) **400 hours of experience working under supervision primarily with school age children in a licensed child care center, public or private school, or similar setting, or 400 hours of experience caring for school age children as a registered family child care provider;**
 - (ii) **1 year of college; or**
 - (iii) **A combination of experience and college that together are equivalent to 1 year;**
- (2) **The individual holds a bachelor's degree in:**
 - (a) **Early childhood education, elementary education, special education, or child development; or**
 - (b) **Any academic subject and has 1,800 hours of experience working with school-age children in an approved setting.**
- (3) **The individual qualified before July 1, 2008, as a child care teacher in a school age center and has been continuously employed since that time as a child care teacher at the same or another school age center; or**
- (4) **The individual:**
 - (a) **Has been approved as a teacher by the State Department of Education under COMAR 13A.09.09 for kindergarten or grades 1 through 8; or**
 - (b) **Is certified by the Department or by the state board of any other state for kindergarten or grades 1 through 8.**

INTENT: *A child care teacher in a school age center may have sole responsibility for supervising a group of children. That individual must have sufficient maturity, education, training, and experience to plan and administer activities for that group while attending constantly to the needs of each child in that group as well as to the needs of the group as a whole.*

INSPECTION REPORT ITEM: *“Child Care Teachers – School Age”*

COMPLIANCE CRITERIA: *The child care teacher in a school age center meets all qualifications for the position as specified in §§A and B of this regulation.*

ASSESSMENT METHOD: *Review the facility's licensing record to determine if the individual meets the minimum qualifications for the position of teacher in a school age center.*

- *Verify age information by checking it against the school age teacher's:*
 - *Driver's license;*
 - *Birth certificate;*
 - *Age of majority card;*
 - *College transcript; or*
 - *Other government-issued document (e.g., passport, naturalization papers, green card, etc.)*

Note: For detailed information about the qualifications for a teacher in a school age center and how to determine whether an individual meets those qualifications, see ***“Maryland Child Care Center Staff Requirements”*** chart.

C. A child care teacher in a school age center 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.**

INTENT: A child care teacher in a school age center must have sufficient continued training to keep abreast with current child development and school age issues.

INSPECTION REPORT ITEM: “School Age Teacher – Continued Training”

COMPLIANCE CRITERIA: The school age teacher completes at least 12 clock hours of approved continued training during each full year of employment.

ASSESSMENT METHOD: Review the teacher’s completed Professional Development Plan with attached documentation of trainings completed to determine if the teacher has completed continued training as required during the previous full year of employment.

Notes:

- This regulation is met if the individual participates in the OCC Credentialing Program and has a current certificate noting achievement at Level 2 or above. Check the expiration date on the credential certificate. If expired, the individual must produce evidence of 12 hours of continued training.
- If individual states that the certificate is not expired, check with the Credentialing Branch for verification. See ***“Checking Staff Continued Training in Child Care Centers Guidelines”***.
- The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.

.11 Assistant Child Care Teacher.

A. To qualify as an assistant child care teacher in a school age center, an individual shall:

- (1) **Be 18 years old or older;**
 - (2) **Hold a high school diploma or a certificate of high school equivalence, or have successfully completed courses for credit from an accredited college or university;**
 - (3) **Have completed 9 clock hours of approved pre-service training in communicating with staff, parents, and the public, or have completed at least one academic college course for credit; and**
 - (4) **Have at least one of the following:**
 - (a) **800 hours of recent paid or documented volunteer experience supervising groups of school-age children in educational, recreational, social, or guidance contexts;**
 - (b) **600 hours of approved experience and 15 clock hours of approved college coursework; or**
 - (c) **400 hours of approved experience and 3 semester hours or 45 clock hours, or their equivalent, of approved college coursework.**
- B. An individual may substitute completion of 1 full year of undergraduate education at an accredited college or university for up to 400 hours of approved experience.**

***INTENT:** The Assistant Child Care Teacher category exists to provide school-age facilities with greater programming flexibility because it permits persons who may have extensive school-age experience, but not necessarily the approved training required of Child Care Teachers in a School Age Center, to lead activity groups under certain conditions.*

***INSPECTION REPORT ITEM:** “Assistant Child Care Teachers”*

***COMPLIANCE CRITERIA:** Each Assistant Child Care Teacher meets the minimum requirements specified in §§A and B of this regulation.*

ASSESSMENT METHOD:

- *Review the facility’s licensing record to determine if the individual meets the minimum qualifications for the position of assistant teacher in a school age center.*
- *As necessary, review the facility’s Employment Record to determine whether the person has been qualified as an Assistant Child Care Teacher.*
- *Verify age information by checking it against the assistant teacher’s:*
 - *Driver’s license;*
 - *Birth certificate;*
 - *Age of majority card;*

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- College transcript; or
- Other government-issued document (e.g., passport, naturalization papers, green card, etc.)

Notes:

- For detailed information about Assistant Teacher qualifications and how to determine whether an individual meets those qualifications, see ***“Maryland Child Care Center Staff Requirements”*** chart.
- Apart from a minimal education requirement, the Assistant Child Care Teacher position does not necessarily require any qualification other than a specified amount of relevant experience; therefore, OCC will not grant a staff variance request pertaining to the Assistant Child Care Teacher position because there are no possible compensating factors.

C. An assistant child care teacher in a school age center shall:

- (1) **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 an assistant child care teacher, 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**
- (2) **Document completion of the continued training on the professional development plan.**

INTENT: An assistant child care teacher must have sufficient continued training to keep abreast with current child development issues.

INSPECTION REPORT ITEM: “Assistant Teacher – Continued Training”

COMPLIANCE CRITERIA: The child care assistant teacher completes at least 6 clock hours of approved continued training during each full year of employment.

ASSESSMENT METHOD: Review the assistant teacher’s completed Professional Development Plan with attached documentation of trainings completed to determine if the assistant teacher has completed continued training as required during the previous full year of employment.

Notes:

- This regulation is met if the individual participates in the OCC Credentialing Program and has a current certificate noting achievement at Level 2 or above. Check the expiration date on the credential certificate. If expired, the individual must produce evidence of 12 hours of continued training.

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- *If individual states that the certificate is not expired, check with the Credentialing Branch for verification. See “**Checking Staff Continued Training in Child Care Centers Guidelines**”.*
- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

D. An assistant child care teacher may lead the activities of a group of school-age children if:

- (1) **The director, a child care teacher, or an approved director or child care teacher substitute is available to render immediate assistance to the assistant child care teacher; and**
- (2) **The staff/child ratio required by this chapter is maintained at all times.**

INTENT:

- *An Assistant Child Care Teacher may lead the activities of a group of up to 15 children by him- or herself inside or outside the child care facility.*
- *If the Assistant Child Care Teacher needs immediate assistance, the Director, a Child Care Teacher, or approved substitutes must be on the premises to render immediate assistance. Keep in mind that ‘immediate’ is relative to the nature of the assistance required.*

INSPECTION REPORT ITEM: “Assistant Child Care Teacher”

COMPLIANCE CRITERIA:

- *For each Assistant Child Care Teacher-led group, the assigned Child Care Teacher is immediately available to the Assistant Child Care Teacher.*
- *Each Assistant Child Care Teacher -led group is within the maximum 1:15 staff/child ratio for school age children.*

ASSESSMENT METHOD:

- *Check the facility staffing pattern to determine which Child Care Teacher is assigned to the Assistant Child Care Teacher -led group. Observe the location of the Child Care Teacher relative to that group.*
- *Observe the number of children in the Assistant Child Care Teacher -led group to determine compliance with the maximum school age staff/child ratio of 1:15.*

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- E. An individual who qualified before July 1, 2008, as an assistant child care teacher in a school age center and has been continuously employed since that time as an assistant child care teacher at the same or another school age center meets the requirements of this regulation.

.12 Aides.

A. An aide shall:

- (1) **Be 16 years old or older;**

INTENT: A minimum age helps ensure that an aide has reached a certain level of maturity.

INSPECTION REPORT ITEM: "Aides"

COMPLIANCE CRITERIA: Each aide is at least 16 years old.

ASSESSMENT METHOD:

- Review required facility documentation to ensure that it contains information about the age and/or birth date of an aide; and
- Verify that information by checking it against the aide's:
 - Driver's license;
 - Birth certificate;
 - Age of majority card;
 - College transcript; or
 - Other government-issued document (e.g., passport, naturalization papers, green card, etc.)

- (2) **Work under the direct supervision of the staff person in charge of the group of children to whom the aide is assigned;**

INTENT: Because there are no education, training, or experience requirements for the aide position, an aide may not work independently with children but must instead work only under the direct supervision of a properly qualified staff member. There are, however, certain limited circumstances under which a supervised aide may assume temporary responsibility for a group of children (see "Notes" below).

INSPECTION REPORT ITEM: "Aides"

COMPLIANCE CRITERIA: Each aide is assigned so that he or she works only under the supervision of a properly qualified staff member.

ASSESSMENT METHOD: Review the facility's current **Staffing Pattern form, OCC 1206**, to determine if each aide is assigned to work only under the required supervision.

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Notes: *An aide may assume temporary group responsibility only under the following limited circumstances:*

- *The supervising staff member assigned to the group is briefly called away from the group (to answer the phone, cope with an upset child, take a child to the bathroom, etc.);*
 - *Taking three or less children to the bathroom, or*
 - *The group consists of napping children who are at least 2 two years old and the supervising staff member assigned to the group remains on site and within hearing range, in accordance with Chapter .08, Child Supervision, §.08B(2)(a).*
- (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.**

INTENT: *In order to keep abreast with current child development issues and to be effective in knowing and adequately addressing children's developmental needs, an aide in a child care center must have sufficient continued training.*

INSPECTION REPORT ITEM: *"Aides – Continued Training"*

COMPLIANCE CRITERIA: *The child care aide completes at least 6 clock hours of approved continued training, as specified above, during each full year of employment.*

ASSESSMENT METHOD: *Review the aide's completed Professional Development Plan with attached documentation of trainings completed to determine if the aide has completed continued training as required during the previous full year of employment.*

Notes:

- *This regulation is met if the individual participates in the OCC Credentialing Program and has a current certificate noting achievement at Level 2 or above. Check the expiration date on the credential certificate. If expired, the individual must produce evidence of 12 hours of continued training.*
- *If individual states that the certificate is not expired, check with the Credentialing Branch for verification. See **"Checking Staff Continued Training in Child Care Centers Guidelines"**.*

- *The Credentialing Branch of OCC is responsible for establishing and monitoring the approval criteria for all courses and curricula used to meet pre-employment training and continued training requirements. The Credentialing Branch is also responsible for all approvals of trainers and training organizations who wish to offer those courses and curricula.*

B. Unless an individual, hired on or after January 1, 2009, to work as an aide, has completed 90 clock hours of the equivalent in early childhood education preservice training, the individual 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.**

INTENT: *In order for a child care center aide to be knowledgeable about caring for children, facility procedures, and interacting with parents, the center must provide a timely orientation to the aide about such matters.*

INSPECTION REPORT ITEM: *“Staff Orientation”*

COMPLIANCE CRITERIA: *Within 6 months after date of hire, the center provides an orientation to aides which includes, but is not limited to, the items specified in §B(1)-(3) of this regulation.*

ASSESSMENT METHOD: *Review the facility’s records indicating that each aide received the orientation required by this regulation.*

Note: *Individuals hired to work as Aides who have completed six (6) semester hours or 90 clock hours in early childhood education prior to employment, or within the first 6 months of employment, are not required to complete an orientation session. See “Orientation Requirement for Aides in Child Care Centers”, June 7, 2011.*

.13 Substitutes.

A. A substitute shall be 18 years old or older, except that a substitute aide may be 16 years old or older.

INTENT: *Except for the position of aide (for which the minimum age is 16-years-old), a substitute must be at least 18-years-old.*

INSPECTION REPORT ITEM: *“Substitutes”*

COMPLIANCE CRITERIA: *Each substitute aide is at least 16-years-old, and each substitute for all other positions is at least 18-years-old.*

ASSESSMENT METHOD: Review the **OCC form 1229, "Substitute Form"**, to determine if the person meets the applicable minimum age requirement. Request operator to produce documentation of the age of the substitutes. Documentation verifying age may include one of the following:

- Driver's license;
- Birth certificate;
- Age of majority card;
- College transcript; or
- Other government-issued document (e.g., passport, naturalization papers, green card, etc.)

- B. When a staff member is absent, the operator shall provide a substitute as needed to maintain the staff/child ratios required by COMAR 13A.16.08.03.**
- C. If a substitute is needed for longer than a continuous 2-week period, the operator 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 operator 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.**

INTENT: A center must be staffed with properly qualified personnel, and an operator may not use unqualified substitutes as a means to avoid that requirement. Except when replacing a staff member who is absent on extended family or medical leave, an operator may not use an unqualified substitute for more than two consecutive weeks without making a good faith effort to find a suitably qualified replacement for the absent staff member.

INSPECTION REPORT ITEM: "Substitutes"

COMPLIANCE CRITERIA: An unqualified substitute is used for more than 2 consecutive weeks only when:

- The regular staff member is on extended family or medical leave; or
- After a good faith effort, the operator is unable to find a suitably qualified replacement for the regular staff member.

ASSESSMENT METHOD: Request documentation from the facility director that substantiates, as applicable, the extended leave situation or the good faith effort to obtain a properly qualified replacement.

Notes: Examples of "good faith effort" documentation include, but are not limited to, staff recruitment ads in various newspapers, handbills, posters, participation in job fairs, radio ads, Internet ads, e-mail "list-serve" notices, etc.

- E. In a center where staff/child ratio and group size requirements set forth in COMAR 13A.16.08.03 require the presence of only one staff member, the substitute shall be qualified as a director or a teacher.**

.14 Support Personnel.

- A. The operator or the director 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.**

INTENT: The facility must maintain correct staff/child ratios at all times. If attention by child care staff to program support duties such as meal preparation or child transportation will result in the inability to maintain those ratios, the operator must arrange for additional personnel to perform the support duties.

INSPECTION REPORT ITEM: "Support Personnel"

COMPLIANCE CRITERIA: All support duties are performed without detriment to the maintenance of minimum staff/child ratios.

ASSESSMENT METHOD: Review the facility's current personnel list and staffing pattern for evidence of needed support personnel, and observe implementation of appropriate support services.

- B. In a small center, the operator need not provide additional staff if children are involved in appropriate activities and supervised at all times while necessary duties, such as food preparation, are performed.**

INTENT: If routine program support duties can be performed without detriment to appropriate child supervision or activities, a small center operator is not required to arrange for additional personnel to perform those duties.

INSPECTION REPORT ITEM: "Support Personnel"

COMPLIANCE CRITERIA: All support duties are performed without detriment to appropriate child supervision or activities.

ASSESSMENT METHOD: While support duties are being performed, observe to determine the appropriateness of child supervision and the implementation of child activities. If unable to observe, interview the provider to ascertain how supervision is provided when support duties are performed.

- C. The operator of a center that provides a regular service involving the use of specialized health care procedures or equipment shall use as a consultant to the**

center in providing the service a registered nurse, nurse practitioner, physician's assistant, physician, or other licensed or certified service professional as appropriate.

INTENT: *The operator may provide specialized health care services only if those services are administered by, or under the professional guidance of, properly qualified health care personnel.*

INSPECTION REPORT ITEM: *“Support Personnel”*

COMPLIANCE CRITERIA: *Each specialized health care service or procedure offered by the facility is conducted as follows:*

- *Directly by a properly qualified health care professional, or*
- *Under the review of a properly qualified health care professional.*

ASSESSMENT METHOD: *Review facility records for documentation that the specialized health care service or procedure is conducted by, or under the professional guidance of, an appropriately qualified health care professional.*

.15 Volunteers.

- A. A child care center volunteer shall be under the close supervision of a staff member whenever the volunteer is in contact with an unrelated child in care at the center.**
- B. The operator may not use as a volunteer an individual who has been prohibited, or automatically would be prohibited, from employment at the center pursuant to Regulation .03A or B of this chapter.**

INTENT: *For the safety of the other children in care, each volunteer must be monitored closely by a staff member whenever the volunteer is in the presence of an unrelated child. A person who would be barred from employment at the center due to a criminal record or a history of child abuse or neglect may not serve at the center as a volunteer.*

INSPECTION REPORT ITEM: *“Volunteers”*

COMPLIANCE CRITERIA: *Each volunteer at the center is:*

- *Monitored closely by center staff whenever in the presence of an unrelated child, and*
- *Used only if not unsuitable on the basis of criminal or abuse/neglect history.*

ASSESSMENT METHOD:

- *Observe each volunteer to determine if, when, and how monitored by center staff. If observation is not possible, interview the director and other center staff as necessary to determine monitoring level and procedures.*
- *Interview the director to determine if background checks were conducted on the volunteer and, if so, whether the results would have barred the person from serving as a volunteer.*

Note: *For detailed guidelines concerning the use of volunteers and practicum students, see **Resource Guide entitled "Volunteers and Practicum Students in Child Care Facilities"**.*

Child Care Center Licensing Manual

(August 2016)

for use with

COMAR 13A.16 Child Care Centers

(as amended effective 7/20/15)

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.01 Building Safety.

A. An operator shall provide a building for a center that is:

- (1) Maintained in good repair;**
- (2) Free from health and safety hazards as identified by the office; and**
- (3) Clean and free from infestation of insects and rodents.**

***INTENT:** The physical plant of the center must be safe for children and must comply with all applicable State and local codes.*

***INSPECTION REPORT ITEM:** “Building Safety”*

COMPLIANCE CRITERIA:

- *The center's physical plant and permanent fixtures are in good repair, clean, free of hazards, and free of any infestation.*
- *All facility areas (especially food preparation areas, storage areas, and bathrooms) are clean and free from insect and rodent infestation, such as:*
 - *Rodent infestation, indicated by signs of dropping, shiny slick runways, greasy rub-marks*
 - *Insect infestation (ants, bees, flies, roaches). Roach droppings appear as powdery black flecks.*

ASSESSMENT METHOD:

- *Inspect the entire exterior and interior of the child care facility to assess the general physical condition of the facility and its fixtures, and determine if there are any obvious safety hazards.*
- *Inspect for cleanliness of the facility.*
- *Inspect for signs of possible infestation by insects or rodents.*

Notes: Items to be inspected outside and inside the center include, but are not limited to:

- *Exterior walls in poor repair*
- *Broken windows*
- *Splintering, rotting, or deteriorating wood*
- *Broken or missing stairs or steps; loose or missing handrails*
- *Broken or improperly hung doors*
- *Torn or missing screens, if windows and/or doors open for ventilation. [Note: If windows are needed to meet the requirement for adequate exchange of air, there must be screens on the windows.]*
- *Protrusions from the building, such as air conditioners that are accessible to children, windows that swing out to open, window boxes, etc.*
- *Unprotected crawl spaces and window wells*

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- Toxic plants within children's reach [see reference documents in Note below]
- Interior walls, floors, ceilings in poor repair (holes in walls, sagging ceilings, loose/frayed/taped carpet, missing floor tiles, etc.)
- Water-damaged ceilings, walls, or floors
- Exposed electrical wiring or missing outlet or switch plates
- Loose or missing handrails on stairs
- Wall or ceiling attachments (cabinets, light fixtures, shelves, etc.) in poor condition or broken

Note: For identification of toxic and non-toxic plants, see **“Poisonous Plants”** **“Poisonous Plants Field Guide”** and **“Non-Poisonous Plants”**.

- B. **Except as set forth in §C of this regulation, the operator shall ensure that the child care center complies with all applicable State and local codes, including but not limited to zoning, building, plumbing, gas, electrical, sewage disposal, drinking water, environment, health, and fire.**

INTENT: The physical plant of the center must comply with all applicable State and local codes.

INSPECTION REPORT ITEM: “Building Safety”

COMPLIANCE CRITERIA: Documentation is on file either at the center or at the Regional Office showing that the center is in full compliance with all applicable State and local codes.

ASSESSMENT METHOD: Review most recent State/local code authority documentation to determine code compliance status.

Notes:

- Applicable code compliance documentation typically includes, but is not necessarily limited to:
 - Zoning approval (initial license application only)
 - Building, plumbing, gas, electrical, Use & Occupancy approval (initial license application only)
 - Fire authority approval (required annually)
 - Water and sewage approval (This is periodic approval as required by the local health department if facility is served by private water and/or sewage system. Or, tested every two years for at least well testing if local health department has no periodic test requirement.) Water and sewage approvals are submitted prior to receipt of an Initial license, and at least well testing is submitted prior to receipt of a Continuing Full license, and with the 24 month maintenance of Continuing License items.
- Water should be tested for:

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- *Bacteriological quality,*
- *Nitrates (Testing for nitrate is especially important if there are infants under six months of age in care.),*
- *Total dissolved solids,*
- *pH levels, and*
- *Other water quality indicators as required by the local health department.*

- C. **A child care center for school age children which is located in a school building and operates before and after school hours is not required to comply with any regulation under this subtitle that relates to the physical plant of the center if the regulation exceeds requirements imposed by the county or the local board of education with respect to the school building.**

INTENT: Physical plant requirements for a school-age facility located in a school are entirely met by complying with all applicable local jurisdiction or board of education requirements.

.02 Accessibility.

The operator shall ensure that an access road on center property permits passage by emergency vehicles during times when children are in care.

INTENT: There must be safe and clear access to the facility for all vehicles, including emergency vehicles in the event of fire, illness, accident, or some other circumstance that requires immediate evacuation of part or all of those in attendance at the center.

INSPECTION REPORT ITEM: "Accessibility"

COMPLIANCE CRITERIA:

- *The center has an access road or passageway suitable for vehicles, and*
- *The road or passageway is safe and unobstructed.*

ASSESSMENT METHOD: Inspect the exterior grounds to determine if a suitable vehicular access way is present, and, if so, its condition.

.03 Indoor Space.

- A. **A minimum of 35 square feet of floor space shall be provided for each child in care, except that:**

- (1) **A minimum of 30 square feet of floor space shall be provided for each child in a:**
- (a) **Child care center licensed before December 1, 1971; or**
 - (b) **Nursery school holding a certificate of approval to operate or a letter of exemption from approval that was issued by the State Board of Education before December 1, 1971, and is still in effect; and**

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- (2) **A child care program currently approved by the office to operate with less square footage per child than required by §A of this regulation may continue to operate with that reduced square footage as long as the:**
- (a) **Operator demonstrates to the satisfaction of the office the impossibility of complying with the minimum square footage required by §A of this regulation while maintaining the economic viability of the program; and**
 - (b) **Office determines that the reduced square footage does not threaten the health, safety, or welfare of any child in care.**

***INTENT:** Growing children are active children, and the facility must have enough space to ensure that each child in care can safely and successfully participate in the activities of the child care program. Sufficient space prevents overcrowding, which is physically and emotionally damaging. Sufficient space protects children from the effects of overcrowding, which include exhaustion, over-stimulation, aggression, interference with the development of learning skills, lack of privacy, and increased exposure to infectious disease.*

***INSPECTION REPORT ITEMS:** “Indoor Space”*

***COMPLIANCE CRITERIA:** Each area of the facility approved for child care contains at least the minimum required square footage per child. This minimum square footage must represent usable floor space (see §B. below).*

***ASSESSMENT METHOD:** Measure each child care area and compare the result with the approved capacity of that area to determine if the area meets the minimum space requirement.*

- B. In calculating the square footage of floor space provided for each child, the following may not be included:**
- (1) **Any floor space, rooms, or areas that are not suitable or available for the daily program activities of the children, such as but not limited to columns, vestibules, and corridors, food preparation areas, kitchens, bathrooms, adult work areas, permanently equipped isolation areas or sleeping rooms, storage units, and storage space; and**
 - (2) **Furniture, except for:**
 - (a) **Children's chairs and tables which are nonfixed and multipurpose;**
 - (b) **Moveable equipment used for infant care, such as high chairs and swings;**
 - (c) **Moveable play equipment;**
 - (d) **An adult-size rocking chair or other adult-size comfortable chair;**
 - (e) **An adult-size couch; and**
 - (f) **Open shelves for children's daily activities.**

***INTENT:** Space that cannot be used by a child to move around in, to participate in program activities, or to use program equipment and materials is not usable space*

and therefore cannot be counted toward the minimum square footage requirements set forth in §A and B of this regulation.

Note: For information about how to calculate floor space, see “Measuring Space in Child Care Facilities Guidelines”.

C. In centers that care for infants or toddlers:

- (1) **Diapering stations shall be included in calculating the square footage of floor space provided for each child; and**

INTENT: A diapering station may be included in the square footage per child calculation because it is an area that is occupied by infants who are being diapered.

- (2) **The operator shall designate space for mothers to breastfeed or express breast milk that:**

- (a) **Is not located in a bathroom; Has access to an electrical outlet;**
- (b) **Has appropriate seating; and**
- (c) **Has access to running water.**

INTENT: A child care facility should encourage, provide arrangements for, and support breastfeeding.

INSPECTION REPORT ITEM: “Indoor Space”

COMPLIANCE CRITERIA: A space is available for mothers to breastfeed or express breast milk that provides reasonable privacy.

ASSESSMENT METHOD:

- *Observe the space provided for mothers to breastfeed or express breast milk. (The space does not have to be a separate room)*
 - *It quiet and comfortable.*
 - *An electrical outlet is accessible*
 - *A pillow is available to support her infant on her lap while nursing if requested.*
 - *A nursing stool or stepstool, if requested, for her feet is available.*
- *There is a place for the mother to wash her hands.*
- *A glass of water or other liquid is available to help her stay hydrated*

- D. In a center located in a residence, the space for children may include space within the family living area.**

INTENT: This exception is limited to small centers that are located in a residence, and it acknowledges the unreasonableness of not allowing space used by the inhabitants to be approved for use also by children in care.

.04 Building Repair and Maintenance.

Building maintenance, repair, or renovation activity 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.

INTENT: Building repairs, renovation, and maintenance that pose a significant risk to children cannot be done when children are in care.

INSPECTION REPORT ITEM: “Building Repair and Maintenance”

COMPLIANCE CRITERIA: Building repairs, renovation, and maintenance that pose a significant risk to children do not take place when children in care are present.

ASSESSMENT METHOD: Observe if children in care are present while building repairs, renovation, and maintenance take place and assess the risk of such activities to children’s safety or health.

.05 Lead-Safe Environment.

- A. A center operator may not use paint with lead content on any:**
 - (1) Exterior or interior surface of the facility; or
 - (2) Material or equipment used for child care purposes.
- B. If the child care center 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 operator shall submit a copy of the current lead risk reduction or lead free certificate.**
- C. If the facility was constructed before 1978 and is not certified lead free pursuant to Environment Article, §6804(a)(2)(i), Annotated Code of Maryland, the operator shall:**
 - (1) Ensure there is no chipping, peeling, flaking, chalking, or deteriorated paint on any surface of an interior or exterior area of the facility that is used for child care;
 - (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 facility 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 facility 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 operator 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.**

INTENT of §§A, B, C, and D: Paint with lead content may not be located in any area of the child care facility, or on any material or equipment used for child care purposes.

- *If the facility is a **residential rental property** and was built or remodeled before 1950, a Lead Risk Reduction or Lead-Free Certificate issued by the Maryland Department of the Environment (MDE) is required. Note: Effective January 2015, this requirement is applicable to residential rental property built or remodeled before 1978.*
- *If the facility was built or remodeled prior to 1978 and there is a deteriorated paint surface in the child care area, the paint must be tested for lead content. The Operator must follow procedures established by the Maryland Department of the Environment (MDE) to remove or repair the paint in accordance with C(2) of this regulations.*

INSPECTION REPORT ITEM: “Lead-Safe Environment”

COMPLIANCE CRITERIA:

- *In a pre-***1950 residential rental** facility:*
 - *A Lead Risk Reduction or Lead-Free Certificate issued by the Maryland Department of the Environment (MDE) exists. ***Note: Effective January 2015 this item is required for pre-1978 residential rental property.***
- *In a pre-1978 facility that **is not** a residential rental property:*
 - *The paint on all interior and exterior child care area surfaces is intact; and*
 - *The paint shows no evidence of deterioration.*

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- *In residential rental and non-residential rental property built in 1978 or after:*
 - *The paint on all interior and exterior child care area surfaces is intact; and*
 - *The paint shows no evidence of deterioration.*

ASSESSMENT METHOD:

- *Review documentation and/or interview Director to determine when the facility was built or last remodeled.*
- *Observe painted surfaces on the interior and exterior child care areas (e.g., walls and ceilings, window frames, doors, entryway porches, etc.) to assess the condition of the paint.*
- *If paint testing and/or removal or repair is required, review documentation from the MDE lead inspector performing the test to determine that the requirements of §§C(2) and (3)(a) of this regulation have been met.*

Note:

- *See "**FAQs on Lead and Lead Poisoning**," for important information about lead poisoning.*

.06 Ventilation and Temperature.

- A. **A room may be used for child care only if it: 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.**

***INTENT:** Rooms approved for use by children must be adequately ventilated and have humidity and temperature levels that are healthy and conducive to child comfort.*

***INSPECTION REPORT ITEM:** "Ventilation and Temperature"*

COMPLIANCE CRITERIA:

Activity rooms and bathrooms have:

- *Natural ventilation by opened windows or doors that are protected with tight-fitting screens; or mechanical ventilation system that provides an adequate exchange of air to eliminate gases, odors, dust, and bacteria;*
- *Humidity levels low enough that surfaces are free of moisture and dampness; and*

- *Floor-level temperatures no lower than 65° F.*

ASSESSMENT METHOD:

- *Identify the type of ventilation system used (if natural ventilation, check for presence of required screens).*
- *Observe walls, floors, and furniture surfaces in approved care areas to determine if moisture is present.*
- *Check floor-level temperatures in approved care areas.*

.07 Water Supply.

- A. **The center shall have hot and cold running water, with hot water temperature not exceeding 120° F.**
- B. **For each 40 children in care, or fraction thereof, 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:**
 - (1) **An angle-jet drinking fountain with mouth guard;**
 - (2) **Licensed bottled water in the original container;**
 - (3) **Running water supply with individual single service drinking cups; or**
 - (4) **Another method or source approved by the office.**

***INTENT:** Hot water must be available to facilitate proper hand-washing and hygiene, but the water must not be hot enough to burn a child. Drinking water must be supplied in a way that protects it from contamination and makes it freely available to all children. There must be enough drinking water to meet the needs of all children in attendance.*

INSPECTION REPORT ITEM: “Water Supply”

COMPLIANCE CRITERIA:

- *There is hot and cold running water, with hot water temperatures at 120° F or lower.*
- *There is enough drinking water to meet the needs of all children in attendance.*
- *Drinking water is available and accessible to children.*
- *All drinking water comes from an approved source and is protected from contamination.*

ASSESSMENT METHOD: *Observe all water supplies and sources to determine if they are:*

- *Operable and at the proper temperatures,*
 - *Appropriate to, accessible to, and sufficient for all children present, and*
 - *Safe for consumption.*
- D. **During meals and snacks, water may be served family-style from a pitcher if the water is poured into the pitcher directly from one of the supply sources listed at §C of this regulation.**

.08 Sanitary Facilities and Supplies.

- A. **For each group of infants or toddlers 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.**
- B. **For every 15 children who are 2 years old or older, an operator 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.**

INTENT for A. and B. above: All children in care must have adequate, approved, and appropriate sanitary facilities and supplies including diapering and toileting areas, handwashing facilities, and necessary toileting/handwashing supplies. Toileting and handwashing facilities must be maintained in good operating condition and in a sanitary manner.

INSPECTION REPORT ITEM: “Sanitary Facilities and Supplies”

COMPLIANCE CRITERIA:

- *The facility maintains the number of sanitary facilities required.*
- *There is an approved diapering area with a sink, that is used solely for diapering and toileting purposes, for each group of infants or toddlers.*
- *The diapering area is located so that it permits continuous observation and response to each child in the group.*
- *There is at least 1 toilet and 1 sink available for every 15 children who are 2-years-old or older.*

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- *The sanitary facilities are maintained in a sanitary manner and are in good operating condition.*
- *The sanitary facilities are accessible to children.*
- *If needed for children to be able to reach the sanitary facilities, water-resistant, nonabsorbent platforms are provided that are safely constructed at a height that allows children to use the toilets and sinks without assistance.*

ASSESSMENT METHOD: *Observe all diapering, toileting, and handwashing areas/facilities to determine if the requirements of this regulation have been met.*

- C. **An operator which holds a certificate of approval to operate, or a letter of exemption from approval, that was issued by the State Board of Education before July 1, 1991, and is still in effect may receive a variance from the requirements of §B of this regulation if the office determines that:**
- (1) **The requirements can be met only with substantial physical modifications to the center; and**
 - (2) **Sanitary facilities are accessible to every child in the center.**

INTENT: *An exception has been provided for those operators who were granted approval to operate an educational program prior to July 1, 1991 who are unable to meet the requirement of § B. above, without having to make substantial physical modifications to the structure of the center.*

- D. **In each toilet facility accessible to a school age child, the operator shall provide at least one toilet in an enclosed stall or other space affording privacy to the child.**
- E. **In a small center approved for mixed age groups, only one toilet and sink are required.**
- F. **A center licensed for the first time shall provide at least one toilet facility restricted to use by adults that is equipped with a toilet, sink, and toilet supplies, except that this requirement does not apply to:**
- (1) **Small centers; or**
 - (2) **Programs that operate 2-1/2 hours or less per session per day.**
- G. **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.**
- H. **Portable toilets, also known as potty-chairs, may not be used in a child care center.**

INTENT for D. – H. above: *The center must have enough toilets and sinks in full working condition to accommodate the sanitary needs of all children in attendance. Except in specified types of facilities, there must be a separate toilet facility reserved for use by adults. The sanitary facilities must be easily accessible to all approved age groups, and must afford age-appropriate privacy. Bathroom floors and walls must be*

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easy to clean, and bathrooms must be properly ventilated. Potty-chairs are not permitted because they are difficult to keep clean and sanitized.

INSPECTION REPORT ITEM: “Sanitary Facilities and Supplies”

COMPLIANCE CRITERIA:

- *All toilets and sinks are fully functional.*
- *Except in a small center or a part-day center, there is one fully functioning separate adult bathroom.*
- *Toilet facilities used by school-age children permit privacy.*
- *Bathroom floors are non-absorbent and easy to clean.*
- *Bathroom walls are smooth and easy to clean.*
- *Bathrooms are properly ventilated.*
- *Potty-chairs are not used.*

ASSESSMENT METHOD: *Observe all sanitary facilities to determine if they meet all applicable compliance criteria as listed above.*

Note: *When determining the number of toilets, urinals may not be counted as toilets.*

- I. **Each toilet room shall contain individual paper towels, a trash receptacle, soap, and toilet paper.**
- J. **All sanitary supplies in a toilet room shall be available within reach of a child capable of using the toilet unassisted.**
- K. **Toiletry and grooming articles, drinking cups, towels, face cloths, brushes, and combs may not be shared.**

INTENT for I. – K. above: *Adequate and appropriate handwashing and sanitary items must be immediately accessible to children who self-toilet. To help prevent the transmission of disease, the operator must ensure that each child uses only his or her own personal grooming and hygiene items and that drink containers are not shared.*

INSPECTION REPORT ITEM: “Sanitary Facilities and Supplies”

COMPLIANCE CRITERIA:

- *Each bathroom used by children who self-toilet is always accessibly equipped with soap, trash receptacle, toilet paper, and paper towels.*
- *Each child uses only his or her own personal grooming and hygiene items.*
- *Drink containers are not shared.*

ASSESSMENT METHOD: *Observe to determine if:*

- *Sanitary supplies are appropriate and accessible.*

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- *Children do not share their grooming/hygiene items or drink containers. To obtain additional information, or if observation is not possible, interview facility staff to determine if and how they monitor the children's use of personal hygiene items and drink containers.*

.09 Lighting.

- A. **There shall be sufficient natural and artificial lighting in all approved areas of the center to allow proper child supervision and help ensure the safety of each child, employee, and visitor to the center.**

***INTENT:** Each part of the approved child care area must have a minimum amount of light that is sufficient for child safety and appropriate to the use of that part or to the activity taking place there.*

***INSPECTION REPORT ITEM:** "Lighting"*

***COMPLIANCE CRITERIA:** In each part of the child care area, lighting is sufficient and appropriate.*

***ASSESSMENT METHOD:** Observe the lighting in each part of the approved area.*

- B. **An operator shall use light fixtures with bulbs, lamps, and tubes that are shatter-proof or protected by shields to prevent shattering.**

***INTENT:** Broken glass from shattered light bulbs or lamps is a serious safety risk to children; therefore, those items must either be shatter-proof or enclosed in a manner that will prevent shattering.*

***INSPECTION REPORT ITEM:** "Lighting"*

***COMPLIANCE CRITERIA:** All bulbs, lamps, and tubes are shatter-proof or suitably enclosed.*

***ASSESSMENT METHOD:** Observe all light fixtures to determine if the bulbs, etc., meet the stated compliance criteria.*

- C. **In a room approved for child care that does not have windows, an operator shall provide an approved source of lighting that will operate in case of a power failure.**

***INTENT:** In a windowless room, there must be emergency lighting to permit the children to evacuate the room safely, if necessary.*

***INSPECTION REPORT ITEM:** "Lighting""*

COMPLIANCE CRITERIA: *Each windowless room approved for care has a proper source of emergency lighting.*

ASSESSMENT METHOD: *Observe all windowless child care rooms in the facility to determine if proper emergency lighting is present.*

- D. **An operator shall provide adequate outdoor lighting to ensure the safety of persons entering and leaving the center when it is dark outside.**

INTENT: *When it is dark outside, there must be sufficient light for individuals to see where they are going.*

INSPECTION REPORT ITEM: *“Lighting”*

COMPLIANCE CRITERIA: *The outdoor approaches to the facility are sufficiently lit to allow safe passage.*

ASSESSMENT METHOD: *After dark, observe the outdoor approaches to the facility to determine if they are lit well enough to be safe.*

.10 Telephone and Communication.

- A. **There shall be at least one operable telephone in the center that is freely and readily available to all center staff during the approved hours of operation.**

INTENT: *The center must have at least one operable land-line (hard-wired) telephone or wireless communication device (cell phone) that can be readily accessed by center employees for general and emergency use.*

INSPECTION REPORT ITEMS: *“Telephone and Communication”*

COMPLIANCE CRITERIA:

- *At least one operable land-line telephone or cell phone is present in the center.*
- *The landline telephone or cell phone is readily and freely accessible to center employees.*

ASSESSMENT METHOD: *Observe to determine if a landline telephone or cell phone is present, operable, and freely accessible to center employees.*

Note:

- *Operators who use cell phones instead of land lines must not have the cell phone’s password protection activated during child care hours. This will ensure*

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that anyone (including a child) who may have to use the phone in an emergency is able to do so.

- *Employee cell phones may not be used. The operator must provide the phone.*
 - *Communication devices must be available for use on the premises of the child care facility, while transporting children and on field trips. Drivers, while transporting children should not operate a motor vehicle while using a mobile telephone or wireless communications device when the vehicle is in motion or a part of traffic, with the exception of use of a navigational system or global positioning system device.*
- B. In a center 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. In each room where care is provided to infants or toddlers, there shall be an operable telephone.**

***INTENT for C:** An emergency involving an infant or toddler must be able to be communicated immediately by a staff member without the staff member having to leave the infant/toddler care room.*

***INSPECTION REPORT ITEM:** “Telephone and Communication”*

***COMPLIANCE CRITERIA:** Each infant/toddler room contains an operable telephone, or an operable intercom that is connected to an operable landline telephone.*

***ASSESSMENT METHOD:** Observe each infant/toddler room to determine if the necessary communication equipment is present.*

- D. The operator shall provide additional telephones or extensions in the center as may be required to:**
- (1) Summon emergency fire and rescue services promptly; and**
 - (2) Transmit and receive other emergency communications.**

***INTENT:** If the center has only one telephone but is constructed or laid out in a manner that hinders immediate access to the telephone, a facility employee who needs to make or receive an emergency communication may be delayed in doing so. The center must have as many telephones or extensions as necessary to ensure immediate access and prevent any delay.*

***INSPECTION REPORT ITEM:** “Telephone and Communication”*

COMPLIANCE CRITERIA: *There is a sufficient number of telephones and extensions to ensure prompt emergency communication.*

ASSESSMENT METHOD: *Observe the number and location of the center's telephone(s) and extension(s) and compare with the center's physical size and layout to determine if the number of telephone(s) and extension(s) is sufficient.*

.11 General Cleanliness and Disposal of Refuse.

- A. **The entire center, including floors, walls, ceilings, fixtures, furnishings, materials, and equipment, shall be kept clean and free of infestation.**

INTENT: *The facility must be kept clean in order to maintain a healthy environment.*

INSPECTION REPORT ITEM: *"General Cleanliness"*

COMPLIANCE CRITERIA: *All surfaces and equipment clean:*

- *Floors, walls, ceilings, fixtures, furnishings, and equipment are free of dirt, grime, grease, and spillage.*
- *Facility areas and rooms are free of accumulated clutter and trash.*

ASSESSMENT METHOD: *Observe all areas of the facility to assess cleanliness.*

Notes:

- *The operator is expected to follow cleaning procedures and schedules set forth in OCC's **"General Sanitation Guidelines"**.*
- *Routine cleaning of surfaces, materials, and equipment removes dirt or spills that can harbor bacteria; however, some surfaces and items must also be sanitized with a disinfectant because they are especially likely to become contaminated with high levels of bacteria and serve as vehicles for transmitting illness.*
- *Many commercial disinfectants contain additives such as perfume or dye and may leave a chemical residue. This could be harmful to children with asthma or allergies. For this reason, the Center for Disease Control (CDC) and the American Academy of Pediatrics (AAP) recommend using a solution of household bleach and water for general sanitizing purposes. A properly mixed bleach-and-water solution is non-toxic and evaporates rapidly without leaving a residue.*
- *Whenever children are present, bleach solution (or any other approved disinfectant) should be applied by dipping, soaking, or wiping the item or surface with a cloth (but not a sponge, since sponges harbor bacteria and are hard to*

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clean). Spraying is acceptable only when dipping or soaking is not feasible and wiping with a cloth is likely to spread the contamination – for example, when sanitizing diapering stations and toilets.

- *Whenever a disinfectant of any kind is used, there should always be adequate ventilation. This is especially important in confined or enclosed areas such as bathrooms. A child who is asthmatic or sensitive to the disinfectant should be kept away from the immediate area until it can dissipate completely. If this step is not sufficient, the operator or provider should discuss with the child's parent other alternatives for reasonably accommodating the child's sensitivity.*
- *If a product is registered with the Environmental Protection Agency's (EPA's) Division for Chemicals and Pesticides, OCC will accept the product. Check the product label to verify that there is an EPA registration number.*

- B. In a center for fewer than 12 children located in a residence, the requirements of §A of this regulation apply only to space approved for child care.**

INTENT: Where the facility is part of a private dwelling, assessment of compliance with cleanliness requirements is limited to areas approved for child care activities.

- C. Cleaning may not be conducted while children are present except in emergencies or as clean-up activities that are part of the daily activity program.**

INTENT: Since routine cleaning may involve procedures and cleansing agents that may be hazardous to children, routine cleaning must be done when children are not present.

INSPECTION REPORT ITEM: “General Cleanliness”

COMPLIANCE CRITERIA:

- *Center cleaning is done when children are not present.*
- *No child is present in an area where routine cleaning is being done.*

ASSESSMENT METHOD: *If possible, observe to determine if routine cleaning occurs only in areas where children are not present. If observation is not possible, interview facility staff as needed to determine when routine cleaning occurs.*

- D. 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;**

- (b) **Makes the contents of the container inaccessible to children in care.**

***INTENT:** Soiled diapers are a source of contamination and a potential health hazard, so they must be secured from access by children.*

***INSPECTION REPORT ITEM:** “General Cleanliness”*

***COMPLIANCE CRITERIA:** Each soiled diaper container has a disposable liner and a childproof lid or cover. Alternatively, if the lid or cover is only snugly fitting but not childproof, the container itself must be made inaccessible to children.*

***ASSESSMENT METHOD:** Observe to determine if each soiled diaper container is lined and if or how its contents are made inaccessible to children.*

- (3) **All trash containers in child care areas shall be emptied when full but at least daily.**

***INTENT:** Indoor trash containers located in child activity areas must be equipped for daily easy and hygienic trash removal.*

***INSPECTION REPORT ITEM:** “General Cleanliness”*

COMPLIANCE CRITERIA:

- *Each indoor trash container is emptied daily.*
- *There are no full or overflowing trash containers in the child care areas.*

***ASSESSMENT METHOD:** Observe each trash container in the child activity areas to assess level of contents. Interview facility staff as needed to determine if trash containers are emptied 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.**

***INTENT:** To help prevent infestation by insects and vermin, outdoor trash containers must fully enclose their contents and be easily cleanable.*

***INSPECTION REPORT ITEM:** “General Cleanliness”*

COMPLIANCE CRITERIA:

- *Appropriate receptacles with tight-fitting lids:*
 - *Trash is stored outdoors only in fully enclosing, rigid or semi-rigid containers that are made of metal, plastic, rubber, or a similar impermeable material, and*
 - *Each container has a snugly fitting lid or cover.*
- *Clean and sanitized:*
 - *Each outdoor trash container is free of spillage and detritus.*
 - *All trash containers are free of infestation by insects and vermin.*

ASSESSMENT METHOD:

- *Observe outdoor trash containers for suitability and general cleanliness, and to determine if infestation is present.*
- *As necessary, interview facility staff to determine if and how containers are cleaned and sanitized.*

.12 Outdoor Activity Area.

- A. **A center shall have an outdoor activity area on the premises of, adjacent to, or near and safely accessible to the center that provides adequate usable play space for the approved capacity of the center.**

***INTENT:** Children must have an outdoor play area they can use each day that is accessible and large enough to accommodate vigorous play by all children in attendance, and that can be reached easily and without placing any child in danger. The approved outdoor play area must be close enough to the child care center that vehicle transportation is not required.*

***INSPECTION REPORT ITEM:** “Outdoor Activity Area”*

***COMPLIANCE CRITERIA:** There is an outdoor playground that is:*

- *Available for daily use by children in care;*
- *Safely and easily accessible to the children without using vehicle transportation; and,*
- *Large enough to accommodate the play activities of all children in attendance at one time or in shifts.*

***ASSESSMENT METHOD:** Observe the outdoor activity area to assess its accessibility and suitability.*

Notes:

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- “Accessible” does not mean that the outdoor playground must necessarily be located on facility property.
- “Accessible” means the outdoor playground needs to be adjacent to, or safely accessible to the facility. Examples of situations that satisfy this accessibility requirement include, but are not limited to, a playground maintained by a school that is next door to the facility and a municipal playground that is located at a short distance from the facility but can easily be reached without risk to any child in care.

B. A center for which a notice of intent, filed pursuant to COMAR 13A.16.02.02A(2), is received by the office on or after January 1, 2009, shall have an outdoor activity area that provides at least 75 square feet of usable play space for:

- (1) **One half of the approved capacity of the center; or**
- (2) **Each child, if the center has an approved capacity of 20 or fewer children.**

***INTENT:** Children should have adequate space for outdoor activities that will minimize accidents and injuries and will provide ample space for young bodies to engage freely in large muscle development activities. Overcrowding of children on a playground is a frequent contributing factor to child injuries; therefore, it is strongly recommended that the playground area provide at least 75 square feet of play area per child in attendance at the playground.*

***INSPECTION REPORT ITEM:** “Outdoor Activity Area”*

***COMPLIANCE CRITERIA:** The center provides at least 75 square feet of usable play space for the maximum number of children who will use the outdoor play area at one time.*

ASSESSMENT METHOD:

- Determine the square footage of the outdoor play space by multiplying the length by the width.
- If the approved center capacity is for 21 or more children, compute square footage as follows:
1. Divide the approved capacity number by 2.
 2. Multiply that number by 75 to determine the number of square footage of outdoor play space required.
 3. Compare the resulting number with the square footage of the outdoor play area to determine if the total square footage of usable play space is at least, or more than the number of square feet required for half of the approved capacity;

**Or apply an automatic variance as follows:*

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1. Determine the square footage of the outdoor play space by multiplying the length by the width.
 2. Multiply that number by 75.
 3. Determine the maximum number of children who may use the outdoor play space at one time.
- If the approved capacity is for 20 or fewer children:
1. Multiply the approved capacity by 75.
 2. Compare that number with the square footage of the outdoor play area to determine if the total square footage of usable play space is at least, or more than the number of square feet required for the approved capacity.

Notes:

- Public school or municipal playgrounds are not required to be measured. They are appropriate for use.
 - *Businesses are encouraged to provide child care services to employees on site or near the workplace. Entrepreneurs are encouraged to open child care facilities in business districts to accommodate families who prefer to place their children in child care facilities close to where they work. While commercial real estate may be available to accommodate excellent child care programs, outdoor play space may be minimal. The automatic variance provides relief to operators addressing outdoor play space issues by approving outdoor play space that comply with the intent of regulations assuring that all children in the play space at any one time are afforded 75 square feet of space each. This type of issue is generally faced by operators of facilities located in urban downtown areas.
 - When children are taken to the playground/outdoor play space in shifts, the staff/child ratios must be maintained at all times on the playground/outdoor play space and with the remaining children inside of the facility.
- 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.

INTENT: Children must have an outdoor play area they can use each day that is safe.

INSPECTION REPORT ITEM: "Outdoor Activity Area"

COMPLIANCE CRITERIA: There is an outdoor playground that is free of potential safety hazards.

ASSESSMENT METHOD: *Observe the outdoor activity area, including equipment fall zones, to determine if it is free from potential hazards to the child's health or safety.*

- *The Licensing Specialist shall observe the entire playground area for:*
 - *Age-appropriate equipment*
 - *Shock-absorbing surfacing*
- *Determine if the following safety hazards exist:*
 - *Unstable equipment*
 - *Climbing equipment over 7 feet high*
 - *Equipment or building protrusions that could cause injury or catch on clothing*
 - *Standing, stagnant water*
 - *Broken glass*
 - *Toxic materials (including toxic substances such as pesticides that may have been applied to playground areas or fall-zone coverings)*
 - *Fence in disrepair, or the lack of fencing or other suitable barrier to protect children from nearby hazards such as, but not limited to, open bodies of water, construction equipment, or heavy vehicular traffic*
- *If certain types of hazards (for example, swimming pools, heavy vehicular traffic, cliffs or drop-offs, etc.) are near to the facility's outdoor play area, and the play area is on the premises of the facility, OCC may require the operator to erect a fence or other type of barrier to protect the children from these hazards. For additional information about this topic, see "**Barriers to Protect Children from Life-Threatening Safety Hazards**".*

Note:

- *Studies by insurance companies and hospitals have repeatedly shown that playground injuries are among the leading causes of child emergency medical treatments and hospital emergency room admissions. Many of these injuries are attributable to unsafe playground equipment and to the lack of suitable "fall-zones" around swings and climbing devices. See "**Playground Safety**", and "**Playground and Water Safety Guidelines**".*

E. All outdoor activity equipment shall be safe, in good repair, clean, and nontoxic.

INTENT: *Children must have outdoor play equipment that is safe, maintained in good repair, clean, and nontoxic.*

INSPECTION REPORT ITEM: *"Outdoor Activity Area"*

COMPLIANCE CRITERIA: *Outdoor play equipment is available for daily use by children in care, safe, clean, nontoxic, and free of potential safety hazards.*

ASSESSMENT METHOD: *Observe the outdoor play equipment to determine if items are safe, maintained in good repair, clean, and nontoxic.*

Note: *Equipment must not have:*

- *Broken, missing, or rusted parts*
- *Sharp edges*
- *Crush or pinch points*
- *Rotting, splitting, termite-infested, or excessively worn wooden parts*
- *Loose bolts*
- *Entrapment areas*
- *Frayed cables, open S-hooks, worn ropes that can spread open*
- *Other identifiable hazards*

.13 Swimming Facilities.

- A. **Only swimming facilities meeting applicable local standards of health, sanitation, and safety may be used.**

INTENT: *A swimming pool, lake, or body of water may be used by children only if it is approved for swimming by the appropriate local or State government health office or department.*

INSPECTION REPORT ITEM: *“Swimming Facilities”*

COMPLIANCE CRITERIA: *The center can either produce evidence that the swimming facility has been duly approved, or can demonstrate that reasonable efforts have been made by the center to verify that approval.*

ASSESSMENT METHOD: *If the operator maintains an on-site swimming pool for use by children in care, review facility documentation to ascertain if the pool is approved by applicable health officials. If the swimming facility is located off-site (e.g., at the local YMCA, etc.), interview the director/designee to find out if and how the center determined that the swimming facility was duly approved before permitting children in care to use it.*

Note: See **“Playground and Water Safety Guidelines”**.

- B. **An above-ground swimming pool may not be used for swimming activities.**

INTENT: *An above-ground pool is not approved for swimming or wading by children in care. The operator may not permit a child in care to use a wading pool (such as a fill-and-drain molded plastic or inflatable pool) that does not have an operable circulation*

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system approved by the local health department. Stagnant (uncirculated) pool water is a potential health hazard because it contaminates quickly.

INSPECTION REPORT ITEM: “Swimming Facilities”

COMPLIANCE CRITERIA: *The center does not use an above-ground swimming pool or a wading pool for swimming or water activities that does not have an operable circulation system approved by the local health department.*

ASSESSMENT METHOD: *Determine if an above-ground swimming pool, or a wading pool that does not have an operable circulation system that has been approved by the local health department, is used for swimming or water activities by children in care.*

Note: See ***“Playground and Water Safety Guidelines”***.



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.01 Capacity.

- A. **An office shall determine the capacity of the center according to criteria established in:**

- (1) **This subtitle affecting floor space, outdoor activity space, staffing, equipment, ages of the children to be enrolled, and sanitary facilities; and**
- (2) **Applicable codes, including zoning, building, and fire codes.**

***INTENT:** The purpose of setting maximum capacity is to ensure that the number of children present at any given time does not exceed the facility's ability to provide adequate supervision and care to each of those children. If maximum capacity is exceeded, the health, safety, or welfare of the children present may be jeopardized. To establish a facility's maximum capacity, the Regional Office evaluates certain factors, each of which is critical to child health, safety, and welfare.*

Notes:

In setting maximum capacity, the Regional Office takes into account the following:

- *Consideration is given to any limitations imposed by applicable State or local fire, environmental health, zoning, or other requirements.*
- *Evaluation of the facility's physical structure and layout (or an applicant's plans for the structure and layout) to determine whether the requested child capacity can be safely accommodated. Considerations include, but are not limited to:*
 - *The number and age-ranges of children to be served;*
 - *The number, size, location, and appropriateness of child activity areas (both indoor and outdoor);*
 - *The type, extent, and suitability of care-related equipment and furnishings;*
 - *The sufficiency and appropriateness of sanitary facilities.*
- *Review of the facility personnel lists and staffing patterns to ensure that the facility will be able to meet staff-child ratios and group size requirements for the requested child capacity.*

Based on an assessment of the above items, the Licensing Specialist will submit a capacity recommendation to the Licensing Supervisor or Regional Manager. The Supervisor or Manager is responsible for approving or disapproving the capacity recommendation. Before reaching an approval decision, the Supervisor or Manager may need to obtain additional information or conduct a further inspection of the facility to evaluate the appropriateness of the capacity recommendation. Once the decision has been made, the applicant or operator will be promptly notified. If the approved capacity is less than requested, the applicant

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or operator may appeal the decision to the MSDE Licensing Branch Central Office.

- B. An operator shall limit the total number of children in care at one time to the capacity approved by the office.**

***INTENT:** Establishment of maximum capacity is directly based on child health, safety, and welfare considerations. For a given child care area, the operator may not exceed the approved capacity stated on the center license.*

***INSPECTION REPORT ITEM:** “Capacity”*

***COMPLIANCE CRITERIA:** The number of children present does not exceed the approved capacity for that area as stated on the center license.*

***ASSESSMENT METHOD:** Observe to determine if the number of children present, by age, is within the number stated on the license. If necessary, verify the children’s ages.*

***Note:** If an applicant or operator is seeking approval for evening or overnight care, OCC will consider space, supervision, sleeping facilities, and other safety factors when setting maximum capacity.*

.02 Enrollment and Attendance.

- A. 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.**

***INTENT:** “Capacity” means the maximum number of children that may be physically present in the facility at the same time. “Enrollment” means the total number of children currently served by the facility at any time during its approved operating hours.*

“Attendance” means the number of children actually present at a given time. A facility’s enrollment may exceed its capacity, but the number of children in attendance at the same time may not exceed the facility’s capacity.

- B. An operator may not enroll a child for more than 14 hours in a 24-hour period unless approved in advance by the office.**

***INTENT:** Licensed child care is intended only to provide day-to-day custodial care and supervision of children during the time when their parents are elsewhere. It is expected that each child’s parent or guardian will take the child home at the end of each day. Except as approved in advance by OCC, child care services may not be provided to a child during any given day for more than 14 hours in a 24-hour period.*

***INSPECTION REPORT ITEM:** “Enrollment and Attendance”*

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COMPLIANCE CRITERIA: During any given day, no child is in attendance for more than 14 hours without the prior approval of the Regional Office.

ASSESSMENT METHOD: Review the facility's daily child attendance records to determine the length of time children are in attendance there. If a child has been in attendance for more than 14 hours, determine if the facility received prior OCC approval.

Note: An exception to the requirement for prior approval may be granted in cases of occasional evening hours or "sleepovers."

C. An operator may not admit an infant who is younger than 6 weeks old.

INTENT: A child who has only recently been born is too young to be admitted to a congregate care setting.

INSPECTION REPORT ITEM: "Enrollment and Attendance"

COMPLIANCE CRITERIA: No child admitted to care is younger than 6 weeks old.

ASSESSMENT METHOD: Review the facility's child admission records to determine if any child in care is younger than the minimum age.

D. An operator may enroll a child only if the office has given written approval for the facility to care for children of that child's age.

INTENT: A center may not provide care to a child of a given age unless approved by OCC to do so. If granted, this age approval is documented on the license that is issued to the operator. If an age is not specified on the license, the center may not enroll a child of that age.

INSPECTION REPORT ITEM: "Enrollment and Attendance"

COMPLIANCE CRITERIA: The center enrolls and provides care only to children of the age(s) for which the center is approved, pursuant to the center license.

ASSESSMENT METHOD: Review the facility's child admission records to determine if any child enrolled in care is of an age for which the facility has not been approved.



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.01 Multi-Site Centers.

A child care center may have more than one location and may be treated as one center for purposes of this chapter only if:

A. The buildings:

- (1) Function as one integrated center, are in close proximity such as across the street or on the same campus, and are connected by an intercom system; and**
- (2) Are under the supervision of one director; and**

B. Two or more locations:

- (1) Are administered by one central administration with one ownership; and**
- (2) Share common administrative policies and procedures and contracts.**

***INTENT:** When a child care license is issued, it is issued to authorize operation only at a specific location. A licensee may be authorized to operate a number of centers at various locations, but each of these centers must be separately licensed because each is sited at a different location. Most centers are fully contained within a single area or structure; however, a center's "location" may include two or more separate areas or structures if those areas or structures are in close physical proximity to each other and are operated as a single administrative unit under a single director.*

***INSPECTION REPORT ITEM:** "Multi-Site Centers"*

***COMPLIANCE CRITERIA:** Each different site location or location address of a center has been issued a separate license; however, if the licensee has been authorized to operate two or more separate structures in close physical proximity to each other as a single "location", only one license is required.*

***ASSESSMENT METHOD:** Review the address locations of the center operations to determine:*

- If the multi-site center operates at different location addresses and holds a separate license for each site location.*
- Verify if the licensee has been authorized to operate separate areas or structures of the center as a single "location" and holds a single license for such an operation.*

.02 Admission to Care.

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

- (1) Met the applicable requirements of this regulation; and**
- (2) Received the written records required by Regulation .04C—H of this chapter, unless the child is temporarily admitted or retained in care on a temporary basis pursuant to §F of this regulation.**

INTENT: A child may not begin care until the center has received a medical evaluation, immunization certificate (immunization record), and emergency information for the child.

INSPECTION REPORT ITEM: “Admission to Care”

COMPLIANCE CRITERIA:

- On or before the first day that the child begins care, the center has received the following items signed by the child’s parent or guardian and, if indicated, by a licensed health practitioner:
 - **“Emergency Form”, OCC form 1214**
 - **“Health Inventory”, OCC form 1215** (or equivalent form which contains all information as required on the Health Inventory)
 - **“Immunization Certificate” (record), DHMH form 896**

ASSESSMENT METHOD: Review of children’s files to determine if the child’s file contains a completed Emergency Form, Health Inventory, and Immunization Certificate (immunization record).

Notes:

- When documents required for admission to care have not been received, inform the operator or Director that the parent must be told that the child may not return to the center until all required documents are received. Do not send the child home.
- While verification of “Lead Screening” is a part of the Health Inventory, the parent has 30 days after admission to get it completed.
- See the current **DHMH “Age-Appropriate Immunization Chart”** schedule.

Federal law under the Americans with Disabilities Act (ADA) prohibits child care programs from denying admission to a child with a disability solely on the basis of that disability. For more information on the applicability of ADA requirements to child care programs, see **“Child Care and the A.D.A.”**

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

INTENT: Before caring for a child, center staff must know the individual needs of a child. In order for this information to be specific to each child, the information about each child must be provided in writing by the parent. This information must be maintained by the center for the purpose of easy reference by center staff.

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA: *There is a written statement from the parent about each child's individual needs that is maintained by the center. Documentation indicates that center personnel and the child's parent have discussed any particular needs the child may have so that the program can be prepared to address those needs. This discussion must occur on or before the first day that child begins in care.*

Note: *Documentation may be in any format, but it must include, at a minimum:*

- *The date of the discussion;*
- *The specific nature of the child's individual needs, if any, identified by the parent; and,*
- *The signatures of the parent and the center representative.*

ASSESSMENT METHOD: *Review each child's file to determine if there is a written statement from the parent about the child's individual needs.*

C. As part of the admission process, the operator shall:

- (1) **Give the parent, or advise the parent how to obtain information that is supplied by the office concerning:**
- (2) **Consumer education on child care;**
- (3) **How to file a complaint against the child care center; and**
- (4) **Provide documentation that the requirements of §C (1) of this regulation have been met.**

INTENT: *Parents/Guardians must be given or provided information on how to obtain written information that includes basic requirements for licensed programs and informs them about their rights and responsibilities. The operator must ensure that each parent of a child in care receives a copy of the **Consumer Education Pamphlet** provided by OCC, or must advise parents about how to get a copy of the pamphlet. Parents/Guardians may obtain general information about child care at:*

<http://earlychildhood.marylandpublicschools.org/families>

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA: *Each parent of a child currently in care has received a copy of or information about how to obtain the information brochure.*

ASSESSMENT METHODS:

- *Review records of children currently enrolled in care to determine if for each child (or for at least one child from each family), there is signed and dated documentation that the child's parent has received a copy of the brochure, or*

- *Interview the operator about if and how information has been provided to parents about how to receive a copy of the information brochure.*

D. Upon admission of an infant or toddler, an operator 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;**

INTENT: *At the time of admission of a child under age 2, the operator must establish a written feeding regimen for the child in consultation with the parent. The regimen must include feeding times, types and amounts of food, and food progression and must address any medical recommendations regarding feeding. The established regimen must be followed, and it must be re-evaluated at least every 3 months or more often as necessary.*

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA: *For each child under 2-years-old, a written feeding regimen:*

- *Is established at the child's admission in consultation with the parent;*
- *Addresses all the required elements;*
- *Is implemented during each day that the child is in attendance; and*
- *Is re-evaluated in consultation with the parent at least every 3 months or more often as necessary.*

ASSESSMENT METHOD: *Review the file of each child in care who is under 2-years-old to determine if a written feeding regimen is present that meets all listed compliance criteria.*

(2) A written individual activity plan for the child; and

INTENT: *When an infant or toddler is enrolled in care, the operator must ensure that a written individualized activity plan for the child is developed jointly by the child's parent and a qualified staff member. This plan must address in detail what the child's individual needs are and how they will be met. The plan must identify the qualified staff member who will have responsibility during each work shift for implementing the plan and ensuring that the child receives appropriate care.*

INSPECTION REPORT ITEM: "Admission to Care"

COMPLIANCE CRITERIA:

- *For each infant and toddler enrolled in care, there is a written individualized activity plan that was jointly developed by qualified staff and the parent at the time of the child's admission to care.*
- *The written plan details:*
 - *The child's normal eating, sleeping, and other activity patterns and specifies how the facility will accommodate those patterns;*
 - *How the child will receive consistent and appropriate stimulation;*
 - *Diapering; and*
 - *Assignment per shift of a qualified primary caregiver.*

ASSESSMENT METHOD: *Review each enrolled infant and toddler's record to determine if a written plan is present and if the plan meets the compliance criteria.*

- (3) **If the child is a toddler or an infant who is 12 months old or older, the need for the child to use a crib for rest purposes.**

INTENT: *If a parent of a child who is 12 months old or older knows their child needs a crib for rest time, the parent must inform the center of such.*

INSPECTION REPORT ITEM: *"Admission to Care"*

COMPLIANCE CRITERIA: *There is a crib available for use by each infant and/or toddler enrolled who is 12 months old or older whose parent has informed the center that the child needs to sleep/rest in a crib.*

ASSESSMENT METHOD: *Determine if any parent of a child who is 12 months old or older has informed the center that their child needs a crib for sleeping/resting. If so, observe to see if a crib (or cribs) is/are available for such a child/ren.*

- E. If a child is younger than 6 years old at the time of admission, the operator 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 operator 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.**

INTENT: *To help decrease the damaging effects of lead poisoning in children, Maryland law requires each child under the age of 6 years to have an appropriate lead screening within 30 days after beginning in care at the center.*

INSPECTION REPORT ITEM: *"Admission to Care"*

COMPLIANCE CRITERIA: *Within 30 days after admitting a child younger than 6 years old, the center received a completed and signed “Health Inventory”, OCC form 1215 or equivalent form approved by the Regional Office.*

ASSESSMENT METHOD: *Review children’s files to determine if and when the center received the required documentation.*

Notes:

- *The child’s parent is responsible for making sure the child has received a lead screening.*
- *The child’s physician is responsible for ensuring that the child received the appropriate lead screening.*
- *If a child has been tested but the health practitioner does not have the test date, the local health department in the jurisdiction where the child lives can help the child’s parent get a record of the test results.*
- *The zip codes of the at-risk areas that require blood lead testing are listed on the back of the Health Inventory form. When a child registers to begin school, this form will meet the requirements for school entry. For this reason, parents should be encouraged to keep a copy of the form for school registration purposes.*
- *The center operator is responsible for making sure the center receives documentation of the appropriate lead screening within 30 days after the child first attends care. If that documentation is not received within the required timeframe (or if the documentation shows that the screening was not the correct one as required by State or local law), the operator may not permit the child to attend the center until the parent supplies documentation that the child has had the appropriate lead screening.*

F. Temporary Admission to Care.

- (1) **An operator may temporarily admit or retain a child in care if:**
 - (a) **The child is homeless; or**
 - (b) **The child’s parent is unable to provide the health-related records specified in Regulation .04D, E, G, or H of this chapter.**
- (2) **For a child to be temporarily admitted or retained in care, the parent 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 health record.**
- (3) **The date of the appointment required by §F (2) of this regulation may not be later than 20 calendar days after the date the child was temporarily admitted or retained.**
- (4) **An operator 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 health-related information within 3 business days after the date of the appointment made pursuant to §F(2) of this regulation.**

.03 Program Records.

The operator 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, by groups of children, which indicate:**
 - (a) **The dates of attendance of each child in the center; and**
 - (b) **Verification by each child's parent of that child's recorded daily attendance in care; and**

***INTENT:** The facility must maintain enrollment and attendance records for all children enrolled to enable OCC to assess compliance with regulatory requirements pertinent to facility capacity, staff/child ratios, and group size. Parental verification of attendance provides proof that the child was in attendance on any particular day.*

***INSPECTION REPORT ITEMS:** "Program Records"*

***COMPLIANCE CRITERIA:** The center maintains current and complete enrollment and attendance records.*

***ASSESSMENT METHOD:** Review the facility's files to determine if the required records are present and that the operator has a process in place for parental verification of attendance.*

***Note:** Parental verification of attendance was mandated for purposes related to programs with children participating in the Subsidy program. Operators must submit attendance verification with their invoices for payment. Operators may develop various processes for parent verification which are acceptable.*

B. Maintain:

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

***INTENT:** The operator must ensure that facility staff know where each child is at all times while the child is in attendance.*

***INSPECTION REPORT ITEM:** "Program Records"*

***COMPLIANCE CRITERIA:** The center has a procedure to ensure that staff members always know the location of each child.*

ASSESSMENT METHOD:

- *Ask the Director if the required procedure exists and whether it is written or verbal. If it is written, ask to see it.*
- *Interview facility staff to evaluate their knowledge of the procedure.*

- (2) **A written child discipline policy as required in COMAR 13A.16.07.03C;**

***INTENT:** Providers and staff are more likely to avoid abusive practices if they are well-informed about effective, non-abusive methods for managing children's behaviors. The center must keep on file the written discipline policy required by Regulation .07.03C.*

***INSPECTION REPORT ITEM:** "Program Records"*

***COMPLIANCE CRITERIA:** The written discipline procedures are maintained on file.*

***ASSESSMENT METHOD:** If the written procedures are not openly posted, ask a facility staff member where a copy can be found.*

***Note:** See sample policy guide, entitled "**Discipline Measures**".*

- (3) **Records of food actually served by the center for the most recent 4 weeks as required by COMAR 13A.16.12.01G;**

***INTENT:** Proper menu planning is critical to ensuring that children in care get nutritionally correct types and amounts of food and beverages each day. Parents have a right to know what food is being served to their children and when, and menu-posting provides them with this knowledge. For the same reason, and because last-minute changes to planned menus are sometimes necessary, a record of food actually served must be kept for a reasonable period of time.*

INSPECTION REPORT ITEM: "Program Records"

COMPLIANCE CRITERIA: A dated record of food actually is served is maintained on file for at least 4 weeks after the corresponding menu date.

ASSESSMENT METHOD: Observe to determine if dated records of food served are on file for the required time.

Note: See sample "**Weekly Menu Planner**".

- (4) **A written record of the dates and times at which emergency and disaster plan drills were conducted pursuant to COMAR 13A.16.10.01A(3)(c); and**

INTENT: A written record of emergency and disaster plan drills must be maintained so that compliance with this regulation can be assessed.

INSPECTION REPORT ITEMS: "Program Records"

COMPLIANCE CRITERIA:

- A written log or similar document is maintained that records the date and time of each emergency evacuation drill.
- The dates indicate the emergency fire evacuation drills took place at least monthly.
- The dates indicate other emergency and disaster evacuation drills took place at least twice per year.

ASSESSMENT METHOD: Review facility records for evidence that evacuation drills occur as required.

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

INTENT: A complete copy of current center licensing regulations (COMAR 13A.16, Child Care Centers) must be present and displayed for review by center employees and parents.

INSPECTION REPORT ITEM: "Program Records"

COMPLIANCE CRITERIA: A complete copy of current center licensing regulations is displayed where it can be readily accessed by center staff and parents.

ASSESSMENT METHOD: *Observe to determine if and where the current regulations are displayed.*

- C. Display a copy of the consumer education pamphlet on child care supplied by the office so that it is freely available for reference to parents; and**

INTENT: *The operator must make the **Consumer Education Pamphlet** available and accessible for parents to reference. The operator must ensure that a copy of the parent information brochure provided by OCC is displayed for reference purposes.*

INSPECTION REPORT ITEM: *"Program Records"*

COMPLIANCE CRITERIA: *A copy of the brochure is displayed where it can be seen and used for reference by parents.*

ASSESSMENT METHOD: *Observe to identify if and where a display copy of the brochure is available for parent reference.*

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

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

INTENT: *This information is necessary to protect the health and safety of children in care.*

INSPECTION REPORT ITEM: *"Program Records"*

COMPLIANCE CRITERIA: *The center maintains written agreements for all children in care.*

ASSESSMENT METHOD: *Review center records to determine if there is a written agreement for each child in care.*

.04 Child Records.

- A. For each child admitted to, or continuing in care, the operator shall maintain written records, on forms provided or approved by the office that meet the requirements of this regulation.**

INTENT: *The operator must keep complete, current, and accurate records of all children served by the program.*

INSPECTION REPORT ITEM: *"Child Records"*

COMPLIANCE CRITERIA: *The center maintains written records for each child in care.*

ASSESSMENT METHOD: *Review center records to determine if there is a written record for each child in care.*

Notes:

- *Compliance with requirements of this regulation is further assessed at §§ B-J, as applicable.*
- *Certain information or forms, i.e., Emergency Card, Health Inventory, Parental Permission Slips, etc., required for each child may be found in the child's individual file or may be consolidated in a centrally located file.*
- *For information not found in the child's individual record, ask Operator or Director if required information is housed elsewhere within the facility.*
- *Reviewing Child Records: Child Care Centers are generally approved to serve large numbers of children. It is extremely time-consuming for licensing staff to inspect large numbers of child records during an inspection given the complexity and amount of information required to be checked for each record. To decrease time spent in this area, while ensuring that the provider maintains appropriate child records, Licensing Specialists may proceed as follows:*
 - *Randomly select 10 child records, creating a mixture of all infant and toddler records with some preschooler records, and review for compliance with the following:*
 - *§.04 of this Chapter, Child Records, A.–K., as applicable;*
 - *Chapter .09, §.02 Activity Plans; and,*
 - *Chapter .12, §.06 Infant Feeding, as applicable.*
 - *When a noncompliant record is reviewed, cite the noncompliance on the inspection form (be sure to use the canned comment) and cease inspecting child records.*
 - *Inform the Director that a noncompliance was found; therefore, all child records must be checked for completeness and accuracy. (You may note this directive in the additional comment section.)*

- *Ask the Director to contact you when all child records are compliant with regulations.*
- *Inform the Director that upon your return, you will randomly select another 10 child records to check.*
- *If all records checked in this random selection are compliant, the child record noncompliance will be noted as corrected.*
- *If non-compliances are found, the "N" will stand as cited until the Licensing Specialist finds no non-compliances during the random sampling review of child records.*
- *Licensing Specialist must discuss further follow-up with the Supervisor*

B. Each child's written records shall be:

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

INTENT: Center staff must be able to easily access child records at all times. Records must be retained for at least 2 years after a child's disenrollment.

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: All required records are accessible to all center staff members providing care to children, and are retained for at least 2 years unless specified otherwise by regulation.

ASSESSMENT METHOD: Review records required to be maintained by the center, and observe location of child records for ease of accessibility.

C. The operator 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 home and work telephone numbers;**
- (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.**

INTENT: *For each child, center staff must always know whom to contact in an emergency involving the child. At a minimum, emergency contact information must include certain items and must be reviewed by parents to make sure that it's accurate and complete.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA:

- *The center maintains a completed emergency information form for each child in care.*
- *The form used is an **OCC 1214 "Emergency Form"** or an equivalent document that has been approved by the Regional Office for use.*
- *Each form has been signed and dated by the child's parent or guardian.*

ASSESSMENT METHOD: *Review child records to verify that a completed emergency information document is present for each child.*

- 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, unless the child is a school-age child who attends a school-age program located in the child's school.**

INTENT: *To help decrease the damaging effects of lead poisoning in children, Maryland law requires each child under the age of 6 years to have an appropriate lead screening.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: *Each child in care younger than 6 years old has received appropriate lead screening.*

ASSESSMENT METHOD: *Review children's files to determine if and when the center received the required documentation.*

Notes:

- *Three, four and five year old children who are enrolled in public or nonpublic school are considered school-age children. If the child attends a school-age program located in the child's school, the assumption is that documentation of lead screening would be on site in the school's file.*
 - *The child's parent is responsible for making sure the child has received a lead screening.*
 - *The child's physician is responsible for ensuring that the child received the appropriate lead screening.*
 - *If a child has been tested but the health practitioner does not have the test date, the local health department in the jurisdiction where the child lives can help the child's parent get a record of the test results.*
 - *The zip codes of the at-risk areas that require blood lead testing are listed on the back of the Health Inventory form. When a child registers to begin school, the Form 1215 will meet the requirements for school entry. For this reason, parents should be encouraged to keep a copy of the form for school registration purposes.*
- F. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly from a registered family child care home, another 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. Unless a school-age child attends a school-age program located in the child's school, the operator shall obtain, and maintain at the center, 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 licensed 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.**

INTENT:

- *To minimize health risks to children, the center must obtain and maintain an immunization record for each enrolled child which demonstrates that each child has had immunizations appropriate for the child's age per the guidelines of the Maryland Department of Health and Mental Hygiene (DHMH).*
- *To minimize the possibility of an adverse reaction to an immunization to occur while the child is in care at the center, the child must have had at least one dose of each vaccine appropriate for the child's age before entry into the center and the date of dosage must be recorded on the immunization record.*

INSPECTION REPORT ITEMS: "Child Records"

COMPLIANCE CRITERIA: *Children's files contain an immunization record that complies with (1) – (4), as applicable, of this regulation.*

ASSESSMENT METHOD: *Review children's files to determine if the files contain immunization documentation.*

Notes:

- *If an immunization or specific immunizations are medically contraindicated, the file or immunization record must indicate such as recorded by a licensed physician or a health officer.*
- *If a parent objects to a child's immunizations or specific immunization(s) because of bona fide religious beliefs and practices, the immunization record of the child must contain a statement from the parent indicating such objection.*
- *For guidance in checking immunization records during an inspection see the **DHMH Age-Appropriate Immunization Chart schedule**, and **"Checking Immunization Records During Inspections"**.*

- 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, an operator 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.**

INTENT: *To provide for parent's bona fide religious beliefs and practices, a parent may opt out of the child immunization requirement or medical examination requirement, or both by providing a written statement of the child's health status in lieu of an immunization record and medical evaluation.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: *A written (signed and dated) statement from the parent that the child is in satisfactory health and free from any communicable disease is included in the child's program admission records of each child whose parent objects to having the child immunized or medically examined because of religious beliefs and practices.*

ASSESSMENT METHOD: *Review the child's file. If the file does not contain a medical examination or record of immunizations, determine if a written, signed, and dated parental statement indicating objection to a medical examination or immunizations, or both, is present.*

I. The operator shall record or maintain on file:

- (1) **Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.16.11.01;**
- (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.16.11.04A(1) and D;**
- (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.16.12.02;**
- (5) **If program activities away from the center 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 toddler or an infant who is 12 months old or older has requested a crib for the child's rest periods.**

INTENT: *For easy reference and recall, the center must maintain, at the center, all records required by this regulation.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA: *All records required by this regulation are maintained at the center.*

ASSESSMENT METHOD: *Review child records maintained by the center to determine if the center maintains the following:*

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- Incidences of acute illness requiring exclusion of a child from care as required by Chapter 11, regulation .01;
- Incidences of injury or death of a child while in care as required by regulations .06C and D of this Chapter (See **“Accident/Injury Record”** form);
- Parental permission to administer medication, as required by Chapter 11, regulations .04A(1) and .04D;
- As applicable, written prescription or written parental instruction regarding a child’s modified diet as required by Chapter 12, regulation .02;
- Written parental permission to take the child to program activities away from the center as required by regulation .04I(5) of this Chapter;
- As applicable, written parental request for the provision of a crib for an infant or toddler who is 12 months old or older as required by regulation .04I(6) of this Chapter.

Note: These instruments may be located in a consolidated file centrally located, posted in appropriate locations in the facility, or in individual child records.

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 operator and the parent at least every 12 months after the child's admission to care.

***INTENT:** In order to ensure that the operator is aware of, understands, and is equipped to meet all of the child’s needs, the operator must ensure that the parent’s/guardian’s written information about the child’s individual needs is current. To ensure that the information is current, at least every 12 months the operator must review the information provided with the parent/guardian.*

INSPECTION REPORT ITEM: “Child Records”

***COMPLIANCE CRITERIA:** There is indication on the written statement from the parent about each child’s individual needs that it has been reviewed with the parent/guardian within the last 12 months.*

Notes:

- Documentation must include, at a minimum:
 - The date of the latest review;
 - The specific nature of the updated information, if any, identified by the parent/guardian; and,

- *The signatures and dates of the parent/guardian and the center representative of the most recent review/update of the information of the child's individual needs.*

ASSESSMENT METHOD:

- *For each child who has been enrolled in the center for more than 12 months, review the child's file to determine if there is a written statement from the parent/guardian about the child's individual needs that has been updated at least every 12 months.*
- *Ensure that the updated information has been signed and dated by the operator and the parent/guardian.*

K. An operator shall maintain daily records of the amounts and kinds of liquids and solid food consumed by each infant and toddler. These records shall be:

- (1) **Dated and kept on file for at least 4 weeks;**
- (2) **Available in the infant or toddler feeding area; and**
- (3) **Made available to the child's parent.**

***INTENT:** In order to ensure that center staff and the parents/guardians of each infant and toddler (children under age 2 years) are aware of the foods and liquids consumed each day by the child, the type and amount of food and drink consumed by that infant or toddler must be recorded daily, be available in the infant and/or toddler feeding area, and made available to the parent of the infant or toddler.*

INSPECTION REPORT ITEM: "Child Records"

COMPLIANCE CRITERIA:

- *A feeding record that lists the amounts and kinds of liquids and solid foods consumed by each infant and toddler is completed each day the child is in attendance.*
- *The daily feeding records of each infant and toddler are maintained at the center for at least 4 weeks.*
- *The infant/toddler feeding records are available in the feeding area(s).*
- *The infant/toddler feeding records are made available to parents/guardians of infants and toddlers.*

ASSESSMENT METHOD:

- *Review the record of each infant and toddler enrolled to determine if it contains daily feeding records for at least the last 4 weeks that the child was in attendance.*

If the infant/toddler has been enrolled for less than four weeks, determine if the child's record contains a daily feeding record that spans the time period for which the infant/toddler has been in attendance.

- *Observe the feeding area(s) to determine if current daily feeding records are located there for each infant and toddler.*
- *Interview the Operator to determine how the daily feeding records are made available to parents of infants and toddlers.*

Note: *For more guidance on infant feeding, see Chapter .12, §.06.*

.05 Staff Records.

Notes:

- *Some Operators, with facilities at multiple sites, keep staff records at a central location. Since inspections are unannounced, staff records may not be on site upon arrival of the licensing specialist. In those instances, the Operator must be given the opportunity to get the records to the site before the inspection is completed.*
- *Some Operators keep staff records locked in a confidential file at all times. When an operator is not available during an unannounced inspection and the person in charge does not have access to the locked records, schedule a follow-up visit (the next business day) to review the records.*
- *Some operators keep staff records in a computerized system which is acceptable.*

The operator 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 center on a routine basis;**

INTENT: *To help ensure the safety of children in care, the operator must maintain a current and complete list of all facility employees and must make that list available to OCC.*

INSPECTION REPORT ITEM: *"Staff Records"*

COMPLIANCE CRITERIA: *A current and complete Employment Record is maintained which lists all current personnel and is provided to the Regional Office upon request. **OCC Form 1203 Personnel List/Change Form** is used for this purpose.*

ASSESSMENT METHOD: *Review the facility files to determine if a current and complete Employment Record is present and compare with **OCC 1203 Personnel***

List/Change Form or an alternative form approved by the Office, and the CCATS Associated Party list for that facility.

Notes:

- Child care centers may maintain a computerized version of the employment record and may submit to OCC as an alternative to OCC 2013 Personnel List/Change Form. The computerized format must contain all elements noted on the OCC 1203.
- On a routine basis, a center's Employment Record is reviewed by the Regional Office in conjunction with each unannounced inspection of the facility in accordance with policy, **"Verifying Staff Employment in Child Care Facilities During Annual Unannounced Inspections"**.
- The Employment Record is subject to review by the Regional Office at other times as well (for example, in connection with a complaint investigation).
- The Regional Office may request the center to submit the current Employment Record in advance of an unannounced inspection.
- If the Employment Record is not reviewed in advance, it will be reviewed on-site during the inspection.

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 name, all child care assignments;**

INTENT: So that OCC, parents/guardians of children in care, and visitors may verify that the center is complying with staff/child ratio and maximum group size requirements, the operator must post current and complete staffing pattern form(s).

INSPECTION REPORT ITEM: "Staffing Pattern Posted"

COMPLIANCE CRITERIA: A current and complete **Staffing Pattern form**, either **OCC 1206**, or an alternative form that has been approved by the Regional Office is posted for each child activity room.

ASSESSMENT METHOD:

- *Observe to determine if all necessary staffing pattern forms are posted in a conspicuous location in the center.*
- *Review each form for currency and completeness.*

Notes:

- *A center must post its current staffing patterns in a conspicuous location in the center. The staffing patterns do not have to be posted in each classroom. Collective posting at a single location (for example, on a main bulletin board) is acceptable.*
- *On a routine basis, a center's Employment Record is reviewed by the Regional Office in conjunction with each unannounced inspection of the facility.*
- *The Employment Record is also subject to review by the Regional Office at other times (for example, in connection with a complaint).*
- *The Licensing Specialist should be careful to link review of the staffing patterns to review of the Employment Record to ensure that properly trained staff are providing required coverage at all times.*

C. During an individual's employment at the center 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) **An employment medical evaluation;**
- (4) **Criminal background check results, except that the operator shall destroy the record of those results immediately after the last day of the individual's employment; and**
- (5) **The date on which the staff member received the written information required by COMAR 13A.16.06.02;**

INTENT: *During the employment of each person, the operator must maintain a record of the person's employment medical evaluation, job qualifications and duties, training completed while employed, federal and State criminal background check results, and*

date when the required staff orientation was received. This record must be maintained for 2 years after the person is no longer employed.

INSPECTION REPORT ITEM: "Staff Records"

COMPLIANCE CRITERIA: *A record containing the required information is maintained for:*

- *Each current employee; and*
- *Each ex-employee for two years after the end of the person's employment.*

ASSESSMENT METHOD: *Review the records of current employees and ex-employees to determine if compliance criteria are met.*

Notes:

- *Due to the confidentiality requirements for CBCs, copies of the criminal background results should not be in the employee's record for OCC review.*
- *The process found in "**Checking Staff Continued Training in Child Care Centers Guidelines**" may also be used to check staff records for compliance with this regulation.*

D. Maintain documentation required for:

- (1) **Substitutes, pursuant to COMAR 13A.16.06.13; and**
- (2) **The adult available for emergencies, pursuant to COMAR 13A.16.08.02D(3); and**

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.**

INTENT: *In order that the Regional Office can assess the center's compliance with requirements regarding the use of substitutes, pursuant to Chapter .06, Regulation .13, the center must maintain a written record of the days each substitute provided care to enrolled children and identify the staff member for whom the substitute worked.*

INSPECTION REPORT ITEM: "Staff Records"

COMPLIANCE CRITERIA: *For each substitute used by the center, there is a record of all of the dates the substitute was used and the name and job title of the person(s) the substitute replaced.*

ASSESSMENT METHOD: *Review the facility files for each substitute used by the facility to determine if the required records are present.*

.06 Notifications.

The operator shall:

A. Within 5 working days of its occurrence, provide written notification to the office about the:

(1) Addition of a new employee or 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; and**

***INTENT:** To enable OCC to determine if each new employee or staff member meets all applicable requirements of Chapter .06 of these regulations, the operator must provide OCC with certain hiring-related documentation at the earliest possible time.*

***INSPECTION REPORT ITEM:** "Notification of New Employee"*

COMPLIANCE CRITERIA:** Within 5 business days after a new employee's start date, the operator provides the Regional Office with a completed **"Child Care Facility Personnel List/Staff Change Form", OCC 1203.

***ASSESSMENT METHOD:** Review the facility's current Employment Record to identify recent hires. If there have been recent hires, review the facility's licensing file to determine if a **"Child Care Facility Personnel List/Staff Change Form"** form), and a completed **"Release of Information" form OCC 1260**, have been received as required for each new hire.*

***Note:** To curtail unnecessary CJIS Alerts, request the Operator or Director to inform the office of individuals no longer employed at the facility, or who were never employed after getting CBCs. The **"Child Care Facility Personnel List Staff Change Form"** may be used for this purpose.*

(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.**

***Note:** **OCC 1203 Personnel List/Staff Change Form** is used for reporting purposes.*

B. Within 15 working days of adding the new employee or staff member, provide to the office:

- (1) If applicable, documentation that the individual meets the requirements of this chapter for the assignment, unless documentation already is on file in the office; and**

- (2) **If the individual is paid by the center operator, proof of compliance with the laws and regulations pertaining to criminal background checks;**

***INTENT:** To ensure that new employees are qualified for the positions for which they were hired, and that those individuals are in compliance with criminal background check laws and regulations.*

***INSPECTION REPORT ITEM:** "Notification of New Employee"*

***COMPLIANCE CRITERIA:** As applicable, within 15 business days after a new employee's start date, the operator provides the Regional Office with documentation that the individual meets the regulatory requirements, if any, for the individual's job assignment. [NOTE: This documentation need not be submitted to OCC if the individual is identified in the Child Care Automated Tracking System (CCATS) as an associated party for another child care facility in the same position].*

Notes:

- *All new facility employees must apply to CJIS for a State and FBI record check. If, however, a new employee has previously had a State and FBI record check done and OCC has received the results from CJIS, the person is "known" to OCC and may begin child care duties before the results of the new record check application are returned (i.e., the new employee need not be "chaperoned" pending receipt of the new CBC application results).*
- *In the case of a multi-site operator, if an employee transfers from one site to another, a new record check application is not required. Since the person's employer remains the same regardless of the person's actual job site location, the person is not considered to be a new employee; therefore, the background check requirements for new employees do not apply.*
- *CJIS "365-Day Requests":*
 - *If a new employee's previous employer was a child care facility, school, adoption or foster care agency, children's recreation center, or similar program or service for children, and if CJIS received a Maryland State and FBI record check request on that person from the previous employer within the year, the person's current employer may file a "**365-Day Request**" with CJIS.*
 - *The 365-day request is made by submitting a special CJIS form, authorizing CJIS to send the results of that previous record check to the new employer and to the appropriate OCC Regional Office.*
 - *Results are usually received by the new employer and the Regional Office within 3-4 days after a properly completed request reaches CJIS.*

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- Facility operators may obtain copies of the 365-Day Request form and instructions for completing the form by calling CJIS Customer Service at (410) 764-4501.
 - There is no fee for filing a 365-Day Request form.
 - The operator must submit two copies of the special 365-Day Request form to CJIS. One copy should include the operator's authorization number, and the other copy should include the appropriate Regional Office's authorization number. Without these authorization numbers, CJIS will not know where to send the record check results.
 - The operator should photocopy the completed request form and forward the photocopy to the OCC Regional Office as proof that the 365-Day Request has been submitted.
 - State and FBI record check results received on the basis of a 365-Day Request will be accepted by OCC in lieu of a brand-new criminal background check application. If, however, CJIS rejects the 365-Day Request for any reason, the new employee will have to submit a new criminal background check application.
- Whenever submitting a criminal background check (CBC) request for a center employee, the operator must include the appropriate OCC Regional Office authorization number on the CBC request form. 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.)

C. Notify or require that a staff member notify the office within 24 hours of:

- (1) **The death of a child if the child died while at the center;**
- (2) **The death of a child enrolled at the center if the child died of a contagious disease; and**
- (3) **An injury to a child that occurs while the child is at the center or on a field trip which results in the child's being:**

- (a) **Treated by a medical professional; or**
- (b) **Admitted to a hospital;**

***INTENT:** The Regional Office must be notified of a child's serious injury or illness, or death while in care, within one working day of its occurrence.*

***INSPECTION REPORT ITEM:** "Notifications"*

***COMPLIANCE CRITERIA:** Each incident involving injury to a child that needs professional medical attention, or death from an injury while in care, or death due to a contagious disease is reported to the Regional Office within 24 hours.*

***ASSESSMENT METHOD:** Comparison of serious incident report(s) received from the center with entries made into children's records regarding the date, time, and nature of each serious incident.*

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;**

***INTENT:** The operator must notify parents of any injuries or accidents involving their children so that they can seek proper medical attention as necessary. Serious injuries must be reported immediately. Non-serious injuries must be reported within the same day.*

***INSPECTION REPORT ITEM:** "Notifications"*

***COMPLIANCE CRITERIA:** The operator notifies the parent:*

- *Immediately, if the injury or accident is serious, or*
- *By the end of the same day, if the injury or accident is not serious.*

***ASSESSMENT METHOD:** Review children's files to determine whether, for each noted injury, there is documentation of if and when parental notification occurred.*

*Note: See **"Accident/Injury Record"** form.*

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 center which may affect the status of the license, including but not limited to:**

- (a) **Individuals living on the premises;**
- (b) **Operation of the center; or**
- (c) **Telephone number;**

INTENT:

- *In order for the office to maximize safeguards to children in care, the operator must notify the office immediately upon awareness that an employee is under investigation for a criminal charge or an allegation of child abuse or neglect.*
- *In order to ensure that the status of the license is current as it pertains to changes at the center, the operator must notify the office immediately of changes to the operation that occurred after the license was issued including, but not limited to, the changes referenced in §.07 of this Chapter and the changes referenced in §E (2)(a)-(c) above.*

INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA: *The operator has notified the office immediately of any changes in operation referenced in §.07 of this Chapter and the changes referenced in §E (2)(a)-(c) above.*

ASSESSMENT METHOD: *Review the file of the center to determine if the operator reported changes to the office immediately.*

F. Within 5 working days after there is a new resident on the premises 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 and adults for information about the resident; and**
- (2) **Direct the resident to apply for a federal and State criminal background check; and**

INTENT: *In order for the office to ensure that each adult resident on the premises is in compliance with the criminal background investigation requirement, the operator must notify the office within 5 working days of such a resident by complying with §§(1) and (2) of this regulation.*

INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA:

- *The operator has submitted a signed and notarized release form giving the office permission to examine the records of abuse and neglect of children and adults for information about the new adult resident.*

- *The operator has ensured that the new adult resident has applied for a federal and State criminal background check.*

ASSESSMENT METHOD: *Review the file of the center to determine if the operator complied with this regulation within 5 working days of the adult becoming a resident of the child care facility.*

G. Within 10 business days of receiving notice from the center’s supplier of water that the drinking water is contaminated, send a written notice of the contamination to the parent of each child enrolled that:

- (1) **Identifies the contaminants and their levels; and**
- (2) **Describes the plan for dealing with the water contamination problem until the water is determined by the appropriate authority to be safe for consumption.**

INTENT: *Unsafe water supplies may cause illness or other problems and contain bacteria and parasites. Infants below 6 months who drink water containing nitrate in excessive levels could become seriously ill and, if untreated, may die. Parents/guardians must be informed of the contamination of drinking water in the child care facility.*

INSPECTION REPORT ITEM: “Notifications”

COMPLIANCE CRITERIA: *The operator has notified the parents/guardians of each child in care that the drinking water is contaminated, the contaminants and their levels, and plan of corrective action.*

ASSESSMENT METHOD: *Review the file of the center to determine if the operator complied with the notification requirement.*

Notes:

- *If the facility’s drinking water does not come from a public water system, or the facility gets the drinking water from a household well, programs should test the water every 2 years or as required by the local health department for:*
 - *Bacteriological quality,*
 - *Nitrates,*
 - *Total dissolved solids,*
 - *pH levels, and*
 - *Other water quality indicators as required by the local health department.*
- *Testing for nitrate is especially important if there are infants under six months of age in care.*
- *Public water systems are responsible for complying with all regulations, including monitoring, reporting, and performing treatment techniques.*

.07 Change of Operation.

- A. Except when converting the child care center to a summer youth camp, if an operator wishes to make any changes from the current license, such as use of rooms not previously approved for child care, capacity, hours of operation, age groups served, or the introduction of food service, the operator shall request and receive written approval of the change from the office before implementing the change.**

INTENT: Under Maryland law, only the Office of Child Care may modify the terms or conditions of a center license.

INSPECTION REPORT ITEM: "Change of Operation"

COMPLIANCE CRITERIA: *Except for conversion to a summer camp, the operator has received written approval of that change from the Regional Office before implementation.*

ASSESSMENT METHOD: *Through observation and, if necessary, review of facility records, determine if any unreported change has occurred pertinent to the facility, facility operations, or the number or ages of children served that affects the status or scope of the license.*

Notes:

- *If an operator wishes to expand the approved operating hours to include evening or overnight care, certain additional information must be provided to OCC before approval will be considered.*
- *When the use of an alternative site for child care is requested because of an emergency environmental situation (such as environmental hazard, structural damage, eviction, etc.) in a child care center, the following procedures will be used:*
 - *The Licensing Specialist shall:*
 - ❖ *Conduct an on-site inspection of the alternative site,*
 - ❖ *Check the square footage and the number of toilets, hand sinks, and drinking facilities.*
 - ❖ *If the alternative site is not in full compliance, the OCC Regional Manager will make a decision as to the health and safety risks to the children and the length of time the center is expected to be at the location.*
 - *Request a fire inspection and, if applicable, a sanitation inspection,*
 - *Contact the local zoning board to ascertain appropriateness of the site for use*
 - *Staff/child ratios and group size must be in compliance.*

- *Rooms should be structured to accommodate individual groups of children to the extent possible (i.e., program, materials, and equipment).*
- *If the Regional Manager approves use of the site, a letter of authorization shall be issued to the operator. That letter must be posted conspicuously in the site's approved child care area.*
- *The plan for using the alternative site shall be evaluated periodically.*
- *The operator must send a letter to parents notifying them that the licensed center is temporarily closing during the emergency. In addition, the operator must post a notice at the licensed center notifying the public that the center is temporarily closed.*
- *The Licensing Specialist shall recommend to the operator that an opportunity be provided for parents and children to make a preliminary visit to the alternative site.*

Note: See ***“Change of Operation”*** form.

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 license indicating the change.

INTENT: *Whenever the terms or conditions of a license are modified, the license must be re-issued.*

C. If an operator wishes to convert to a summer youth camp, the operator shall:

- (1) Notify the office before implementing the change to a summer youth camp;**
- (2) Upon request by the office, provide proof to the office of the center's certification as a summer youth camp under Health-General Article, Title 14, Subtitle 4, Annotated Code of Maryland;**
- (3) Remove the child care center license from display on the premises used for operating a summer youth camp during the period of summer youth camp operation; and**
- (4) Notify parents of children in care and those applying for care that:**
 - (a) A child care center is not being operated during summer months; and**
 - (b) State regulations for camps differ from those for child care centers.**

INTENT: *A facility is not permitted to operate simultaneously as a child care center and a summer youth camp – at a given time. It may operate only as one or the other. The Maryland Department of Health and Mental Hygiene (DHMH) has sole jurisdiction over the certification and regulation of summer youth camps. Application to DHMH for summer youth camp certification is at the facility operator's discretion. If an operator wishes to operate a summer youth camp, the operator must notify the OCC Regional Office before starting to operate as a camp and must tell parents that the facility will be*

operating as a camp under the requirements of DHMH, and not as a child care center under the requirements of OCC.

INSPECTION REPORT ITEM: “Change of Operation”

COMPLIANCE CRITERIA: *The operator has informed OCC and DHMH of the change of operation from a child care center to a summer youth camp.*

ASSESSMENT METHOD: *Review office file of the operator to determine if the operator has informed OCC of the change in operation from a child care center to a summer youth camp.*

.08 Variances.

A. An 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 operator 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 license remains in effect and the operator continues to comply with the terms of the variance.**

INTENT: *To permit an applicant or operator who cannot reasonably meet a regulation's literal requirements, to meet the intent of the regulation in an alternative way that protects the health, safety, or well-being of each child in care.*

Notes:

- *Under Maryland law, the Office of Child Care does not have authority to grant an exemption from any regulation.*
- *All center licensing regulations exist primarily to protect the health, safety, and welfare of each child in care; therefore, OCC will only grant a variance if doing so will not diminish that protection.*
- *A variance is an acceptable way of meeting the intent of a regulation without meeting the regulation's literal requirements.*
- *To request a variance, the applicant or operator must submit a completed “**Variance Request**” form **OCC 1213**, along with any relevant supporting documentation, to the Regional Office.*
- *In making the request, the applicant or operator must propose an alternative and demonstrate how that alternative will fully satisfy the regulation's intent.*

- *Each variance is granted only under certain conditions, and the applicant or operator must continue to meet those conditions.*
- *If the variance is granted, it has the same force and effect as the regulation, and the applicant or operator must comply fully with all of its terms and conditions.*

INSPECTION REPORT ITEM: “Variances”

COMPLIANCE CRITERIA: *The applicant or operator has followed procedures for requesting a variance to a regulation, if applicable, and the variance has been granted by the office.*

ASSESSMENT METHOD:

- *Before inspecting the facility, the Licensing Specialist reviews the facility file to see if a variance is in effect and, if so, what its nature and duration are.*
 - *If a variance is in effect at the time of a routine licensing inspection, the Licensing Specialist assesses compliance with the terms of the variance.*
- B. Within 30 calendar days of receiving a completed request for a variance, the office shall notify the operator that the variance has been granted or denied.**
- C. If a variance request is denied by a regional office of the Agency:**
- (1) **The operator 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.**
- D. A variance to sanitary facility requirements that is granted pursuant to COMAR 13A.16.05.08C does not apply to any subsequent additions or enlargements to the center.**