



# Issuing Letters of Compliance

(December 2016)

for use with

## COMAR 13A.17 Letters of Compliance

(as amended effective 7/20/15)

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**.01 Multi-Site Facilities.**

**A nursery school or child care program may have more than one location and may be treated as one facility for purposes of this chapter only if:**

**A. The buildings:**

- (1) **Function as one integrated facility, 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 letter of compliance is issued, it is issued to authorize operation only at a specific location. A letter of compliance may be authorized to operate a number of facilities at various locations, but each of these facilities must have separate letters of compliance because each is sited at a different location. Most facilities are fully contained within a single area or structure; however, a facility'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 Facilities"*

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

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

- *If the multi-site facility operates at different location addresses and holds a separate letter of compliance for each site location.*
- *Verify if the operator has been authorized to operate separate areas or structures of the facility as a single "location" and holds a single letter of compliance 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) **If the child is temporarily admitted or retained in care on a temporary basis pursuant to §E of this regulation, received the written records required by Regulation .04C—H of this chapter.**

*INTENT: A child may not begin care until the facility 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 facility 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 facility 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 Vaccination Requirements for Children Enrolled in Child Care Programs”** 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 **“ADA – Americans with Disabilities Act – How it relates to Child Care.”**

**B. At or before the child's admission to care, the operator shall obtain:**

- (1) Written information from the parent about the child's individual needs; and
- (2) If the child is enrolled in school, parental permission for the school to release the child's health information to the child care facility.

*INTENT: Before caring for a child, facility 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 facility for the purpose of easy reference by facility 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 facility. Documentation indicates that facility 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 facility 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:
  - (a) Consumer education on child care;
  - (b) How to file a complaint against the child care facility; and
- (2) Provide written evidence 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 "Guide to Regulated Child Care" 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. 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 facility.*

**INSPECTION REPORT ITEM:** *“Admission to Care”*

**COMPLIANCE CRITERIA:** *Within 30 days after admitting a child younger than 6 years old, the facility 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 facility 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 facility operator is responsible for making sure the facility 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 facility until the parent supplies documentation that the child has had the appropriate lead screening.*

**E. 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-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 §E (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 §E(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 facility; 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 facility 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 facility 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.17.07.03C;**

***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 facility 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 facility for the most recent 4 weeks as required by COMAR 13A.17.12.01G;**

**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.17.10.01A(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.



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- *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 Family Law Article, §5-570 et seq., Annotated Code of Maryland, and this subtitle on the premises and make them available to parents upon request.**

**INTENT:** *A complete copy of current facility licensing regulations (COMAR 13A.17, Letters of Compliance) must be present and displayed for review by facility employees and parents.*

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

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

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

**.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 facility maintains written records for each child in care.*

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

**Notes:**

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- *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 facilities 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 facility during the period of a child's enrollment and for 2 years after the child's disenrollment.**

*INTENT: Facility 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 facility 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 facility, 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, facility 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 facility maintains a completed emergency information form for each child in care.*

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- 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 12 months before the child's admission.**

**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.**

**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 facility 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, the

*OCC 1215 "Health Inventory" 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.*

- F. A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly, without a gap in time longer than 3 months, from a registered family day care home, a licensed child care center, another facility operating under a letter of compliance, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.**
- G. There shall be 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 facility 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 facility, the child must have had at least one dose of each vaccine appropriate for the child's age before entry into the facility 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 Vaccination Requirements for Children Enrolled in Child Care Programs"** 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.17.11.01;**

- (2) **Each injury or accident required by Regulation .06B and C of this chapter to be reported;**
- (3) **Child medication records required by COMAR 13A.17.11.04;**
- (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.17.12.02;**
- (5) **If program activities away from the facility are provided, prior written permission from the child's parent to take the child to those activities; and**
- (6) **Documentation that the child's parent has received, or has been advised how to obtain, the consumer education pamphlet on child care supplied by the office.**

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

***INSPECTION REPORT ITEM:** "Child Records"*

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

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

- *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 facility as required by regulation .04I(5) of this Chapter;*
- *Documentation that each parent of a child in care received a copy of the "**Guide to Regulated Child Care**" provided by OCC, or was advised about how to get a copy of the pamphlet. Parents/Guardians may obtain general information about child care at: <http://earlychildhood.marylandpublicschools.org/families>*

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**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 facility 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 facility 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.*

**.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*



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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 for review by the office a current and complete:**

- (1) List of personnel, on a form supplied or approved by the office, that includes each individual, whether paid or unpaid, who works at the facility on a routine basis; and**

*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 facilities 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 facility'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"**.

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- *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 facility 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.*

**(2) Staffing pattern, on a form supplied or approved by the office, that specifies:**

- (a) The number and ages of children enrolled;**
- (b) The staff/child ratio in relation to the daily schedule; and**
- (c) By staff name, all child care assignments;**

*INTENT: So that OCC may verify that the facility is complying with staff/child ratio and maximum group size requirements, the operator must have current and complete staffing pattern form(s).*

**INSPECTION REPORT ITEM:** “Staff Records”

**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 available for OCC review.

**ASSESSMENT METHOD:** Review each form for currency and completeness.

Note: *The Licensing Specialist should be careful to link review of the staffing patterns to review of the Employment Record to ensure that staff are providing required coverage at all times.*

**B. During an individual's employment at the facility and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:**

- (1) Verification that an individual's age complies with the minimum required for the position held;**
- (2) An employment medical evaluation;**
- (3) 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**
- (4) The date on which the staff member received the written information required by COMAR 13A.17.06.02;**

*INTENT: During the employment of each person, the operator must maintain a record of the person's employment medical evaluation, 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.

**Note:** Due to the confidentiality requirements for CBCs, copies of the criminal background results should not be in the employee's record for OCC review.

**C. Maintain documentation required for:**

- (1) **Substitutes, pursuant to COMAR 13A.17.06.05; and**
- (2) **The adult available for emergencies, pursuant to COMAR 13A.17.08.02; and**

**D. 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 facility's compliance with requirements regarding the use of substitutes, the facility 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 facility, 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 business 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; or**

*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. Have on file in the nursery school or child care program the following information about each employee or staff member:**

- (1) **The individual's assignment;**
- (2) **Documentation that the individual meets the requirements of this subtitle for the assignment, unless documentation already is on file in the office; and**
- (3) **If the individual is paid by the facility operator, proof of compliance with the laws and regulations pertaining to criminal background checks;**

*INTENT: To ensure that new employees meets requirements of this subtitle, and that those individuals are in compliance with criminal background check laws and regulations.*

*INSPECTION REPORT ITEM: "Notifications"*

**COMPLIANCE CRITERIA:** *The operator has on file, documentation that the individual meets the regulatory requirements, if any, for the individual's job assignment.*

**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 facility, 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.*
  - *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*

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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 facility 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 facility;**
- (2) **The death of a child enrolled at the facility if the child died of a contagious disease; and**
- (3) **An injury to a child that occurs while the child is at the facility 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 facility 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 facility which may affect the status of the letter of compliance, including but not limited to:**
  - (a) **Individuals living on the premises;**
  - (b) **Operation of the facility; 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 letter of compliance is current as it pertains to changes at the facility, the operator must notify the office immediately of changes to*

*the operation that occurred after the letter of compliance 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 facility 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 facility 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 facility’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. 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 facility 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 facility to a summer youth camp, if an operator wishes to make any changes from the current letter of compliance, 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 facility letter of compliance.*

**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 letter of compliance.

**Notes:**

- 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 facility, 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 facility 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 letter of compliance facility is temporarily closing during the emergency. In addition, the operator must post a notice at the letter of compliance facility notifying the public that the facility 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 in Child Care Programs form OCC 1209"**.

- 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 letter of compliance indicating the change.**

*INTENT: Whenever the terms or conditions of a letter of compliance are modified, the letter of compliance 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 facility's certification as a summer youth camp under Health-General Article, Title 14, Subtitle 4, Annotated Code of Maryland;**
- (3) If applicable, remove letter of compliance 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 facility is not being operated during summer months; and**
  - (b) State regulations for camps differ from those for child care facilities.**

*INTENT: A facility is not permitted to operate simultaneously as a child care facility 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 facility 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 facility to a summer youth camp.*

**ASSESSMENT METHOD:** *Review office file of the operator to determine if the operator has informed OCC, and parents, of the change in operation from a child care facility 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 letter of compliance 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 facility 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.17.05.08B does not apply to any subsequent additions or enlargements to the facility.**