



# Issuing Letters of Compliance

(December 2016)

for use with

## COMAR 13A.17 Letters of Compliance

(as amended effective 7/20/15)

### Table of Contents

**COMAR 13A.17.08 CHILD SUPERVISION**

.01 Individualized Attention and Care.....1  
.02 Staff Available for Emergencies .....3  
.03 Group Size and Staffing .....3  
.04 Variations in Group Size .....6  
.05 Supervision during Water Activities .....8  
.06 Supervision during Transportation ..... 10  
.07 Playground Supervision..... 10



**.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 making reasonable accommodations for a child with special needs in accordance with applicable federal and State laws; and**
- (2) **Adequate supervision and care at all times that 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:** “Appropriate 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:*
  - *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.*

**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:** *"Individualized 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**

*INTENT: Injury resulting from children's use of potentially dangerous activity materials is minimized through close supervision by staff.*

**INSPECTION REPORT ITEM:** *"Individualized 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:** *"Individualized 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 Staff Available for Emergencies.**

**In case of an emergency, during period when only one staff member is required to be present to meet the staff/child ratio, an operator shall obtain a written, signed, and dated agreement from an adult who:**

- A. Has successfully passed a federal and State criminal background check and review of child abuse and neglect records; and**
- B. Is willing and able to be at the nursery school or child care program within 15 minutes of notification.**

**Note:** See **"On Call Agreement"** form.

**.03 Group Size and Staffing.**

- A. Assignment of Staff. One or more staff members shall be assigned to each group of children as needed to meet the requirements for group size and staffing set forth at §§C—E 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 Nursery Schools.** In a group of children of the same age in a nursery school, the following staff/child ratio and maximum group size requirements apply:

<b>Child Ages</b>	<b>Staff/Child Ratio</b>	<b>Maximum Group Size</b>
<b>2 years old</b>	<b>1 to 6</b>	<b>12</b>
<b>3 years old</b>	<b>1 to 12</b>	<b>24</b>
<b>4 years old</b>	<b>1 to 15</b>	<b>30</b>

- D. Same –Age Groups in Before-School and After-School Child Care Programs.** In groups of children of the same age in a before-school or after-school child care program, the following requirements apply:

<b>Child Ages</b>	<b>Staff/Child Ratio</b>	<b>Maximum Group Size</b>
<b>2 years old</b>	<b>1 to 6</b>	<b>12</b>
<b>3 or 4 years old</b>	<b>1 to 10</b>	<b>20</b>
<b>5 years old or older</b>	<b>1 to 15</b>	<b>30</b>

***INTENT (For §§C and D above):** 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 facility's Employment Record and the "**Staffing Pattern**", form **OCC 1206**, to determine if the number of staff are adequate and present as assigned.*

**E. Mixed-Age Groups.**

- (1) **A mixed-age group with preschool children may not exceed 20 children.**
- (2) **In a mixed age group with preschool children 3 years old or older, the staff-to-child ratio is 1 to 10;**
- (3) **A maximum of six 2-year-olds may be in a mixed age group of 13 to 20 children.**
- (4) **In mixed-age groups of varying sizes that include children who are 2 years old, the following minimum staffing levels apply:**

<b>Group Composition</b>	<b>Group Size</b>	<b>Minimum Staffing Level</b>
<b>Group includes one to three 2 year old children</b>	<b>7 to 10</b>	<b>1 staff member</b>
<b>Group includes four or more 2 year old children</b>	<b>7 to 10</b>	<b>2 staff members</b>
<b>Group includes one to three 2 year old children</b>	<b>13 to 20</b>	<b>2 staff members</b>
<b>Group includes four to six 2 year old children</b>	<b>13 to 20</b>	<b>3 staff members</b>

***INTENT:** Refer to the "Intent" statement under §D. 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.

**F. 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.**

**.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.

COMAR 13A.17.08 Child Supervision

- *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 facility'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 facility 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 facility has been approved by the Regional Office to have school-age groups larger than those permitted under §.03 of this Chapter, the facility maintains the required staff/child ratio in each of those groups at all times.*

**ASSESSMENT METHOD:**

- *Referring as necessary to the facility'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 facility 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 child care facility by the facility 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 facility 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 facility 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.*

***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 near 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.*