

Maryland Regulations Currentness \_Title 13A State Board of Education \_Subtitle 16 Child Care Centers\_  
Chapter 13 Centers for Children with Acute Illness

COMAR T. 13A, Subt. 16, Ch. 13, Refs & Annos

COMAR 13A.16.13.01

.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.

COMAR 13A.16.13.02

.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.

COMAR 13A.16.13.03

.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

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(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.

**COMAR 13A.16.13.04**

**.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

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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.

**COMAR 13A.16.13.05**

**.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.

**COMAR T. 13A, Subt. 16, Ch. 13, Administrative History**

**COMAR T. 13A, Subt. 16, Ch. 14, Refs & Annos**

**COMAR 13A.16.14.01**

**.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.

**COMAR 13A.16.14.02**

**.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;

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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. **COMAR T. 13A, Subt. 16, Ch. 14, Administrative History**

**COMAR T. 13A, Subt. 16, Ch. 15, Refs & Annos**

**COMAR 13A.16.15.01**

**.01 License Permitted.**

Drop-in Center Regulations: Page 4-6

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

**COMAR 13A.16.15.02**

**.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.

**COMAR 13A.16.15.03**

**.03 Applicability of Subtitle.**

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

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.

COMAR 13A.16.15.04

**.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.

COMAR 13A.16.15.05

**.05 Special Variances.**

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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.

COMAR 13A.16.15.06

.06 Admission Requirements.

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

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.

COMAR T. 13A, Subt. 16, Ch. 15, Administrative History

COMAR T. 13A, Subt. 16, Ch. 16, Refs & Annos

COMAR 13A.16.16.01

.01 Purpose and Scope.

Nursery School Regulations: Page 6-16

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.

COMAR 13A.16.16.02

.02 Definitions.

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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.

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(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.

**COMAR 13A.16.16.03**

**.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.

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.

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.

E. Unless an operator chooses to cease operating an educational program, approval to operate the program, once



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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.

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.

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.

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.

**COMAR 13A.16.16.04**

**.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.
- (4) An application for licensure as a Montessori school may not be approved until the applicant has

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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.

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.

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.

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.

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.

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.

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

**COMAR 13A.16.16.05**

**.05 Compliance and Inspections.**

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

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.

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.

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

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.

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.

**COMAR 13A.16.16.06**

**.06 Personnel Qualifications.**

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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 §B(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.

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.
- (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.

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 §B(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;

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- (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.
  
- (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.
  
- (5) If the degree, college credit, or foreign credential required at §B(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.
  
- (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.
  
- (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.
  
- D. An individual who provides assistance to a teacher in a class is not required to meet the requirements of §B(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

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(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.

**COMAR 13A.16.16.07**

**.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.

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.

**COMAR 13A.16.16.08**

**.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;

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- (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.

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.

**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.

**COMAR 13A.16.16.09**

**.09 Health, Fire Safety, and Zoning.**

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

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.

COMAR 13A.16.16.10

.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.

COMAR T. 13A, Subt. 16, Ch. 16, Administrative History

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COMAR 13A.16.17.01

.01 Complaints.

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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.

COMAR 13A.16.17.02

.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.

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

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

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



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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.

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.

COMAR 13A.16.17.03

.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.

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.

COMAR 13A.16.17.04

.04 Suspension.

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

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(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.

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.

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

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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.

**COMAR 13A.16.17.05**

**.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.

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

**COMAR 13A.16.17.06**

**.06 Revocation.**

A. The office may revoke a license if:

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- (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.

**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

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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.

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

**COMAR 13A.16.17.07**

**.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.

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.

**COMAR T. 13A, Subt. 16, Ch. 17, Administrative History**

End of relevant information

**COMAR T. 13A, Subt. 16, Ch. 18, Refs & Annos**

**COMAR 13A.16.18.01**

**.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

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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.

**COMAR 13A.16.18.02**

**.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.

(5) “Days” means calendar days.

(6) “Department” means the State Department of Education.

(7) Emergency Action.

(a) “Emergency action” means an action which is effective immediately because of danger to children’s health or safety.

(b) “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, or an employment exclusion pursuant to COMAR 13A.16.06.03A or B.

(8) “Filed” is received in writing by the Office of Child Care.

(9) “Filing date” is the date a hearing request is received by the Office of Child Care.

(10) “Letter of compliance” means a letter issued by the Department to a religious organization which meets

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the requirements of Family Law Article, §5-573, Annotated Code of Maryland.

(11) “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.

(12) “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.

(13) “Office” means the central office or a regional office of the Office of Child Care.

(14) “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.

(15) “Party” means the appellant and the Office of Child Care.

(16) “Superintendent” means the State Superintendent of Schools.

**COMAR 13A.16.18.03**

**.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.

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- (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 may 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.

**COMAR 13A.16.18.04**

**.04 Preliminary Conference.**

- A. The Office shall hold a preliminary conference, on request of an appellant, before a hearing on an action.



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- 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.

**COMAR 13A.16.18.05**

**.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.

**COMAR 13A.16.18.06**

**.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 non-emergency 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:

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- (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.

**COMAR 13A.16.18.07**

**.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.

**COMAR 13A.16.18.08**

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.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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COMAR T. 13A, Subt. 16, Ch. 19, Refs & Annos

COMAR 13A.16.19.01

.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,

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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.

**COMAR 13A.16.19.02**

**.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;

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(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.

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.

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.

**COMAR 13A.16.19.03**

**.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.

B. The written request shall:

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(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.

**COMAR 13A.16.19.04**

**.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.

**COMAR T. 13A, Subt. 16, Ch. 19, Administrative History**