

Maryland Regulations Currentness \_Title 13A State Board of Education \_Subtitle 16 Child Care Centers\_  
Chapter 01 Scope and Definitions

COMAR T. 13A, Subt. 16, Ch. 01, Refs & Annos

COMAR 13A.16.01.01

.01 Scope.

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

**B. Exemptions. This subtitle does not apply to:**

(1) A family child care home registered under COMAR 13A.15;

(2) A facility that offers or provides a residential placement for a child under Family Law Article, Title 5, Subtitle 5, or Health-General Article, Title 6 or 10, Annotated Code of Maryland;

(3) A youth camp, as defined by Health-General Article, §14-401(j), Annotated Code of Maryland;

(4) A child care service operated by the federal government or on federal property;

(5) A public school during the hours in which an instructional program is offered;

(6) A nonpublic kindergarten for children at least 5 years old during the hours in which an instructional program is offered;

(7) A nonpublic elementary school during the hours in which an instructional program is offered;

(8) Child care services provided in connection with a shelter housing individuals temporarily without residences, exclusively for the children of those individuals;

(9) The physical plant, including sanitary facilities, of a child care center exclusively for school age children, located in a currently operating public or nonpublic school building, if the application of the regulation would require modification of the physical plant;

(10) Programs that operate for 6 weeks or less in any calendar year; or

(11) The instructional program, curriculum, and teacher, principal, and administrator qualifications of a:

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(a) Nursery school operated by a tax-exempt religious organization which does not have a certificate of approval from the State Board of Education; or

(b) Child care program operated by a tax-exempt religious organization in a school building used exclusively for children who are enrolled in that school.

COMAR 13A.16.01.02

.02 Definitions.

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

B. Terms Defined.

(1) Abuse.

(a) "Abuse" means the physical or mental injury of a child, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed, by:

(i) A parent;

(ii) An individual who has permanent or temporary care or custody or responsibility for supervision of a child; or

(iii) A household or family member.

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

(2) "Acute illness" means an abnormal condition of the body with rapid onset accompanied by abnormal symptoms and signs, that has a short course of duration, as opposed to a chronic illness of long duration.

(3) "Acute illness center" means a child care center which is exclusively for the temporary care of children who are ill and cannot attend their usual child care or school.

(4) "Adolescent center" means a child care center that offers programs exclusively to children in middle school and junior high school.

(5) "Agency" means the Office of Child Care, Division of Early Childhood Development, in the State Department of Education.

(6) "Agency representative" means an individual designated by the Agency to determine compliance with this

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subtitle.

(7) “Applicant” means a person who has submitted to the office all of the required forms and documentation to request approval for licensure either for an initial license or for a continuing license.

(8) “Approved continued training” means training, including but not limited to workshops, seminars, and conferences, that is:

(a) Approved by the office; and

(b) Used by child care center staff members to maintain the employment qualifications required by COMAR 13A.16.06.

(9) “Approved Montessori school” means an educational program in a nonpublic nursery school that has been validated by a Montessori validating organization as meeting, at a minimum, Montessori school standards regarding teacher qualifications, written curriculum, instructional methods, and materials and equipment.

(10) “Approved preservice training” means training that is:

(a) Approved by the office; and

(b) Used to meet initial employment qualifications required by COMAR 13A.16.06 for child care center staff members.

(11) Assistant Child Care Teacher.

(a) “Assistant child care teacher” means a staff member who:

(i) Is responsible for helping a child care teacher in a school age child care program; and

(ii) Meets the requirements of COMAR 13A.16.06.11.

(b) “Assistant child care teacher” includes a staff member known before December 17, 2008, as an assistant group leader.

(12) “Capacity” means the total number of children specified by the license of the center who may be in care at any one time.

(13) “Child” means an individual:

(a) 6 weeks old or older and younger than 16 years old; or

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(b) Younger than 21 years old who has a disabling condition or other emotional, developmental, physical, educational, or medical need necessitating child care beyond 16 years old.

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(14) Child Care.

(a) "Child care" means the care or supervision of a child when the child's parent has given the child's care over to another for some portion of a 24-hour day as a supplement to the parent's primary care of the child.

(b) "Child care" does not mean:

(i) Group lessons or classes providing specialized training in a specific subject, unless provided in a pattern indicating that a child care center is being operated or that custodial supervision of children is being provided in addition to the specialized training;

(ii) Scouting, sports, or youth club activities;

(iii) School-age recreational or supplementary education programs operated by a local department of recreation and parks, law enforcement agency, or a public or nonpublic school, if custodial supervision is not the primary purpose of the program;

(iv) Supervisory services to children provided by a church, health club, health provider, or similar sponsor in support of an occasional or intermittent parental activity or service offered by the sponsor while parents are on the same premises as the services to children and are immediately available to the children; or

(v) Programs primarily designed for the religious training of children, provided on a weekly basis or for a short period in the summer, commonly known as Sunday schools or Bible schools.

(15) Child Care Center.

(a) "Child care center" means an agency, institution, or establishment that, for part or all of the day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage, except as otherwise provided for in law or regulation.

(b) "Child care center" includes:

(i) A nonpublic nursery school approved under Education Article, §2-206, Annotated Code of Maryland, in which an educational program is offered or provided for children who are 2 years old or older but younger than 5 years old; and

(ii) Child care operated by a State or local government agency.

(c) "Child care center" may offer more than one type of program or care.

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(16) Child Care Teacher.

(a) “Child care teacher” means a staff member who:

(i) Is responsible for supervising a child care activity or a group of children in care; and

(ii) Meets the requirements of COMAR 13A.16.06.09 or .10, as applicable.

(b) “Child care teacher” includes a staff member known before December 17, 2007, as:

(i) Senior staff, if working with infants, toddlers, or preschoolers; or

(ii) Group leader, if working with school age children.

(17) “Combined preschool and school age center” means a child care center that serves both preschool children and school age children, whether in separate groups or mixed age groups.

(18) “Continuing license” means a child care center license that does not expire.

(19) “Core of knowledge training” means training in any of the following topics that has been approved by the Office as meeting Maryland Child Care Credential Program requirements:

(a) Child development;

(b) Curriculum;

(c) Health, safety, and nutrition;

(d) Special needs;

(e) Professionalism; and

(f) Community.

(20) Custodial Supervision.

(a) “Custodial supervision” means parentally authorized oversight of a child by an individual other than the child’s parent or guardian.

(b) “Custodial supervision” includes responsibility for:

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(i) The well-being and the whereabouts of the child for a given period of time; and

(ii) Direct transfer of the custody of the child from and to an authorized person.

(c) “Custodial supervision” does not include the oversight of a child who is participating in a specific activity, such as scouting, sports, or youth clubs.

(21) “Department” means the Maryland State Department of Education.

(22) “Drop-in center” means a child care center which only provides care to children on an intermittent and occasional basis for less than 4 hours a day.

(23) “Educational program” means a program of instruction as defined by the State Board of Education.

(24) “Elective training” means training taken from an approved source such as a national conference or seminar that is not necessarily core of knowledge training.

(25) Employee.

(a) “Employee” means an individual:

(i) Who for compensation is employed by the center operator to work at or for the center; and

(ii) Whose work assignment involves the care or supervision of children in the facility or access to children who are cared for or supervised in the facility.

(b) “Employee” does not include an individual who:

(i) Is an independent contractor; or

(ii) Provides a consultative health service pursuant to COMAR 13A.16.06.14C.

(c) For the purpose of applying the criminal background check requirements and the child and adult abuse and neglect record review requirements set forth in this subtitle, “employee” includes any individual who:

(i) Is compensated by the operator to perform a service at the center;

(ii) Has access to children in care; and

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(iii) Does not clearly meet, or is not excluded from, the definition of independent contractor set forth in §B(29) of this regulation.

(26) "Family child care" means the care given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old, in place of parental care for less than 24 hours a day, in a residence other than the child's residence and for which the provider is paid, in accordance with Family Law Article, §§5-550-5-557.1, Annotated Code of Maryland.

(27) "Group" means a unit of children together with the staff assigned to them.

(28) "Health officer" means the health officer in each of the 23 counties and the Commissioner of Health in Baltimore City, or the duly designated representative of the health officer, or both, and refers to the health officer in the jurisdiction where the center is or will be located.

(29) "Identified as responsible for child abuse or neglect" means being determined by a local department to be responsible for indicated child abuse or neglect, or awaiting the local department's appeal hearing after the determination.

(30) Independent Contractor.

(a) "Independent contractor" means an individual or entity:

(i) That is hired by the center operator or by another party, on the basis of a service contract or agreement, to perform a specialized service at the center, including but not limited to food catering, child transportation, facility maintenance or repair, or supplemental recreational programming, for a specified period of time or in order to achieve a specified result;

(ii) That determines how the specialized service shall be performed; and

(iii) Whose specialized service is not restricted to the center, but is available for hire by other customers.

(b) "Independent contractor" does not include an individual who:

(i) Provides a consultative health service pursuant to COMAR 13A.16.06.14C;

(ii) Under a private arrangement with the parent or guardian of a child or children in care, provides a health care, academic, or other service only to that child or those children; or

(iii) Is employed for compensation by a public school or by a private or nonpublic school required to report annually to the State Board of Education.

(31) "Infant" means a child 6 weeks old or older but younger than 18 months old.

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(32) “Infant-toddler center” means a child care center which offers programs only for children younger than 2 years old.

(33) “Injurious treatment” means:

(a) Deliberate infliction in any manner of any type of physical pain, including but not limited to spanking, hitting, shaking, or any other means of physical discipline or enforcement of acts which result in physical pain;

(b) Failure to attend to a child’s physical needs and other physically damaging acts, excluding reasonable acts to protect the child from imminent danger;

(c) Subjecting a child to verbal abuse intended to cause mental distress, such as shouting, cursing, shaming, or ridiculing; and

(d) Using discipline methods which create undue discomfort, such as washing a child’s mouth with soap, putting pepper or other spicy or distasteful items in a child’s mouth, requiring a child to stand on one foot as punishment, or tying a child to a cot or other equipment.

(34) “Kindergarten” means an educational program for children who are 5 years old, or who will be 5 years old by September 1 of the year they enter the program, provided in a:

(a) Public school or a nonpublic school approved by the State Department of Education; or

(b) Nonpublic school operated by a tax-exempt religious organization which holds a letter of exemption from approval by the State Board of Education under Education Article, §2-206, Annotated Code of Maryland.

(35) “License” means the document issued to a licensee by the Department, which gives permission to operate a child care center in accordance with this subtitle.

(36) “Licensee” means an individual or a partnership, group, association, cooperative, or corporation which has the legal authority and responsibility for governing and operating a center and for compliance with this subtitle.

(37) “Local department” means the department of social services, by whatever name known, in any of Maryland’s 24 local jurisdictions.

(38) “Mental injury” means the observable, identifiable, and substantial impairment of a child’s mental or psychological ability to function.

(39) “Montessori validating organization” means an entity that is constituted to determine if an educational program meets Montessori school standards and is recognized by the Department as qualified for that purpose.

(40) Neglect.

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(a) "Neglect" means leaving a child unattended or otherwise failing to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm.

(b) "Neglect" does not include, for that reason alone, providing a child with nonmedical religious remedial care and treatment recognized by State law in place of medical treatment for a child's injuries or illnesses.

(41) "Nursery school" means an educational program:

(a) For children who are 2 years old, 3 years old, 4 years old, or any sequence of these ages; and

(b) That, unless approved by the Department before July 1, 2007, to operate for more than 6 hours per day, may not operate in excess of 6 hours per day.

(42) "Office" means the central office or a regional office of the Agency.

(43) "Operated by a tax-exempt religious organization" means that the operator has submitted a copy of the determination letter from the Internal Revenue Service which recognizes the organization as a bona fide church organization exempt from taxation under the Internal Revenue Code of 1954, 26 U.S.C. §501(c)(3).

(44) "Operator" means a licensee or an agent of a licensee.

(45) "Parent" means the biological or adoptive parent or the legal guardian or custodian of a child, who enrolls the child in child care.

(46) Potentially Hazardous Food.

(a) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients including synthetic ingredients capable of supporting rapid and progressive growth of infectious, toxigenic microorganisms.

(b) "Potentially hazardous food" does not include clean, whole, uncracked, odor-free shell eggs.

(47) "Preschool center" means a child care center which offers programs for children younger than 5 years old.

(48) "Preschooler" means a child who:

(a) Is 2 years old or older; and

(b) Does not attend kindergarten or a higher grade.

(49) "Professional development plan" means the written instrument for tracking continued training that is:

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(a) Distributed by the office; and

(b) To be completed annually by each staff member in a child care center.

(50) "Sanction" means an enforcement action under this subtitle.

(51) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for a sufficient period of time to destroy vegetative cells of pathogenic bacteria and to reduce substantially the number of other microorganisms.

(52) "School age center" means a child care center which offers programs to children who attend a public or nonpublic school in kindergarten or grades 1-12.

(53) "School age child" means a child younger than 16 years old who attends a public or nonpublic school in grades kindergarten or above.

(54) School Building.

(a) "School building" means a facility that houses an instructional program for kindergarten, a higher grade or grades, or any combination of grades.

(b) "School building" may include a facility that houses a nursery school as well as higher grades.

(c) "School building" does not include a church or other facility that houses only:

(i) A program for preschoolers; or

(ii) A before- and after-school program.

(55) "Small center" means a child care center which is:

(a) Located in a private residence; and

(b) Licensed for 12 or fewer children.

(56) "Staff member" means an individual 16 years old or older, whether paid or not, who is assigned responsibility for child care in a child care center and whose assignment helps to maintain the staff/child ratios required by COMAR 13A.16.08.03.

(57) "Successfully passed" means, when used in connection with:

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(a) A criminal background check, that an individual:

(i) Has not received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at COMAR 13A.16.06.03A; or

(ii) If having received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime not listed at COMAR 13A.16.06.03A, has been assessed by the office as suitable for employment pursuant to COMAR 13A.16.06.03B; or

(b) A review of records of abuse and neglect of children or adults, that if an individual is:

(i) An employee of, or applying for employment by, a child care center, the individual has been assessed by the office as being suitable for employment, pursuant to COMAR 13A.16.06.03B; or

(ii) An independent contractor, the individual has not been identified as responsible for the abuse or neglect of a child.

(58) "Superintendent" means the State Superintendent of Schools or the Superintendent's designee.

(59) "Toddler" means a child 18 months old or older but younger than 2 years old.

(60) "Volunteer" means an individual who:

(a) Is 13 years old or older;

(b) Works in or for a child care center but is not a compensated employee of the center;

(c) Is not counted by the child care center toward maintenance of the staff/child ratios required by this chapter; and

(d) Is not enrolled as a child in care at the child care center.

**COMAR T. 13A, Subt. 16, Ch. 01, Administrative History**

**COMAR T. 13A, Subt. 16, Ch. 02, Refs & Annos**

**COMAR 13A.16.02.01**

**.01 License -General Requirements.**

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A. Requirement to be Licensed. A person, organization, agency, corporation, or other entity which operates a child care center, as defined in this chapter, is required to be licensed or to hold a letter of compliance in accordance with this subtitle or with COMAR 13A.17, as applicable.

B. Nursery School or Child Care Center Operated by a Tax-Exempt Religious Organization.

(1) Except as provided by §B(2) or (3), as applicable, of this regulation, a tax-exempt religious organization that wishes to operate a nursery school or a child care center shall apply to become licensed, and shall meet all applicable requirements, under this subtitle.

(2) If the tax-exempt religious organization plans to operate a nursery school or a child care center in a school building that exclusively serves children who are enrolled in that school, the organization may apply for a:

(a) Child care center license under this subtitle; or

(b) Letter of compliance under COMAR 13A.17.

(3) In a nursery school or child care center located in a school building exclusively for children enrolled in that school and operated by a tax-exempt religious organization, the following regulations of this subtitle do not apply:

(a) COMAR 13A.16.03.05C(1) and (2) concerning staff records;

(b) COMAR 13A.16.06.05-.12 concerning professional qualifications and training requirements for child care staff and the director, principal, or administrator of the program; and

(c) COMAR 13A.16.09.01, .03B(1) and (2), and .03C concerning the program.

C. Approved Montessori School.

(1) Except as set forth at §C(2) of this regulation, an approved Montessori school shall meet all applicable requirements of this subtitle regarding:

(a) Child health and safety;

(b) The provision of child care; and

(c) An educational program in a nonpublic nursery school.

(2) The following regulations under this subtitle do not apply to an approved Montessori school:

(a) COMAR 13A.16.02.03(4) concerning an annual fire inspection, if the school has documentation verifying

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compliance with fire safety regulations applicable to a nonpublic nursery school pursuant to COMAR 13A.09.09.11A;

(b) COMAR 13A.16.06.05.B(4) concerning the preservice training requirement for directors;

(c) COMAR 13A.16.06.09.A(1)(b) concerning qualification requirements for a child care teacher in a preschool center;

(d) COMAR 13A.16.06.09.B(1)(a) concerning the core of knowledge completion requirement for continued training;

(e) COMAR 13A.16.06.10.B(1)(a) concerning the requirement for preservice training; and

(f) COMAR 13A.16.09.01A(4) concerning the requirements for a balanced schedule of daily activities.

D. A license is nontransferable and remains the property of the office.

E. The operator shall post the license at a location in the center where it can easily be seen and read whenever parents or others visit the center.

F. The operator shall surrender the license to the office immediately if any of the following occurs or becomes effective:

(1) The operator closes the center permanently;

(2) The license is revoked;

(3) The license is suspended; or

(4) The license expires, and the:

(a) Application for a continuing license is denied; or

(b) Operator has not applied for a continuing license.

G. A center approved by the office before July 1, 2008, for the concurrent operation of more than one type of child care program may continue to be used to operate those programs, except that, while concurrent approvals are in effect, the office may not approve a request by the operator for:

(1) An increase in child capacity;

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- (2) A change in the hours of operation;
- (3) A change in the ages of children served;
- (4) A change in the approved child care area; or
- (5) A variance to a regulation under this subtitle.

H. Effective January 1, 2012, the office may not:

- (1) Accept an application for an initial license as a small center; or
- (2) Issue a license to operate a small center, except that a license may be issued to:
  - (a) An applicant for a license from whom the office received the license application before January 1, 2012; or
  - (b) An operator already licensed to operate a small center before January 1, 2012.

**COMAR 13A.16.02.02**

**.02 Initial License.**

A. An individual or organization not currently licensed and wanting to operate a child care center shall:

- (1) Complete an orientation to child care center licensing regulations that is offered or approved by the office;
- (2) File a notice of intent with the office before applying for permits in connection with construction or operation of a center; and
- (3) Submit to the office at least 60 days before the proposed opening date a completed and signed application form, supplied by the office, that contains a statement of truthfulness and commitment to comply with this subtitle.

**B. Before the proposed opening date, the applicant shall submit the following items to the office, if not submitted at the time the written application form was submitted:**

- (1) Documentation of application for criminal background checks for:
  - (a) The applicant, if the applicant is an individual who will have frequent contact with children who are cared for in the facility;

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(b) The director;

(c) Each employee, including paid substitutes; and

(d) Each individual 14 years old or older living on the same premises as the child care center;

(2) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about:

(a) The director;

(b) Each employee;

(c) Each individual 18 years old or older living on the same premises as the child care center;

(d) The applicant, if the applicant is an individual who will have frequent contact with children who are cared for in the facility; and

(e) Trustees, managers, or board members who may have frequent contact with children in care, if the applicant is a corporation, agency, association, or other organizational entity;

(3) Evidence of compliance with all applicable zoning and building codes;

(4) Site plans;

(5) Floor plans with architectural details;

(6) A written plan of operation;

(7) Workers' Compensation insurance information;

(8) Fire evacuation plan;

(9) A complete personnel list, on a form supplied or approved by the office, and all related supporting documentation required by the office;

(10) A complete staffing pattern, on a form supplied or approved by the office, which specifies by staff name all child care assignments;

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(11) Menu for 4 weeks;

(12) A written child discipline policy; and

(13) All other documentation required by law or regulation, including but not limited to:

(a) Proof of an on-site inspection and approval by the local fire authority having jurisdiction; and

(b) Building use and occupancy permits.

COMAR 13A.16.02.03

.03 Continuing License.

A. Obtaining a Continuing License. An operator shall submit to the office, before expiration of the initial license:

(1) A request for a continuing license, on a form supplied by the office;

(2) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about all individuals, as applicable, specified at Regulation .02B(2) of this chapter; and

(3) Any other documentation required by law or regulation.

B. The office may not approve a continuing license until:

(1) All items specified in §A of this regulation have been received and approved by the office; and

(2) The center has passed a fire safety inspection conducted by the local fire authority having jurisdiction.

C. Maintaining a Continuing License.

(1) The operator shall comply with all applicable requirements under this chapter.

(2) By the end of each 12-month period after the date of issuance of a continuing license, the operator shall provide to the office documentation of compliance with applicable continued training requirements set forth at COMAR 13A.16.06.

(3) By the end of each 24-month period after the date of issuance of a continuing license, the operator shall provide to the office:

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(a) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about all individuals, as applicable, specified at Regulation .02B(2) of this chapter; and

(b) Any other documentation required by law or regulation.

(4) The child care center shall maintain documentation of having passed the most recent fire inspection required by the local fire authority having jurisdiction.

**COMAR 13A.16.02.04**

**.04 Provisional and Conditional Status.**

**A. Provisional Status.**

(1) Except as provided in §A(2) of this regulation, to allow an applicant for an initial or a continuing license additional time to meet all applicable requirements, the Office may approve an initial or a continuing license on a provisional basis for a period of up to 120 days after determining that the health and safety of the children in care are not in imminent danger.

(2) An initial license may not be approved if the Office has not yet received evidence that the applicant and each individual, as applicable, specified at Regulation .02B(1) and (2) of this chapter has successfully passed a federal and State criminal background check and a review of child abuse and neglect records.

(3) At the end of the provisional period, if all requirements for the initial or continuing license are not met due to:

(a) Failure by the applicant to take an action necessary to achieve compliance, the Office shall deny the application for license; or

(b) Circumstances beyond the control of the applicant, the Office may continue the provisional status for one or more additional periods of up to 120 days per period, except that provisional status may not be continued for more than 24 months after the start of the first provisional period.

(4) If the Office denies a license at the end of the provisional period, the applicant or operator does not have a valid license and shall cease operating.

**B. Conditional Status.**

(1) If an operator who holds a continuing license fails to remedy a violation as required, the Office may place the license on conditional status for:

(a) A period of up to 120 days; and

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- (b) Upon approval by the Agency's central office, an additional period of up to 120 days.
  
- (2) Upon placing a continuing license on conditional status, the Office shall issue to the operator a revised license that states the:
  - (a) Placement of the license on conditional status;
  - (b) Period of time of the conditional status; and
  - (c) Requirements for lifting the conditional status.
  
- (3) Immediately upon receipt of the revised license, the operator shall:
  - (a) Remove from display in the center the continuing license that was originally issued; and
  - (b) Display the revised license as required by Regulation .01D of this chapter.
  
- (4) If the operator satisfies all requirements for lifting the conditional status within the specified period of time, the Office shall promptly:
  - (a) Discontinue the conditional status; and
  - (b) Notify the operator to redisplay the original continuing license.
  
- (5) If the operator fails to satisfy all requirements for lifting the conditional status within the specified period of time, the Office may suspend or revoke the continuing license.

**COMAR 13A.16.02.05**

**.05 Response of the Office to Application.**

**A. Upon receiving a completed application, whether for an initial license or a continuing license, and all documentation required by law or regulation, the office shall determine compliance with the requirements of this chapter by:**

**(1) Evaluating the application and required documentation; and**

**(2) Inspecting the:**

**(a) Facility proposed for use as a child care center, if the application is for an initial license; or**

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(b) Child care center, if the application is for a continuing license.

B. Except as specified at §C of this regulation, the office shall, within 30 days after completing the procedures in §A of this regulation:

(1) For an initial license application:

(a) Issue an initial license;

(b) Issue an initial license with provisional status; or

(c) Deny an initial license; or

(2) For a continuing license application, issue or deny a continuing license.

C. The office may not issue an initial license until child care staff, sufficient in number to meet the staff/child ratio and group size requirements of COMAR 13A.16.08.03 as they apply to the requested child capacity, have successfully passed federal and State criminal background checks and a review of child and adult abuse and neglect records.

**COMAR 13A.16.02.06**

**.06 Denial of License.**

A. An office may deny an application for an initial license or a continuing license if:

(1) The applicant or the building in which child care is provided fails to meet the requirements of this chapter;

(2) An evaluation of the application form by the office reveals that the applicant reported false information;

(3) The applicant has a history of regulatory violations which demonstrates an inability to provide for the health or safety of children;

(4) The applicant has previously had a family day care registration, child care center license, or letter of compliance denied or revoked by the office, unless the office is satisfied that the condition that was the basis for the denial or revocation has been corrected;

(5) The applicant prevents the office from completing its responsibilities for licensing;

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(6) An evaluation of criminal records or records of abuse or neglect of children and adults indicates, for those identified in Regulation .02B(1) and (2) of this chapter, behavior harmful to children; or

(7) The office concludes that the applicant cannot provide for the health, safety, or welfare of the children in care on the basis of:

(a) Substantial, credible evidence of the applicant's abuse of alcohol or controlled dangerous substances, mental instability, or other condition; or

(b) Other pertinent information received by the office which creates reasonable doubt as to the applicant's ability to provide child care in accordance with this subtitle.

B. If the office denies an application, the office shall notify the applicant in writing by certified mail of the denial, stating the:

(1) Reason for denial;

(2) Specific regulation with which the applicant has failed to comply that is the basis for the denial;

(3) Applicant's right to request a hearing; and

(4) Procedure to be used if the applicant wishes to request a hearing to appeal the decision of the office.

C. Denial Before Complete Application.

(1) The office may deny an application for an initial or a continuing license at any point during the application process if, following evaluation of information received to that point, the office determines that a basis for denial exists as set forth in §A of this regulation.

(2) If the office decides to deny the application before the application process is complete, the office shall send written notice of that decision to the applicant within 30 calendar days after making the decision.

**COMAR T. 13A, Subt. 16, Ch. 02, Administrative History**

**COMAR T. 13A, Subt. 16, Ch. 03, Refs & Annos**

**COMAR 13A.16.03.01**

**.01 Multi-Site Centers.**

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

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**A. The buildings:**

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

**B. Two or more locations:**

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

**COMAR 13A.16.03.02**

**.02 Admission to Care.**

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

- (1) Met the applicable requirements of this regulation; and
- (2) Received the written records required by Regulation .04C-H of this chapter.

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

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

- (1) Give the parent, or advise the parent how to obtain, a consumer education pamphlet on child care that is supplied by the office; and
- (2) Provide documentation that the requirements of §C(1) of this regulation have been met.

**D. Upon admission of an infant or toddler, an operator shall determine with the parent:**

**(1) A schedule for feeding the child that includes;**

**(a) The amounts and kinds of food consumed daily;**

**(b) The sequence for introducing solid food when appropriate; and**

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(c) Any recommendations about feeding from the infant's physician;

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

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

E. If a child is younger than 6 years old at the time of admission, the operator may not allow the child to remain in care if the parent does not, within 30 days after the child's admission, submit evidence to the operator on a form supplied or approved by the Office that the child has received an appropriate lead screening in accordance with applicable State or local requirements.

COMAR 13A.16.03.03

.03 Program Records.

The operator shall:

A. Create and maintain, for at least 2 years after their creation, records of program:

(1) Enrollment, with each child's name, address, telephone number, date of birth, and dates and time periods for which enrolled; and

(2) Attendance, by groups of children, which indicate:

(a) The dates of attendance of each child in the center; and

(b) Verification by each child's parent of that child's recorded daily attendance in care;

B. Maintain:

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

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

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

(4) A written record of the dates and times at which emergency and disaster plan drills were conducted

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pursuant to COMAR 13A.16.10.01A(3)(c); and

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

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

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

(1) The fees for and provision of care;

(2) The center's child discipline policy;

(3) The presence at the center of any pet animals;

(4) If applicable, the use of volunteers in the child care center; and

(5) If overnight care is to be provided to the child, the sleeping arrangements approved by the parent.

**COMAR 13A.16.03.04**

**.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.

B. Each child's written records shall be:

(1) Readily accessible to all staff members providing care to the child; and

(2) Kept on file at the center during the period of a child's enrollment and for 2 years after the child's disenrollment.

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;

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- (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.

D. Unless a parent objects to a child's medical examination because of bona fide religious beliefs and practices, a health assessment of the child shall be provided by the child's parent that:

- (1) Includes a parental statement of the child's health status;
- (2) If applicable, includes a statement of allergies; and
- (3) Includes a medical evaluation, signed and dated by a physician, that states the child is medically cleared to attend child care and is based on an examination completed by the physician within the last:
  - (a) 2 months before admission for a child younger than 9 months old;
  - (b) 3 months before admission for a child between 9 and 24 months old; or
  - (c) 12 months before admission for a child 2 years old or older.

E. If the child is younger than 6 years old, there shall be documentation that the child has received an appropriate lead screening as required by State or local law.

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, another licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §§D(3) and E of this regulation.

G. There shall be an immunization record showing that:

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- (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.

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.

**I. The operator shall record or maintain on file:**

- (1) Each incidence of acute illness requiring exclusion of the child from care pursuant to COMAR 13A.16.11.01;
- (2) Each injury or accident required by Regulation .06C and D of this chapter to be reported;
- (3) Child medication records required by COMAR 13A.16.11.04A(1) and D;
- (4) If the child requires a modified diet, the prescription from the child's health practitioner or the written instructions from the child's parent, pursuant to COMAR 13A.16.12.02;
- (5) If program activities away from the center are provided, prior written permission from the child's parent to take the child to those activities; and
- (6) If applicable, documentation that the parent of a toddler or an infant who is 12 months old or older has requested a crib for the child's rest periods.

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.

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

- (1) Dated and kept on file for at least 4 weeks;

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(2) Available in the infant or toddler feeding area; and

(3) Made available to the child's parent.

COMAR 13A.16.03.05

.05 Staff Records.

The operator shall:

A. Maintain and, upon request by the office, submit a current and complete list of personnel, on a form supplied or approved by the office, that includes each individual, whether paid or unpaid, who works at the center on a routine basis;

B. For review by the office and by parents who have enrolled their children or are considering enrolling their children, post in a conspicuous location a current and complete staffing pattern, on a form supplied or approved by the office, that specifies:

(1) The number and ages of children enrolled;

(2) The staff/child ratio in relation to the daily schedule; and

(3) By staff name, all child care assignments;

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

(1) The individual's:

(a) Training, if required under this chapter;

(b) Experience, if required under this chapter; and

(c) Function or position;

(2) Verification that the staff member's age complies with the minimum required for the position held;

(3) Employment medical evaluation;

(4) Criminal background check; and

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(5) Date on which the staff member received the written information required by COMAR 13A.16.06.02;

D. Maintain documentation required for:

(1) Substitutes, pursuant to COMAR 13A.16.06.13; and

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

E. Maintain a calendar or other written record of the:

(1) Days on which a substitute provides care; and

(2) Staff member in whose place the substitute worked.

**COMAR 13A.16.03.06**

**.06 Notifications.**

The operator shall:

A. Within 5 working days of adding a new employee or staff member, provide to the office:

(1) Written notification of the individual's addition to the center staff;

(2) Information about the individual's work assignment; and

(3) Signed and notarized permission to examine records of abuse and neglect of children and adults for information about the individual;

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

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

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

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

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

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;

E. Immediately notify the office if an employee's criminal background check received on or after October 1, 2005, reports a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at COMAR 12.15.02.07B;

F. Immediately notify the office of:

- (1) An employee who is under investigation for:
  - (a) A criminal charge; or
  - (b) An allegation of child abuse or neglect; or
- (2) A change at the center which may affect the status of the license, including but not limited to:
  - (a) Individuals living on the premises;
  - (b) Operation of the center; or
  - (c) Telephone number; and

G. 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

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abuse and neglect of children and adults for information about the resident; and

(2) Ensure that the resident applies for a federal and State criminal background check.

**COMAR 13A.16.03.07**

**.07 Change of Operation.**

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

B. After determining whether the proposed change meets the requirements of this subtitle, the office shall approve or disapprove the proposed change. If the change is approved, the office shall issue a revised license indicating the change.

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

(1) Notify the office before implementing the change to a summer youth camp;

(2) Upon request by the office, provide proof to the office of the center's certification as a summer youth camp under Health-General Article, Title 14, Subtitle 4, Annotated Code of Maryland;

(3) Remove the child care center license from display on the premises used for operating a summer youth camp during the period of summer youth camp operation; and

(4) Notify parents of children in care and those applying for care that:

(a) A child care center is not being operated during summer months; and

(b) State regulations for camps differ from those for child care centers.

**COMAR 13A.16.03.08**

**.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;

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(2) When the operator presents clear and convincing evidence that the regulation is met by an alternative which complies with the intent of the regulation; and

(3) For a limited period of time as specified by the office, or for as long as the license remains in effect and the operator continues to comply with the terms of the variance.

B. Within 30 calendar days of receiving a completed request for a variance, the office shall notify the operator that the variance has been granted or denied.

C. If a variance request is denied by a regional office of the Agency:

(1) The operator may appeal the denial to the Agency's central office; and

(2) The Agency's central office has the final determination of whether or not a variance is granted.

D. A variance to sanitary facility requirements that is granted pursuant to COMAR 13A.16.05.08C does not apply to any subsequent additions or enlargements to the center.

**COMAR T. 13A, Subt. 16, Ch. 03, Administrative History**

**COMAR T. 13A, Subt. 16, Ch. 04, Refs & Annos**

**COMAR 13A.16.04.01**

**.01 Capacity.**

**A. An office shall determine the capacity of the center according to criteria established in:**

**(1) This subtitle affecting floor space, outdoor activity space, staffing, equipment, ages of the children to be enrolled, and sanitary facilities; and**

(2) Applicable codes, including zoning, building, and fire codes.

B. An operator shall limit the total number of children in care at one time to the capacity approved by the office.

**COMAR 13A.16.04.02**

**.02 Enrollment and Attendance.**

A. All children in care at any one time are counted as being in attendance for purposes of complying with the regulations governing capacity, group size, and staff/child ratios.

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B. An operator may not enroll a child for more than 14 hours in a 24-hour period unless approved in advance by the office.

C. An operator may not admit an infant who is younger than 6 weeks old.

D. An operator may enroll a child only if the office has given written approval for the facility to care for children of that child's age.

**COMAR T. 13A, Subt. 16, Ch. 04, Administrative History**

**COMAR T. 13A, Subt. 16, Ch. 05, Refs & Annos**

**COMAR 13A.16.05.01**

**.01 Building Safety.**

A. An operator shall provide a building for a center that is:

(1) Maintained in good repair;

(2) Free from health and safety hazards as identified by the office; and

(3) Clean and free from infestation of insects and rodents.

B. Except as set forth in §C of this regulation, the operator shall ensure that the child care center complies with all applicable State and local codes, including but not limited to zoning, building, plumbing, gas, electrical, sewage disposal, drinking water, environment, health, and fire.

C. A child care center for school age children which is located in a school building and operates before and after school hours is not required to comply with any regulation under this subtitle that relates to the physical plant of the center if the regulation exceeds requirements imposed by the county or the local board of education with respect to the school building.

**COMAR 13A.16.05.02**

**.02 Accessibility.**

The operator shall ensure that an access road on center property permits passage by emergency vehicles during times when children are in care.

**COMAR 13A.16.05.03**

Complete through Maryland Register Vol. 41, Issue 8, dated April 18, 2014.

.03 Indoor Space.

A. A minimum of 35 square feet of floor space shall be provided for each child in care, except that:

(1) A minimum of 30 square feet of floor space shall be provided for each child in a:

(a) Child care center licensed before December 1, 1971; or

(b) Nursery school holding a certificate of approval to operate or a letter of exemption from approval that was issued by the State Board of Education before December 1, 1971, and is still in effect; and

(2) A child care program currently approved by the office to operate with less square footage per child than required by §A of this regulation may continue to operate with that reduced square footage as long as the:

(a) Operator demonstrates to the satisfaction of the office the impossibility of complying with the minimum square footage required by §A of this regulation while maintaining the economic viability of the program; and

(b) Office determines that the reduced square footage does not threaten the health, safety, or welfare of any child in care.

B. In calculating the square footage of floor space provided for each child, the following may not be included:

(1) Any floor space, rooms, or areas that are not suitable or available for the daily program activities of the children, such as but not limited to columns, vestibules, and corridors, food preparation areas, kitchens, bathrooms, adult work areas, permanently equipped isolation areas or sleeping rooms, storage units, and storage space; and

(2) Furniture, except for:

(a) Children's chairs and tables which are nonfixed and multipurpose;

(b) Moveable equipment used for infant care, such as high chairs and swings;

(c) Moveable play equipment;

(d) An adult-size rocking chair or other adult-size comfortable chair;

(e) An adult-size couch; and

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(f) Open shelves for children's daily activities.

C. In centers that care for infants or toddlers, diapering stations shall be included in calculating the square footage of floor space provided for each child.

D. In a small center, the space for children may include space within the family living area.

**COMAR 13A.16.05.04**

**.04 Building Repair and Maintenance.**

Building maintenance, repair, or renovation activity may not occur while a child in care is on the premises if the activity may present a significant risk to child safety or health.

**COMAR 13A.16.05.05**

**.05 Lead-Safe Environment.**

A. A center operator may not use paint with lead content on any:

(1) Exterior or interior surface of the facility; or

(2) Material or equipment used for child care purposes.

B. If the child care center is a residential rental property constructed before 1950, which is an affected property as defined by Environment Article, §6-801(b), Annotated Code of Maryland, the operator shall submit a copy of the current lead risk reduction or lead free certificate.

C. If the facility was constructed before 1978 and is not certified lead free pursuant to Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, the operator shall:

(1) Ensure there is no chipping, peeling, flaking, chalking, or deteriorated paint on any surface of an interior or exterior area of the facility that is used for child care;

(2) If deterioration of a surface in an area used for child care is noted, or if renovation of the premises occurs that disturbs a painted surface, arrange to have a lead dust test:

(a) Conducted by an accredited visual inspector pursuant to COMAR 26.16.02.03B to meet the risk reduction standard, if the facility is an affected property; or

(b) Conducted in areas used for child care by an accredited risk assessor pursuant to COMAR 26.16.05.11, if

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the facility is not an affected property; and

(3) If a lead dust test is required under §C(2) of this regulation, obtain:

(a) A passing score on that test; and

(b) Verification from the lead inspector performing the test that the requirements of §C(2) and (3)(a) of this regulation have been met.

D. In a facility constructed before 1978 and not certified lead free under Environment Article, §6-804(a)(2)(i), Annotated Code of Maryland, when performing renovation which disturbs the painted surface of an interior or exterior area used for child care, the operator shall ensure that the work is performed by an individual accredited to perform the lead paint abatement services using safe work practices as required by Environment Article, Title 6, Subtitle 10, Annotated Code of Maryland, and corresponding regulations.

COMAR 13A.16.05.06

.06 Ventilation and Temperature.

A room may be used for child care only if it:

A. Has natural or mechanical ventilation that provides adequate exchange of air to protect a child's health and comfort;

B. Is free of moisture and dampness; and

C. Has a temperature at floor level of not less than 65° F.

COMAR 13A.16.05.07

.07 Water Supply.

A. The center shall have hot and cold running water, with hot water temperature not exceeding 120° F.

B. For each 40 children in care, or fraction thereof, there shall be at least one drinking water source that is:

(1) Safely accessible to children 2 years old or older without assistance from an adult; and

(2) Not located in a toilet room or in a sink used for handwashing.

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C. Drinking water shall be supplied by:

- (1) An angle-jet drinking fountain with mouthguard;
- (2) Licensed bottled water in the original container;
- (3) Running water supply with individual single service drinking cups; or
- (4) Another method or source approved by the office.

D. During meals and snacks, water may be served family-style from a pitcher if the water is poured into the pitcher directly from one of the supply sources listed at §C of this regulation.

COMAR 13A.16.05.08

.08 Sanitary Facilities and Supplies.

A. For each group of infants or toddlers in a room, there shall be an approved diapering area with a sink that:

- (1) Is used only for diapering and toileting purposes; and
- (2) Permits continuous observation of, and immediate response to, each child in the group.

B. For every 15 children who are 2 years old or older, an operator shall provide one toilet and one sink that are:

- (1) Maintained in good operating condition and in a sanitary manner;
- (2) Easily accessible to the children; and
- (3) Equipped with water-resistant, nonabsorbent platforms which are safely constructed at a height that allows children to use the toilet and sink unassisted.

C. An operator which holds a certificate of approval to operate, or a letter of exemption from approval, that was issued by the State Board of Education before July 1, 1991, and is still in effect may receive a variance from the requirements of §B of this regulation if the office determines that:

- (1) The requirements can be met only with substantial physical modifications to the center; and
- (2) Sanitary facilities are accessible to every child in the center.

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D. In each toilet facility accessible to a school age child, the operator shall provide at least one toilet in an enclosed stall or other space affording privacy to the child.

E. In a small center approved for mixed age groups, only one toilet and sink are required.

F. A center licensed for the first time shall provide at least one toilet facility restricted to use by adults that is equipped with a toilet, sink, and toilet supplies, except that this requirement does not apply to:

(1) Small centers; or

(2) Programs that operate 2-1/2 hours or less per session per day.

G. Each toilet room shall have:

(1) A floor with a water-resistant, nonabsorbent finish;

(2) Smoothly finished walls with a hard surface; and

(3) Approved and functioning natural or mechanical ventilation.

H. Portable toilets, also known as potty-chairs, may not be used in a child care center.

I. Each toilet room shall contain individual paper towels, a trash receptacle, soap, and toilet paper.

J. All sanitary supplies in a toilet room shall be available within reach of a child capable of using the toilet unassisted.

K. Toiletry and grooming articles, drinking cups, towels, face cloths, brushes, and combs may not be shared.

**COMAR 13A.16.05.09**

**.09 Lighting.**

A. There shall be sufficient natural and artificial lighting in all approved areas of the center to allow proper child supervision and help ensure the safety of each child, employee, and visitor to the center.

B. An operator shall use light fixtures with bulbs, lamps, and tubes that are shatter-proof or protected by shields to prevent shattering.

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C. In a room approved for child care that does not have windows, an operator shall provide an approved source of lighting that will operate in case of a power failure.

D. An operator shall provide adequate outdoor lighting to ensure the safety of persons entering and leaving the center when it is dark outside.

**COMAR 13A.16.05.10**

**.10 Telephone and Communication.**

A. There shall be at least one operable telephone in the center that is freely and readily available to all center staff during the approved hours of operation.

B. In a center with more than two rooms approved for child care, a staff member supervising a group of children in one room shall be able to communicate a request for assistance to a staff member in another room while maintaining continuous supervision of the group.

C. In each room where care is provided to infants or toddlers, there shall be an operable telephone.

D. The operator shall provide additional telephones or extensions in the center as may be required to:

(1) Summon emergency fire and rescue services promptly; and

(2) Transmit and receive other emergency communications.

**COMAR 13A.16.05.11**

**.11 General Cleanliness and Disposal of Refuse.**

A. The entire center, including floors, walls, ceilings, fixtures, furnishings, materials, and equipment, shall be kept clean and free of infestation.

B. In a center for fewer than 12 children located in a residence, the requirements of §A of this regulation apply only to space approved for child care.

C. Cleaning may not be conducted while children are present except in emergencies or as clean up activities that are part of the daily activity program.

D. Disposal of Refuse.

(1) Each room used for child care shall have a trash container with a disposable liner.

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(2) In each area used for changing diapers, there shall be a separate trash container reserved for diaper discards that:

(a) Has a disposable liner and tightly fitting lid;

(b) Makes the contents of the container inaccessible to children in care.

(3) All trash containers in child care areas shall be emptied when full but at least daily.

(4) Refuse that is placed outdoors to await collection shall be stored in receptacles that are:

(a) Made of tight, nonabsorbent, easily washable materials;

(b) Covered with tightly fitting lids; and

(c) Washed and treated with disinfectant when necessary to combat odors and prevent infestation.

**COMAR 13A.16.05.12**

**.12 Outdoor Activity Area.**

A. A center shall have an outdoor activity area on the premises of, adjacent to, or near and safely accessible to the center that provides adequate usable play space for the approved capacity of the center.

B. A center for which a notice of intent, filed pursuant to COMAR 13A.16.02.02A(2), is received by the office on or after January 1, 2009, shall have an outdoor activity area that provides at least 75 square feet of usable play space for:

(1) One half of the approved capacity of the center; or

(2) Each child, if the center has an approved capacity of 20 or fewer children.

C. Usable play space may include only the area and the activity equipment approved for use by children in care.

D. The activity area shall be free from potential hazards to child health or safety.

E. All outdoor activity equipment shall be safe, in good repair, clean, and nontoxic.

**COMAR 13A.16.05.13**

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**.13 Swimming Facilities.**

A. Only swimming facilities meeting applicable local standards of health, sanitation, and safety may be used.

B. An above-ground swimming pool may not be used for swimming activities.

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