

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD	
	02/10/2015	Date Filed with Division of State Documents	
		Document Number	
		Date of Publication in MD Register	

1. Desired date of publication in Maryland Register: 3/20/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

13A	15	02	02
13A	15	03	02—.05
13A	15	05	04
13A	15	06	02
13A	15	08	01 and .03
13A	15	09	01 and .02
13A	15	11	04
13A	15	12	01

3. Name of Promulgating Authority

Maryland State Department of Education

4. Name of Regulations Coordinator

Charlene L Necessary

Telephone Number

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5. Name of Person to Call About this Document
Elizabeth Kelley

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6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: August 12, 2014.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Elizabeth M. Kameen, Assistant Attorney General, (telephone #410-576-6451) on December 10, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Lillian M. Lowery, Ed.D.

Title

State Superintendent of Schools

Date

February 9, 2015

Telephone No.

410-767-0467

**Title 13A
A STATE BOARD OF EDUCATION**

Subtitle 15 FAMILY CHILD CARE

13A.15.02 Registration Application and Maintenance

Subtitle 15 FAMILY CHILD CARE

13A.15.03 Management and Administration

Subtitle 15 FAMILY CHILD CARE

13A.15.05 Home Environment and Equipment

Subtitle 15 FAMILY CHILD CARE

13A.15.06 Provider Requirements

Subtitle 15 FAMILY CHILD CARE

13A.15.08 Child Supervision

Subtitle 15 FAMILY CHILD CARE

13A.15.09 Program Requirements

Subtitle 15 FAMILY CHILD CARE

13A.15.11 Health

Subtitle 15 FAMILY CHILD CARE

13A.15.12 Nutrition

Authority: Authority: Family Law Article, §§5-550, 5-557.1, and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

Notice of Proposed Action

□

The State Superintendent of Schools proposes to amend Regulation .02 under COMAR 13A.15.02 Registration Application and Maintenance; Regulations .02—.05 under COMAR 13A.15.03 Management and Administration; Regulation .04 under COMAR 13A.15.05 Home Environment and Equipment; Regulation .02 under COMAR 13A.15.06 Provider Requirements; Regulations .01 and .03 under COMAR 13A.15.08 Child Supervision; Regulations .01 and .02 under COMAR 13A.15.09 Program Requirements; Regulation .04 under COMAR 13A.15.11 Health; and Regulation .01 under COMAR 13A.15.12 Nutrition.

Statement of Purpose

The purpose of this action is to permit temporary admission to care under certain circumstances; require a plan of action in response to a notice of contaminated water; establish requirements to accommodate breast-feeding mothers; strengthen requirements for accommodation of children with special needs; limit the use of non-educational electronic media by children in care; and clarify requirements regarding the provision of milk and other beverages.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Elizabeth Kelley, Director, Office of Child Care, Maryland State Department of Education, Division of Early Childhood, 200 West Baltimore Street, Baltimore, Maryland 21201, or call 410-767-7806(TTY:410-333-6442), or email to elizabeth.kelley@maryland.gov, or fax to 410-333-6622. Comments will be accepted through April 20, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

General

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

These proposals do not involve any State or local government revenue or expenditure, nor do they involve any revenue or expenditure by child care programs affected by the proposals.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The only small businesses affected by these proposals are family child care homes, and the proposals do not involve any revenue or expenditure by the operators of those homes.

G. Small Business Worksheet:

Attached Document:

Title 13A STATE BOARD OF EDUCATION

Subtitle 15 FAMILY CHILD CARE

Chapter 02 Registration Application and Maintenance

Authority: Family Law Article, §§5-550, 5-557.1, and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.02 Initial Registration.

A. (text unchanged)

B. An applicant for an initial registration shall:

(1)—(6) (text unchanged)

(7) As applicable, submit documentation that:

(a) (text unchanged)

(b) If the home is located in a condominium or residence which requires homeowners' association membership, the applicant has homeowner's liability insurance coverage as required by Maryland law; [and]

(8) Submit documentation that the applicable training requirements specified in COMAR 13A.15.06.02 have been met[.]; and

(9) *Submit documentation showing that the home has met all applicable lead-safe environment requirements set forth at COMAR 13A.15.05.02.*

C. (text unchanged)

Chapter 03 Management and Administration

.02 Admission to Care.

A. The provider may not admit a child to the home for child care or allow a child to remain in care unless the provider has received:

- (1) An emergency form for the child as required in Regulation .04A(1) of this chapter; *and*
- (2) [A written report of a health assessment of the child on a form supplied or approved by the office; and
- (3) Evidence, on a form supplied or approved by the office, that the child has had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene.]*Unless the child is temporarily admitted or retained pursuant to §D of this regulation:*

(a) *A written report of a health assessment of the child on a form supplied or approved by the office; and*
(b) *Evidence, on a form supplied or approved by the office, that the child has had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health and Mental Hygiene.*

B.—C. (text unchanged)

D. *Temporary Admission.*

(1) *A provider may temporarily admit or retain a child in care if the child's parent or guardian is unable to provide documentation of immunization as required at §A(3)(a) and (b) of this regulation.*

(2) *For a child to be temporarily admitted or retained in care, the parent or guardian shall present evidence of the child's appointment with a health care provider or local health department to:*

- (a) *Receive a medical evaluation to include, if applicable, a lead screening;*
- (b) *Receive a required immunization;*
- (c) *Acquire evidence of age-appropriate immunizations on a form approved by the office; or*
- (d) *Reconstruct a lost record.*

(3) *The date of appointment, set pursuant to §D(2) of this regulation, may not be later than 20 calendar days following the date the child was temporarily admitted or retained in care.*

(4) *A provider shall exclude from care a child who has been temporarily admitted or retained in care if the parent fails to provide the documentation required by §A(2) of this regulation within 3 business days after the date of the appointment made pursuant to §D(2) of this regulation.*

.03 Program Records.

The provider or substitute shall:

A.—D. (text unchanged)

E. Document that, on or before the date of a child's admission to care, the child's parent was given, or was advised how to obtain, [the consumer education pamphlet on child care supplied by the office] *information that is supplied by the office concerning:*

- (1) *Consumer education on child care; and*
- (2) *How to file a complaint with the office against a child care provider.*

F.—G. (text unchanged)

.04 Child Records.

A. (text unchanged)

B. During the period of a child's enrollment and for 2 years after the child's disenrollment, a provider shall maintain a file for each child that includes records of:

- (1) (text unchanged)
- (2) The child's health assessment, immunizations, and allergies, if any, to include:
 - (a) If the child is [less]younger than 6 years old, evidence that the child has received an appropriate lead screening as required by State or local law; and
 - (b) (text unchanged)
- (3)—(6) (text unchanged)

C. *A medical evaluation and, if applicable, documentation of an appropriate lead screening that are transferred directly from another registered family child care home, a licensed child care center, or a public or nonpublic school in Maryland may be accepted as meeting the requirements of §B(2) of this regulation.*

.05 Notifications.

The provider or substitute shall:

A.—F. (text unchanged)

G. *Within 10 business days of receiving notice of a contaminated drinking water supply, send a written notice of the drinking water contamination to the parent or legal guardian of each child enrolled that:*

- (1) *Identifies the contaminants and their levels; and*
- (2) *Describes how the provider will furnish uncontaminated drinking water for children in care until the original water supply is determined by the appropriate authority to be safe for consumption.*

Chapter 05 Home Environment and Equipment

Authority: Family Law Article, §§5-550, 5-557.1 and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.04 Rooms Used for Care.

A.—C. (text unchanged)

D. *In a home approved to provide care for infants or toddlers, the provider shall designate space for mothers to breastfeed or express breast milk that:*

- (1) *Is not located in a bathroom;*
- (2) *Has access to an electrical outlet;*
- (3) *Has appropriate seating;*
- (4) *Has access to running water; and*
- (5) *Accommodates a mother's need for privacy.*

Chapter 06 Provider Requirements

Authority: Family Law Article, §§5-550, 5-557.1 and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.02 Training Requirements.

A. Preservice Training. An individual who applies for an initial registration shall:

- (1)—(2) (text unchanged)
- (3) Complete approved training on emergency and disaster planning[.]; *and*
- (4) *If applying on or after January 1, 2016, complete:*
 - (a) *Approved training in supporting breastfeeding practices;*
 - (b) *3 clock hours of approved training in complying with the Americans with Disabilities Act; and*
 - (c) *Approved training in medication administration.*

B.—G. (text unchanged)

H. Medication Administration Training. Effective January 1, 2016:

- (a) The office may not approve an application for an initial registration or a continuing registration unless the applicant has completed medication administration training approved by the office; and
- (b) A currently registered provider shall have completed medication administration training approved by the office.

Chapter 08 Child Supervision

Authority: Family Law Article, §§5-550, 5-557.1 and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 General Supervision.

A. (text unchanged)

B. Except as provided in Regulation .02C and D of this chapter, when a child is in attendance, the individual responsible for supervising the child shall at all times:

- (1)—(4) (text unchanged)
- (5) Provide supervision *that is* appropriate to the individual age, needs, capabilities, activities, and location of the child[.] *and may include, but not be limited to:*
 - (a) *Making reasonable accommodations for a child with special needs in accordance with applicable Federal and State laws; and*
 - (b) *If applicable, allowing an adult who provides specialized services to a child in care having special needs to provide those services at the home in accordance with the child's individualized education plan, individualized family services plan, or written behavioral plan.*

C. (text unchanged)

D. [If the home has more than one residential level that is approved for child care:

- (1) The provider or substitute shall ensure that, when awake, active, and indoors at the home, each child younger than 6 years old remains on the same level of the home as the provider or substitute; and
- (2) A child 6 years old or older may be on a different level of the home from the provider or substitute if:
 - (a) The child's status is checked by the provider or substitute often enough to ensure the child's health, safety, and welfare, but at least every 15 minutes;

(b) The provider has informed the child's parent that the child is permitted to be on a different level of the home; and

(c) The different home level is approved by the office for child care use and meets the applicable fire code.]

When a child in care is resting or napping:

(1) *If the child is younger than 2 years old, the provider or substitute shall:*

(a) *Remain within sight and sound of the child; and*

(b) *Observe the child at least every 15 minutes to determine that the child is safe, breathing normally, and in no physical distress; or*

(2) *If the child is 2 years old or older, the child:*

(a) *May be on a different level of the home from the provider or substitute if:*

(i) *That level is approved by the office for child care use; and*

(ii) *The provider has informed the child's parent that the child is permitted to be on a different level of the home; and*

(b) *Shall be observed by the provider or substitute to ensure the child's safety and comfort at intervals appropriate to the child's age and individual needs; and*

(3) *If the child is in a different room from the provider or substitute and that room can be closed off from the rest of the home by a door, screen, or similar furnishing, the provider or substitute shall ensure that the door, screen, or similar furnishing remains open so that the view into the room is unobstructed.*

E. The provider may use a video and sound monitoring system to meet the sound and sight requirement at §D(1)(a) of this regulation.

[E.]F. (text unchanged)

[.03 Supervision of Resting Children.

To determine if a resting child is safe, breathing normally, and in no physical distress:

A. Each resting child shall be observed at intervals appropriate to the child's age and individual needs; and

B. A resting child younger than 12 months old shall be observed at least every 15 minutes.]

Chapter 09 Program Requirements

Authority: Family Law Article, §§5-550, 5-557.1 and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Activities.

[Each child in care shall be provided with indoor and outdoor activities that are appropriate to the age, needs, and capabilities of the child.]

A. *The provider shall prepare, post, and follow a written schedule of daily activities and offer activities that:*

(1) *Promote the sound emotional, social, intellectual, and physical growth of each child;*

(2) *Are appropriate to the age, needs, and capabilities of the individual child;*

(3) *Include opportunities for individual and group participation;*

(4) *Include a balance between self-selected and provider-directed activities;*

(5) *Include a balance between active and quiet periods;*

(6) *Include periods of rest appropriate to the age, needs, and activities of the child; and*

(7) *Include outdoor play in the morning and afternoon except that outdoor play need not be included:*

(a) *When the weather is inclement; or*

(b) *If only caring for school age children before school hours.*

B. *Screen Time Activities.*

(1) *In this section, the following terms shall have the meanings indicated:*

(a) *“Passive technology” means non-interactive television, videos, and streaming media.*

(b) *“Interactive technology” means educational and age-appropriate technology, including programs, applications (apps), non-commercial television programming, videos, streaming media, and e-books, that is designed to:*

(i) *Facilitate active and creative use of technology; and*

(ii) *Encourage social engagement with other children and adults.*

(2) *Limited use of appropriate interactive technology may support, but may not replace, creative play, physical activity, hands-on exploration, outdoor experiences, social interactions and other developmentally appropriate learning activities for children 2 years old or older.*

(3) *Viewing Restrictions. Except as set forth at §B(4) of this regulation, a child in attendance who is:*

(a) *Less than 2 years old may not be permitted to view any passive technology; and*

(b) *2 years old or older may not be permitted to view more than 30 minutes of age-appropriate, educational passive technology per week.*

(4) *Exceptions.*

(a) An occasional exception to the weekly passive technology viewing limit set forth at §B(3) of this regulation may be made for a special event or project, including a holiday or birthday celebration, or for educational content that is related to the family child care home's curriculum.

(b) If an exception to the weekly passive technology viewing limit is made, a written record of the exception shall be made and retained on file that documents the:

- (i) Nature and duration of the programming viewed; and
- (ii) Reason for the exception.

(5) No child may be permitted to view any:

- (a) Passive or interactive technology during a meals or a snack; or
- (b) Media with brand placement or advertising for unhealthy or sugary food or beverages.

(6) The provider shall give the parent of each enrolled child a written screen time policy that addresses the use of passive and interactive technology during child care hours.

.02 Materials and Equipment.

A. Activity materials shall:

- (1) (text unchanged)
- (2) Support learning in:
 - (a) (text unchanged)
 - (b) [Mathematics] *Mathematical thinking*;
 - (c) [Science] *Scientific thinking*;
 - (d) Social studies; [and]
 - (e) [The arts.] *Creative arts and dramatic play*; and
 - (f) *Gross motor and small motor skills*.

B. (text unchanged)

Chapter 11 Health

Authority: Family Law Article, §§5-550, 5-557.1, and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.04 Medication Administration and Storage.

A.—F. (text unchanged)

G. *Effective January 1, 2016, medication may be administered to a child in care only by an individual who has completed approved medication training, unless:*

- (1) *The individual is a registered nurse, licensed practical nurse, or medication technician certified by the Maryland Board of Nursing to administer medication to children in care; or*
- (2) *Responsibility for administering medication to children in care has been delegated to the individual by a delegating nurse in accordance with COMAR 10.27.11.*

Chapter 12 Nutrition

Authority: Family Law Article, §§5-550, 5-557.1 and 5-560; State Government Article, §10-617; Article 88A, §6(b); Annotated Code of Maryland Agency Note: Federal Statutory Reference—Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); Pro-Children Act of 1994 (20 U.S.C. §6081 et seq.)

.01 Nutrition and Food Served.

[A. The provider or substitute shall prepare, or make arrangements with the child's parents to provide, an adequate amount of nutritious food and beverages for the number of meals and snacks the child will be served, appropriate for the child's age and appetite.

B. Unless supplied by the parent of a child in care, food and beverages furnished by the provider to the child for meals and snacks shall comply with the guidelines of the Child and Adult Care Food Program of the U.S. Department of Agriculture, as indicated on a chart supplied by the office.

C. The provider or substitute shall serve meals and snacks at regular and age-appropriate intervals to each child according to the hours that the child is in care.]

A. Food and beverages that are furnished by a provider for meals or snacks, or both, shall comply with the guidelines of the Child and Adult Care Food Program of the U.S. Department of Agriculture, as indicated on a chart supplied by the office.

B. For children in care, the provider shall furnish:

- (1) *All beverages, including beverages for meals and snacks; and*
- (2) *Milk with all meals.*

C. A beverage furnished by the provider may not contain an added sweetener or caffeine, except for:

- (1) *Infant formula; or*
- (2) *A beverage prescribed for a child by a health care provider.*

D. If the child is:

- (1) Younger than 2 years old, milk furnished to the child shall be supplied or approved by the child's parent; or
- (2) 2 years old or older, milk furnished to the child by the provider shall be 1% fat milk or nonfat milk, unless otherwise ordered by a health care provider or requested by the child's parent.

E. The provider may arrange with the child's parent to furnish milk of a type that is different from the milk ordinarily furnished by the provider.

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

<i>If a child is at providers home for:</i>	<i>The child shall receive at least:</i>
<i>Less than 4 consecutive hours</i>	<i>1 snack</i>
<i>4 to 7 consecutive hours</i>	<i>1 meal and 1 snack</i>
<i>7 to 11 consecutive hours</i>	<i>1 meal and 2 snacks or 2 meals and 1 snack</i>
<i>11 to 14 consecutive hours</i>	<i>2 meals and 2 snacks or 3 meals and 1 snack</i>

G. If a provider chooses not to provide meals, the provider shall make arrangements with the parent of each child to provide food for meals.

Lillian M. Lowery
State Superintendent of Schools