

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
State Board of Education
(DLS Control No. 15-007)**

Overview and Legal and Fiscal Impact

These regulations clarify and update various requirements that relate to the registration and operation of large family child care homes.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

State Board of Education:

Large Family Child Care Homes: Registration Application and Maintenance: COMAR 13A.18.02.02-.05

Management and Administration: COMAR 13A.18.03.03-.06

Home Environment and Equipment: COMAR 13A.18.05.03

Provider and Staff Requirements: COMAR 13A.18.06.02, .05, .06, .07

Child Supervision: COMAR 13A.18.08.01

Program Requirements: COMAR 13A.18.09.01

Nutrition: COMAR 13A.18.12.01

Legal Analysis

Background

The Maryland State Department of Education has primary responsibility for regulating child care in the State. The Office of Child Care in the department's Division of Early Childhood Development issues child care licenses and registrations, inspects facilities, investigates complaints, and takes any necessary enforcement actions.

A large family child care home is a private residence in which care is provided by a paid provider in place of parental care for at least 9, but not more than 12, children under the age of 13 years, or developmentally disabled individuals under the age of 21 years, for less than 24 hours a day. An applicant for a large family child care home registration must meet specified training, information, and inspection requirements, and obtain specified criminal background checks and child abuse or neglect clearances.

Summary of Regulations

The regulations clarify and update various requirements that relate to the registration and operation of large family child care homes. Specifically, the regulations:

- require an applicant for an initial registration to (1) complete a specified orientation (unless converting an existing small child care center); (2) ensure that an application for a federal and State criminal background check is submitted for the applicant, each employee, and any resident of the home who is at least 18 years old; and (3) submit documentation showing that the home has met all applicable lead safety requirements;
- repeal a requirement that a certain consumer education pamphlet be displayed and substitute a requirement that a provider give or advise a parent how to obtain information from the Office of Child Care concerning consumer education on child care and how to file a complaint against a child care provider;
- authorize a provider to temporarily admit or retain in care a child whose parent or guardian is unable to provide specified health-related records if the parent or guardian (1) presents evidence that the date of a certain health care appointment is within 20 calendar days from the date the child was admitted or retained in care; and (2) provides evidence of the required medical evaluation, immunization, or health record within three business days from the date of the health care appointment;
- require a provider to destroy a record of the results of an employee's criminal background check immediately after the last day of the individual's employment;
- require a provider to include a new employee's full name, date of birth, and date of hire in the written notice provided to the office within five working days of the addition of the new employee;
- require a provider to include an employee's full name and last day of employment in the written notice provided to the office within five working days of the end of the individual's employment;
- repeal a requirement that a provider notify the office of certain criminal background check results because the office receives the information directly from the electronic reporting system;
- require a provider, within 10 business days after receiving notice of a contaminated drinking water supply, to send to the parent of each child a written notice that identifies the contaminants and their levels, and describes how the provider will furnish uncontaminated drinking water;
- require a provider in a home approved to provide care for infants or toddlers to designate a specified space for mothers to breast-feed or express breast milk;

- require a provider to document that each staff member has been informed about the community resources available to a family of a child who may have special needs;
- revise the qualifications for a director and for a family child care teacher to allow the substitution of an academic college course for the required nine clock hours of approved preservice training in communicating with staff, parents, and the public;
- require, effective January 1, 2016, that an individual seeking to qualify as a director in a large family child care home have successfully completed specified training in Americans with Disabilities Act compliance and supporting breast-feeding practices;
- exempt an individual who is hired to work as an aide and has completed 90 clock hours or the equivalent in early childhood education preservice training from having to complete a specified orientation session;
- require a provider, if applicable, to make reasonable accommodations for children with special needs in accordance with federal and State laws and to allow an adult to provide specialized services at the home in accordance with the child's individualized education plan, individualized services plan, or written behavioral plan;
- establish limitations on the use or viewing of passive and interactive technology, require a provider to provide a written screen time policy to the parent of each enrolled child, and require a provider to make and retain a record of any time an exception is made to the passive technology viewing limit; and
- revise the nutrition provisions to prohibit certain beverages that contain added sweeteners or caffeine, specify the types of milk that may be provided to children of different ages, and require a provider to post a weekly planned menu, keep specified food records, and provide meals and snacks at intervals of not more than three hours.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The State Superintendent of Schools cites §§ 5-501, 5-505, 5-550 through 5-557.1, and 5-560 through 5-563 of the Family Law Article, § 10-617 of the State Government Article, and § 1-202 of the Human Services Article as legal authority for the regulations. More specifically, § 5-551 of the Family Law Article requires the department to adopt regulations that relate to the registration of large family child care homes and are, so far as practicable, uniform with the regulations adopted by other State agencies for other types of child care. Among other things, the regulations must provide for minimum standards of health and safety, an orientation for prospective child care providers, and inspections of large family child care homes. The regulations must also require a provider, within 10 days after receiving notice of a contaminated drinking water supply, to send to the parent or guardian of each child a written notice that identifies the contaminants, the levels in the large family child care home's water supply, and a description of the home's plan for dealing with the problem.

In addition, § 5-561 of the Family Law Article requires large family child care home employees and employers, and any other adults residing in the homes, to obtain national and State criminal history records checks. Section 5-562 requires (1) an employee to apply to the Department of Public Safety and Correctional Services for a printed statement of the individual's State criminal record on or before the first day of employment; and (2) an employer to apply for a printed statement of the employer's State criminal record on or before the first day of operation of a facility.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department has submitted substitute pages containing technical corrections that were made after the submission of the proposed regulations to the committee. The substitute pages correct inaccurate cross-references.

Please also note that in response to an inquiry about the proposed repeal of the requirement that a provider notify the department of certain criminal background check results, the department advises that the requirement is no longer necessary because it receives more timely and comprehensive reports directly from the Criminal Justice Information Service electronic reporting system under § 5-564(b)(1) of the Family Law Article. The department is proposing the repeal of similar notice requirements applicable to child care centers in concurrent actions. As noted above, the regulations that relate to large family child care homes must be, so far as practicable, uniform with the regulations adopted for other types of child care.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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