

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	18	02	02—.05
13A	18	03	03—.06
13A	18	05	03
13A	18	06	02, .05, .06, .07
13A	18	08	01
13A	18	09	01
13A	18	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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elizabeth.kelley@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: August 14, 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 18 LARGE FAMILY CHILD CARE HOMES

13A.18.02 Registration Application and Maintenance

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

13A.18.03 Management and Administration

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

13A.18.05 Home Environment and Equipment

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

13A.18.06 Provider and Staff Requirements

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

13A.18.08 Child Supervision

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

13A.18.09 Program Requirements

Subtitle 18 LARGE FAMILY CHILD CARE HOMES

13A.18.12 Nutrition

Authority: Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; 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 Regulations .02—.05 under COMAR 13A.18.02 Registration Application and Maintenance; Regulations .03—.06

under COMAR 13A.18.03 Management and Administration; Regulation .03 under COMAR 13A.18.05 Home Environment and Equipment; Regulation .02, .05, .06 and .07 under COMAR 13A.18.06 Provider and Staff Requirements; Regulation .01 under COMAR 13A.18.08 Child Supervision; Regulation .01 under COMAR 13A.18.09 Program Requirements; and Regulation .01 under COMAR 13A.18.12 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 large 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 18 LARGE FAMILY CHILD CARE HOMES

Chapter 02 Registration Application and Maintenance

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; 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. *Unless converting an existing small center to a large family child care home pursuant to Regulation .01A(2) of this chapter, an applicant for an initial registration shall complete an orientation to large family child care home regulations that is offered or approved by the office.*

[B.]C. Before the proposed opening date of the child care home, an applicant for initial registration 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] *Ensure that an application for a federal and State criminal background check is submitted for:*

(a)—(c) (text unchanged);

(2) *Submit the following items to the office, if not submitted at the time the written application form was submitted:*

[(2)](a) (text unchanged)

[(a)](i)—[(e)](v) (text unchanged)

[(3)](b) [Submit a]A medical evaluation for the applicant and each resident in the home that:

[(a)](i)—[(c)](iii) (text unchanged)

[(4)](c)—[(12)](k) (text unchanged)

[(13)(l) If the child care home is located in a condominium or residence which requires homeowners' association membership, written proof of homeowner's liability insurance coverage as required by Maryland law; [and] (m) Documentation that the home has met all lead safety requirements, as applicable, set forth at COMAR 13A.18.05.05; and

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

[(a)(i)—(c)(iii) (text unchanged)

[C.]D. (text unchanged)

.03 Continuing Registration.

A. Application for Continuing Registration. To obtain a continuing registration, a provider shall submit to the office before expiration of the initial registration:

(1)—(2) (text unchanged)

(3) A medical evaluation that meets the requirements of Regulation [.02B(3)].02B(2)(b) of this chapter for:

(a)—(c) (text unchanged)

(4)—(6) (text unchanged)

B. (text unchanged)

.04 Provisional Status and Conditional Registration.

A. Provisional Status.

(1) (text unchanged)

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

(3)—(4) (text unchanged)

B. (text unchanged)

.05 Resumption of Service.

A. (text unchanged)

B. The application to resume service shall meet all initial registration application requirements, except that:

(1) (text unchanged)

(2) The office may accept as applicable to the new application the:

(a) Individual's original completion of the orientation [process under Regulation .02B(1)]specified at .02B of this chapter, if required;

(b)—(c) (text unchanged)

(d) Results of the original child and adult abuse and neglect clearances conducted pursuant to Regulation [.02B(2)].02B(2)(a) of this chapter, if the clearances were completed within 12 months of the application; and

(e) (text unchanged)

Chapter 03 Management and Administration

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; 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.)

.03 Program Records.

The provider shall:

A.—C. (text unchanged)

D. [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.]Give, or advise the parent how to obtain, information 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.

.04 Child Records.

A. [For each child admitted to, or continuing in care, the]Unless a child is temporarily admitted to, or retained in care pursuant to §L of this regulation, the provider shall maintain written records, on forms provided or approved by the office, that meet the requirements of this regulation for each child admitted to, or continuing in care.

B.—E. (text unchanged)

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 another registered child care home, a 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.—K. (text unchanged)

L. 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 the health-related records specified at §§D—H 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 §L(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 evidence of the required medical evaluation, immunization, or health record within 3 business days after the date of the appointment made pursuant to §L(2) of this regulation.

.05 Staff Records.

- The provider shall:
- A.—B. (text unchanged)
- C. During an individual's employment at the child care home and for 2 years after the date of the individual's last employment there, maintain a record for each individual that includes:
- (1)—(3) (text unchanged)
 - (4) Criminal background check, *except that the provider shall destroy the record of those results immediately after the last day of the individual's employment*; and
 - (5) (text unchanged)
- D.—F. (text unchanged)

.06 Notifications.

- The provider shall:
- A. [Within 5 working days of adding a new staff member, provide to the office] *Within 5 working day of its occurrence, provide written notification to the office about the:*
- [(1) Written notification of the individual's addition to the child care home 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;]
- (1) *Addition of a new staff member that includes:*
- (a) *The individual's full name, date of birth, and date of hire;*
 - (b) *Information about the individual's work assignment; and*
 - (c) *Signed and notarized permission to examine records of abuse and neglect of children and adults for information about the individual; or*
- (2) *Ending of employment, for whatever reason, of an individual that includes the:*
- (a) *Individual's full name; and*
 - (b) *Date of the individual's last day of employment.*
- B.—D. (text unchanged)
- [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.]E. Immediately notify the office of:
- (1) (text unchanged)
 - (2) A change at the child care home that may affect the status of the registration, including but not limited to:
 - (a)—(b) (text unchanged)
 - (c) Telephone number; [and]
- [G.]F. Within 5 working days after there is a new resident who is 18 years old or older:
- (1) (text unchanged)
 - (2) Ensure that the resident applies for a federal and State criminal background check[.]; *and*
- G. *Within 10 business days of receiving notice from the home's supplier of water that the drinking water is contaminated, send a written notice of the contamination to the parent of each enrolled child that:*
- (1) *Identifies the contaminants and their levels; and*
 - (2) *Describes the provider's plan for dealing with the water contamination problem until the water is determined by the appropriate authority to be safe for consumption.*

Chapter 05 Home Environment and Equipment

Authority: Family Law Article, §§5-550, 5-551, 5-557.1, and 5-560; State Government Article, §10-617; Human Services Article, §1-202; 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.)

.03 Rooms Used for Care.

A.—E. (text unchanged)

F. *If 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; and*
- (4) *Has access to running water.*

Chapter 06 Provider and Staff Requirements

Authority: Family Law Article, §§5-501, 5-502, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; 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 Staff Orientation.

On or before assignment, a provider shall ensure and document that each staff member has been informed in writing about all areas pertinent to the health and safety of the children, including:

A.—H. (text unchanged)

I. Signs and symptoms of abuse and neglect in children; [and]

J. *The community resources available to a family of a child who may have special needs; and*

K. (text unchanged)

.05 Child Care Home Directors.

A.—D. (text unchanged)

E. Except as set forth at §F of this regulation, to qualify as a director in a large family child care home, an individual shall:

(1)—(2) (text unchanged)

(3) Have successfully completed:

(a) 9 clock hours of approved preservice training in communicating with staff, parents, and the public, *or at least one (1) academic college course for credit; [and]*

(b) 3 semester hours or their equivalent of approved administrative training; *and*

(c) *Effective January 1, 2016:*

(i) *3 clock hours of approved training in ADA compliance; and*

(ii) *Approved training in supporting breastfeeding practices.*

(4)—(6) (text unchanged)

F.—G. (text unchanged)

.06 Family Child Care Teachers.

A. A family child care teacher in a child care home shall be 19 years old or older.

B. Except as set forth at §C of this regulation, to qualify as a family child care teacher, an individual:

(1) Shall hold or have successfully completed:

(a) A high school diploma, a certificate of high school equivalence, or courses for credit from an accredited college or university;

(b) *Either 9 clock hours of approved pre-service training in communicating with staff, parents, and the public, or at least 1 academic college course for credit; and*

(c) (text unchanged)

(2) (text unchanged)

C.—E. (text unchanged)

.07 Aides.

A. (text unchanged)

B. [Except as set forth at §C of this regulation] *Unless an individual has completed 90 clock hours or the equivalent in early childhood education preservice training, and except as set forth at §C of this regulation, an individual hired to work as an aide shall complete, within 6 months after the date of hire, an orientation session that follows guidelines established by the office and includes, but is not limited to:*

(1)—(3) (text unchanged)

C. (text unchanged)

Chapter 08 Child Supervision

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1, and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; 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 Individualized Attention and Care.

A provider shall ensure that:

A. Each child receives:

(1) Attention to the child's individual needs, *including but not limited to*; [and]

(a) *Making reasonable accommodations for children with special needs in accordance with applicable federal and State laws; and*

(b) *Allowing an adult who provides specialized services to a child with special needs access to provide those services on the facility premises as specified in the child's individual education plan, individual family service plan, or written behavioral plan; and*

(2) (text unchanged)

B.—E. (text unchanged)

Chapter 09 Program Requirements

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1 and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; 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 Schedule of Daily Activities for All Children.

A.—B. (text unchanged)

C. *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 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.*

Chapter 12 Nutrition

Authority: Family Law Article, §§5-501, 5-505, 5-550—5-557.1 and 5-560—5-563; State Government Article, §10-617; Human Services Article, §1-202; 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 Food Service.

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

C. Meals and snacks shall be served to each child at regular and age-appropriate intervals according to the hours that the child is in care, as set forth in the following chart:

<i>If a child is at a child care 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>

D. 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.

E. Milk shall be furnished and served with all meals.

F. A provider shall keep a supply of nutritious food on hand in order to provide food to a child whose parent has not supplied food or beverages for meals or snacks.

G. A provider shall keep a dated record of food actually served in the child care home, and to each child on a modified diet, on file for at least 4 weeks.]

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.*

H. *A provider shall keep a supply of nutritious food on hand in order to provide food to a child whose parent has not supplied:*

- (1) *Food for meals or snacks; or*
- (2) *Sufficient food to meet the standards of the Child and Adult Care Food Program of the U.S. Department of Agriculture.*

I. *Menus. A provider shall:*

- (1) *Post in a conspicuous place a weekly planned menu of foods and beverages furnished by the provider for meals and snacks; and*
- (2) *Keep a dated record of food actually served in the home, and to each child on a modified diet, on file for at least 4 weeks, correcting the planned menu if necessary.*

Lillian M. Lowery, Ed.D.

State Superintendent of Schools