



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject: Before and After School Childcare Programs in Public Schools	Number 15-14
Originating Department Community Use of Public Facilities	Effective Date

Montgomery County Regulation on

BEFORE AND AFTER SCHOOL CHILDCARE PROGRAMS IN PUBLIC SCHOOLS

Issued by: County Executive

Regulation No. 15-14

COMCOR No. 44.04.01

Authority: Montgomery County Code (2004) Sections 44-1(f); 44-3(a)(5)

Supersedes: Executive Regulation: N/A

Council Review: Method (2) under Code Section 2A-15

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Effective Date: _____

Comment Deadline: September 15, 2014

Summary: This regulation implements Resolution No. 19-13, which was adopted by the Board of Education of Montgomery County on January 8, 2013. Resolution No. 19-13 delegates to the Interagency Coordinating Board for the Community Use of Public Facilities the authority to schedule the before and after school childcare programs in Montgomery County Public School facilities.

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Background: Section 7-109 of the Maryland Education Article authorizes the local school boards to allow day care programs to operate in public school facilities before and after school hours. Section 7-109(a)(1) states that use of school property for day care programs shall give priority to nonprofit day care programs. Section 7-109(b) requires the local school boards to adopt regulations to implement the day care program in public school facilities. Section 7-108 of the Maryland Education Article authorizes Montgomery County to create an Interagency Coordinating Board that may regulate non-school use of school facilities. Chapter 44 of the County Code implements Section 7-108 of the Education Article. Code Sections 44-1(f) and 44-3(a)(5) authorize the Interagency Coordinating Board to issue regulations to implement Chapter 44.



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Number
15-14

Originating Department
Community Use of Public Facilities

Effective Date

By Resolution No. 19-13, the Montgomery County Board of Education delegated authority to the Interagency Coordinating Board for the Community Use of Public Facilities to schedule the before and after school childcare program in Montgomery County Public School facilities under a regulation approved by: 1) the Interagency Coordinating Board under Chapter 44 of the Montgomery County Code; and 2) the Montgomery County Board of Education.

Section 1. Authority.

This Executive Regulation is authorized under Resolution 19-13 adopted by the Montgomery County Board of Education on January 8, 2013, and Sections 44-1(f) and 44-3(a)(5) of the Montgomery County Code.

Section 2. Purpose

This Executive Regulation is intended to implement Montgomery County Board of Education Resolution 19-13 and Chapter 44 of the Montgomery County Code. The Montgomery County Board of Education delegated authority to the County to schedule the before and after school childcare programs in Montgomery County Public School facilities.

Section 3. Definitions.

(a) Childcare Service Provider – an entity licensed by the Maryland State Department of Education (MSDE) under Title 13A, *State Board of Education*, Subtitle 16, *Child Care Centers*, Code of Maryland Regulations (COMAR).

(b) Community Use of Public Facilities (CUPF) – the office responsible for implementing Interagency Coordinating Board and County policies under Chapter 44 of the Montgomery County Code.

(c) Facility Use License Agreement (FULA) – means the CUPF licensing agreement signed by a community group or individual that states the terms and conditions governing the use of public space.

(d) Interagency Coordination Board (ICB) – the Board established under Section 44-3 of the County Code.

(e) Montgomery County Public Schools (MCPS) – the Board of Education for



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Subject: Before and After School Childcare Programs in Public Schools

Number
15-14

Originating Department
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Effective Date

Montgomery County, Maryland.

(f) Selected Childcare Service Provider – the provider selected by the school selection committee to provide custodial before and after school childcare services in a MCPS facility in designated licensable spaces and afforded special placement considerations.

Section 4. Designation.

Pursuant to Code Section 44-4 of Montgomery County and Montgomery County Board of Education Resolution 19-13, the Community Use of Public Facilities (CUPF) must administer this Regulation pertaining to the before and after school childcare selection and scheduling processes under the direction of the Interagency Coordinating Board (ICB).

Section 5. Childcare Service Providers--Selection Process

(a) CUPF must establish a schedule that designates when each facility that MCPS designates for use by a Childcare Service Provider should be subject to a competitive selection process under this Regulation. The schedule should require that each designated facility be subject to the selection process at least once every seven (7) years. The schedule must be updated annually. CUPF may include a facility in the competitive selection process, if there is no current Childcare Service Provider at the facility, or the current Childcare Service at the facility:

- (1) is no longer able to provide the service in a manner acceptable to MCPS, as determined by MCPS;
- (2) has not complied with the provisions of the FULA
- (3) is no longer licensed as a Childcare Service Provider by the Maryland State Department of Education (MSDE); or
- (4) plans to discontinue providing services.

(b) Based on the schedule created by CUPF under subsection (a), CUPF must notify each school principal and current Childcare Service Provider, if any, that the school facility's childcare program will be subject to the competitive selection process set out in this Regulation a minimum of 45 days in advance of posting a request for applications.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

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- (c) The principal of the school must then make a public announcement reasonably calculated to give staff, parents and the school community notice that the competitive selection process for a Childcare Service Provider has begun. Each incumbent Childcare Service Provider must notify the parents of children using their services at that facility that the competitive selection process to select a Childcare Service Provider has begun.
- (d) The principal must form a selection committee after receiving the notification under subsection (b). The childcare selection committee must evaluate the applications, conduct interviews, and select the next Childcare Service Provider for the facility. The childcare selection committee may be comprised of any combination of staff, parents or other responsible individuals chosen by the school principal. The committee should have a minimum of 5 members to review the applications and conduct interviews. The maximum number of committee members should be nine (9). Prior to reviewing an application, each committee member must affirm in writing that he or she will exercise fair and impartial judgment in evaluating each applicant seeking to become a Childcare Service Provider. Committee members must also disclose any vested interest or prior/current relationship with any of the applicants. Committee members who fail to disclose a conflict of interest must be dismissed from the committee.
- (e) The principal of each facility subject to the competitive childcare selection process must give to CUPF, 30 days prior to advertisement of the bid, any site specific program requirements to be met by the Childcare Service Provider. The selection committee must use the following criteria:
 - (1) Non-Profit status of the applicant;
 - (2) The applicant's organizational experience;
 - (3) The demonstrated ability of the applicant's proposed staff to deliver quality services;
 - (4) The applicant's proposed program and services;
 - (5) The applicant's proposed fees and policies;
 - (6) Opportunities for parent involvement and approach to conflict mediation;
 - (7) References from parents of children who use the services of the Childcare



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Number
15-14

Originating Department
Community Use of Public Facilities

Effective Date

Service Provider; and

- (8) Any other criteria, relevant to that school facility, which has been approved by the Superintendent or designee.
- (f) Once the principal provides to CUPF the information identified in subsection (e), CUPF must notify the public, by any reasonable means, that it seeks applications for qualified, licensed entities to provide before and after childcare in the identified school facility. CUPF must include the evaluation criteria identified in subsection (e) and insurance requirements that CUPF requires the Childcare Service Provider to maintain. The notification period requesting applications from interested Childcare Service Providers should not be less than 30 days nor more than 45 days.
- (g) CUPF must forward to the principal applications received. An application must not be forwarded to the principal if it is received after the closing of the submission deadline or if applicant has an overdue account balance with CUPF greater than \$500 for more than 60 days at the time of the submission closing date.
- (h) The childcare selection committee must meet to evaluate the childcare applications based on criteria published in the solicitation.
- (i) The childcare selection committee must come to a decision as to which Childcare Service Providers will be interviewed after each member has reviewed and rated each application. The Childcare Service Providers with the highest ratings will receive an interview. A minimum of three Childcare Service Providers must be interviewed, unless fewer applications are received or fewer applications are not deemed responsive by the committee. If fewer than five applications are received, all responsive applicants must be interviewed. Notwithstanding the foregoing, the childcare selection committee must interview each applicant offering a non-profit child care program in accordance with Section 7-109 (a) of the Maryland Education Code.
- (j) The childcare selection committee must schedule each applicant interview. The selection committee must develop the interview questions. The selection committee must ask each applicant the same questions and give each applicant the same opportunity to answer. The selection committee must give the applicant a minimum of seven (7) business days' notice of the interview date, time and location.



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- (k) Using the criteria published in the solicitation, the child care selection committee must come to a majority decision based on the combined scores of the application review and interview to select the Childcare Service Provider.
- (l) If only one Childcare Service Provider applies, the application must be reviewed by the childcare selection committee to determine if all of the requirements and qualifications are met. If so, the selection committee may select that Childcare Service Provider.
- (m) A CUPF representative may be present to provide administrative support to the committee at the request of the principal, but will not participate in the selection of any applicant.
- (n) The decision of the childcare selection committee is final.
- (o) The principal must notify CUPF of the name of the Childcare Service Provider chosen by the selection committee, and forward to CUPF all documents used by the childcare selection committee. CUPF must post the name of the Childcare Service Provider on CUPF's web page. The posting should remain on CUPF's web page for 30 days.
- (p) CUPF must retain the records transmitted by the principal under section (o) for three (3) years.

Section 6. Space Reservation

- (a) Once the selection committee has selected a Childcare Service Provider, the principal must designate space for the operation of the before and after school childcare program that satisfies the requirements of the Maryland State Board of Education's Child Care Licensing Division.
- (b) The Childcare Service Provider must sign a FULA that is conditioned on the Childcare Service Provider: (1) maintaining insurance as set out in the solicitation under subsection 5(f); (2) maintaining a current MSDE License; (3) adhering to all applicable CUPF and MCPS policies, guidelines and procedures, including the authority of MCPS to change, after reasonable notice, the space in the school facility made available to the Childcare Service Provider; and (4) maintaining the space in a manner required by MSDE.



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- (c) CUPF may then issue a Permit to the selected Childcare Service Provider. The Permit issued by CUPF to a Childcare Service Provider must be for the duration of the school year.

Section 7. Miscellaneous

The service agreement for delivery of before and after school childcare services is between the Childcare Service Provider and the parent or guardian. Neither Montgomery County nor Board of Education is responsible for the Childcare Service Provider's adherence to the terms of the service agreement. Childcare Service Providers are directly responsible for compliance with MSDE regulations and other applicable local and state laws. Disputes between any parent or guardian and the Childcare Service Provider must be resolved in accordance with the service agreement and applicable State law.

Section 8. Effective Date.

This Regulation becomes effective 30 days after adoption by the County Council and approval by the Board of Education.

Isiah Leggett
County Executive

Approved as to form and legality:

Mara Hansen 8/9/14
Office of the County Attorney/Date