

## **.50 INSPECTION OF LICENSING RECORDS FOR COMPELLING PUBLIC PURPOSE.**

### **A. Definitions. In this regulation, the following terms have the meanings indicated:**

- (1) "Confirmed complaint" means a determination by the Department or Office after an investigation that the violation of a regulation of this chapter which was alleged in the complaint has occurred or is occurring.**
- (2) "Custodian of record" means an authorized individual employed by the Department or Office who has physical custody and control of licensing records.**
- (3) "Licensing records" means all papers, computerized records, correspondence, forms, books, cards, photographs, photostats, films, microfilms, sound recordings, charts, maps, drawings, or other written documents, regardless of physical form or characteristics, maintained or stored by the Department or the Office in connection with the registering of a person or a family day care home to provide child care.**
- (4) "Official custodian of record" means the Secretary of Human Resources or the Secretary's designee who is responsible for the maintenance, care, and storage of the Department's licensing records.**
- (5) "Requester" means an individual, business, corporation, partnership, association, organization, or governmental agency which requests an inspection of licensing records.**
- (6) "Sociological information" means any of the following information about a provider:
  - (a) Social Security number;**
  - (b) Personal address;**
  - (c) Personal phone number;**
  - (d) Information regarding marital status, dependents, or relatives; and Information regarding employment status, including employment application.****

**INTENT:** To identify and define certain terms pertinent to requests for information contained in child care licensing records.

### **B. A compelling public purpose shall exist for the custodian of record to permit inspection of licensing records other than the records specified under State Government Article, §10-617(h)(2), Annotated Code of Maryland.**

**INTENT:** Under Maryland law, any member of the public may obtain certain information from a child care licensing record. This regulation determines what other information from the record may be released, and under which circumstances.

### **C. Inspection Requests - General. The custodian of record shall permit inspection of licensing records which pertain to a family day care home subject to the requirements of this chapter, if a request for inspection is submitted by one of the following:**

- (1) A parent whose child is or has been enrolled in the family day care home which is the subject of the request;**
- (2) A parent who is considering enrolling a child in the family day care home which is the subject of the request;**
- (3) An authorized representative of a business which is considering securing or is securing child care services for the benefit of its employees from the family day care provider which is the subject of the request;**
- (4) An employer who has entered into a contract to employ the services of the**

- family day care home which is the subject of the request;
- (5) A prospective employer who is considering a contract to employ the services of the family day care home which is the subject of the request;
  - (6) A requester who has filed a complaint that has been confirmed by the Department or office, if the:
    - (a) Complaint is against the family day care home which is the subject of the request, and
    - (b) Request is limited to documents relating to the complaint;
  - (7) A federal, State, local, or other law enforcement agency that has requested an inspection to conduct the official business of the agency or for law enforcement or prosecutorial purposes; or
  - (8) A requester for whom there is a compelling public purpose to obtain other information about the family day care home which is the subject of the request, as determined by the official custodian of record.

INTENT: Certain portions of the record that are not routinely open to the public may be released, but only to requesters who can demonstrate a direct, specific, and legitimate interest in the child care program. Licensing documents may only be released if they are pertinent to the specific nature of the request and to the specific program in question.

**D. Licensing Records Permitted for Inspection. Except as otherwise prohibited by State or federal law or regulation, the custodian of record shall permit inspection of the following licensing records:**

- (1) Copies of provisional and regular licenses, including administrative extensions;
- (2) Variances;
- (3) Correspondence and documents requiring abatement of noncompliances with the regulations of this chapter, including compliance agreements;
- (4) Correspondence and documents pertaining to enforcement actions taken by the Department or office against a licensee or a family day care home, including denial letters, sanctions, emergency suspensions, and revocations;
- (5) Noncompliance reports and inspection reports pertaining to the Department's or office's reinspection of a family day care home following a finding of noncompliance;
- (6) Record of complaint forms pertaining to confirmed complaints; and
- (7) Any correspondence regarding requests for inspection of licensing records under this regulation.

INTENT: Except for records that are prohibited by law from release (for example, child abuse and neglect records), an eligible requester may inspect certain licensing records pertaining to a facility's compliance with child care regulations.

**E. Provider's Inspection Request. Except as provided by other law, the custodian of record shall permit a family day care provider to inspect the provider's own record.**

INTENT: Except for records that are prohibited by law from release (for example, child abuse and neglect records), you may inspect the contents of your own licensing file.

**F. All requests for inspection of licensing records under this regulation shall be in writing pursuant to COMAR 07.01.02.**

INTENT: To help ensure that licensing records are inspected only by persons who are authorized under this regulation to inspect them, record inspection requests must be submitted in writing to the Regional Office. This requirement helps protect you and the Office.

**G. The custodian of record may not disclose sociological information to a requester,**

**except that this information may be disclosed:**

- (1) To public employees in the performance of their public duties;**
- (2) To parties litigating claims for unemployment insurance to the extent the sociological information would be available to private parties in litigation; or**
- (3) When required by a duly issued subpoena.**

INTENT: The Office needs to have certain personal information about you in order to perform its licensing functions. However, the Office is prohibited from releasing that information unless directed by a court of law, or to help establish certain legal claims, or for legitimate public agency purposes.