

██████████,

APPELLANT

v.

MARYLAND STATE DEPARTMENT

OF EDUCATION,

OFFICE OF CHILD CARE

BEFORE MICHAEL R. OSBORN,

AN ADMINISTRATIVE LAW JUDGE

OF THE MARYLAND OFFICE OF

ADMINISTRATIVE HEARINGS

OAH No.: MSDE-OCC-27A-25-15974

DECISION

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STATEMENT OF THE CASE

On June 2, 2025, the Maryland State Department of Education’s Office of Child Care (OCC) notified the Appellant that her certificate of registration to operate a family childcare home was being suspended, on an emergency basis, for up to forty-five days (Notice of Suspension). Code of Maryland Regulations (COMAR) 13A.15.13.06A. On June 1, 2025,¹ the Appellant filed a request for a hearing to appeal the emergency suspension, COMAR 13A.15.14.03A(1)(b), C, and on June 2, 2025, the request was received by the Office of Administrative Hearings (OAH).

I held the requested hearing on June 9, 2025, at the OAH at Hunt Valley, Maryland. The Appellant was self-represented. Sean M. Fitzgerald, Assistant Attorney General, represented the OCC.

¹ The record is unclear why the appeal was filed before the date of the OCC Notice of Suspension.

The contested case provisions of the Administrative Procedure Act, the relevant procedural regulations of the OCC, and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 13A.15.14; COMAR 28.02.01.

ISSUES

1. Did the OCC properly suspend the Appellant's Family Child Care certificate of registration on an emergency basis?
2. If so, for how long should the emergency suspension remain in effect?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits offered as evidence by the OCC:

- OCC Ex. 1 - Appellant's Certificate of Registration, 1/20/2021
- OCC Ex. 2 - Complaint, [REDACTED]
- OCC Ex. 3 - Inspection Summary, [REDACTED]
- OCC Ex. 4 - Inspection Report, [REDACTED]
- OCC Ex. 5 - Summary of Findings, [REDACTED]
- OCC Ex. 6 - Photograph of Business Card, [REDACTED], undated
- OCC Ex. 7 - Complaint form, [REDACTED]
- OCC Ex. 8 - State Department of Assessments and Taxation trade name application, undated
- OCC Ex. 9 - Emergency Suspension Letter, 6/2/2026

I admitted the following exhibits offered as evidence by the Appellant:

- App. Ex. 1 - Letter from [REDACTED], 6/3/2025
- App. Ex. 2 - Email from mother of child [REDACTED], undated
- App. Ex. 3 - Letter from [REDACTED] 6/5/2025

Testimony

The following individuals testified on behalf of the OCC:

██████████, Licensing Specialist; and ██████████, Regional Manager, Region ██████████ OCC.

The Appellant testified and did not present other witnesses.

FINDINGS OF FACT

Based upon the evidence presented, I find the following facts by a preponderance of the evidence:

1. On January 20, 2021, the OCC renewed the Appellant's Certificate of Registration as a family childcare home located at ██████████, ██████████, Maryland (██████████).

2. The Appellant's family childcare home is known as ██████████ (██████████).

3. On ██████████, the OCC received a complaint from a caller who lived near ██████████ in ██████████ (██████████) that there were many children coming and going and present at ██████████ and that the caller heard an unidentified adult yelling obscenities at children. The caller said that ██████████ was displayed in large letters on the ██████████ door.

4. On ██████████, Lindsey Snyder, an OCC Licensing Specialist, and ██████████ visited ██████████ ██████████ was displayed in large letters on the door, and Child Care was displayed on a sign on the front window.

5. ██████████ spoke to ██████████ and ██████████ at ██████████, both of whom identified themselves as responsible for caring for children at ██████████. They had been providing care for children for nine months.

6. ██████████ is the Appellant's god sister.

7. [REDACTED] was unknown to the OCC and was not licensed as a family childcare home by the OCC. Neither [REDACTED] nor [REDACTED] were known to the OCC.

8. During the visit to [REDACTED], there were ten children in care with ages ranging from infant to five years old. Some children were sleeping, and some were awake but in cots or in pack and plays.

9. [REDACTED] had toys and cubbies for children's possessions on both the first and second floors of the home. Cleaning supplies were accessible to children. Two potty chairs accessible to children had urine in them. A steak knife was on a tabletop, accessible to children. Outlets lacked outlet plugs. Three dogs were at [REDACTED], two upstairs and one in the lower level. The lawn had dog feces that had not been picked up. The stairs to the back yard had no gate.

10. [REDACTED] provided child records to [REDACTED]. Five of the records were for children enrolled at the Appellant's [REDACTED] family childcare home. Five others were children for whom the Appellant received payment for care through OCC childcare scholarships but were not enrolled at [REDACTED].

11. [REDACTED] contacted [REDACTED], Regional Manager, OCC Region [REDACTED]. [REDACTED] called the Appellant. In a series of telephone calls and direct conversations, the Appellant and [REDACTED] attributed fault for any confusion to the other. When [REDACTED] asked [REDACTED] questions about the children at [REDACTED], [REDACTED] referred [REDACTED] to the Appellant. When [REDACTED] asked the Appellant questions about [REDACTED], the Appellant referred [REDACTED] to [REDACTED]. [REDACTED] referred to [REDACTED] as the Appellant's childcare home, while the Appellant disclaimed she had any responsibility for [REDACTED]. [REDACTED] described [REDACTED] as an "overflow" for [REDACTED] and told [REDACTED] that she and [REDACTED] worked for the Appellant.

12. The Appellant led parents of children in care at [REDACTED] to believe [REDACTED] was affiliated with [REDACTED], and that [REDACTED] was approved by the OCC. Parents often dropped their children off at [REDACTED] and later in the day picked them up at [REDACTED].

13. The Appellant routinely transported children in care at [REDACTED] to [REDACTED]. Parents of children did not sign any acknowledgement that the Appellant would be transporting their children to [REDACTED].

14. When the Appellant transported children in care at [REDACTED] to [REDACTED] she usually stayed at [REDACTED]. On some occasions she left her [REDACTED] children at [REDACTED] while she attended to personal matters. On [REDACTED], the day [REDACTED] and [REDACTED] visited [REDACTED], the Appellant's [REDACTED] children were at [REDACTED] while the Appellant attended a funeral.

15. The Appellant allowed [REDACTED] to use [REDACTED] in [REDACTED]' marketing materials in [REDACTED]' efforts to develop a childcare home business. [REDACTED] provided a business card to [REDACTED] that included the Appellant's image, [REDACTED], an invitation to call "[REDACTED]," the name the Appellant is known by, and a street address of [REDACTED], [REDACTED]. The business card included [REDACTED]' telephone number.

16. On [REDACTED], [REDACTED] inspected [REDACTED].

17. The Appellant did not maintain parent sign in and sign out logs.

18. The Appellant did not maintain current child attendance logs, the most recent log being for [REDACTED] 2025.

19. The Appellant maintained no record that children in care at [REDACTED] were also provided care at [REDACTED].

20. The Appellant maintained no records that demonstrated that parents were aware that dogs were present where their children were being provided care.

21. The Appellant did not conduct monthly fire drills. Her records reflected that the last time the Appellant conducted a fire drill was [REDACTED] 2024. Her records also failed reflect that emergency and disaster drills were conducted.

22. The Appellant did not maintain current emergency forms for children in care. Some were updated in 2022, others in 2023.

DISCUSSION

Burden of Proof

When not otherwise provided by statute or regulation, the standard of proof in a contested case hearing before the OAH is a preponderance of the evidence, and the burden of proof rests on the party making an assertion or a claim. State Gov't § 10-217 (2021); COMAR 28.02.01.21K. To prove an assertion or a claim by a preponderance of the evidence means to show that it is "more likely so than not so" when all the evidence is considered. *Coleman v. Anne Arundel Cnty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

Here, the OCC bears the burden to show, by a preponderance of the evidence, that it properly suspended the Appellant's certificate of registration on an emergency basis. COMAR 28.02.01.21K(1)-(2)(a).

Legislative Policy

The Maryland General Assembly has declared that minor children are incapable of protecting themselves, and when parents relinquish the care of their minor children to others certain potential risks "require compensating measures." Md. Code Ann., Educ. § 9.5-102(a) (2022).² Consequently:

It is the policy of the State:

(1) To protect minor children whose care has been relinquished to others by the child's parent;

² Unless otherwise noted, all references to the Education Article hereinafter cite the 2022 bound volume.

(2) To resolve doubts in favor of the child when there is a conflict between the interests of a minor child and the interests of an adult; and

(3) To encourage the development of child care services for minor children in a safe, healthy, and home-like environment.

Id. § 9.5-102(b)(1)-(3).

Statutory and Regulatory Framework

In furtherance of those policies, the OCC may summarily suspend a family childcare home's certificate of registration if it finds that a child's or the public's health, safety, or welfare imperatively requires emergency action. State Gov't § 10-226(c)(2)(i); COMAR 13A.15.13.06. The suspension may continue for up to forty-five calendar days, COMAR 13A.15.13.06A, and is not stayed by the filing of a request for a hearing, COMAR 13A.15.14.03C(5). When reviewing an emergency suspension, I am required to consider the complete record before me and determine whether the OCC correctly applied the State regulations in effect when it acted. COMAR 13A.15.14.08A. That record includes the testimony presented at the hearing and the exhibits admitted into evidence.

The Alleged Violations

I will address the alleged violations in the order in which they are listed in the OCC Notice of Emergency Suspension of June 2, 2025.

COMAR 13A.15.07.07, "Child Security," at .07.07A states that a provider shall ensure the safety and security of each child at all times. Here, the Appellant transported children in care from her approved childcare home on [REDACTED] to an unapproved home on [REDACTED]. The Appellant typically remained at the [REDACTED] home with the children in care she took there, but not always. At times she left the [REDACTED] home while the children in her care, that she transported to the [REDACTED] home, remained there. The [REDACTED] home was not known to the OCC, had not been approved for childcare by the OCC, and had not been inspected by the OCC.

The [REDACTED] home had not been evaluated to determine the maximum number of children in care that the home could accommodate or the number of children in care of each age group the home could safely care for. Adults at the [REDACTED] home were unknown to the OCC and had never applied for certification by the OCC as childcare providers. The level of skill, training, or ability of the adults at the [REDACTED] home had not been evaluated by the OCC, and no adult at the [REDACTED] home had been screened by a comprehensive background check

The overall state of the [REDACTED] home when the OCC visited on [REDACTED], was unacceptable. The OCC found cleaning supplies accessible to children, potty chairs with urine in them accessible to children, sharp knives accessible to children, dog feces in the yard, and stairs to the back yard with no gate. There were three dogs in the [REDACTED] home, two upstairs and one in the lower level, with no information whether the animals posed a hazard to children who may be allergic to pets.

The OCC proved this violation.

COMAR 13A.15.08.01, "General Supervision," at .08.01A, provides that an individual may not have responsibility for supervising a child in care unless the individual meets the requirements of a provider, substitute, or additional adult. Neither of the adults at the [REDACTED] home had been evaluated by the OCC and neither had been approved by the OCC as a provider, substitute, or additional adult. The Appellant at times left children in her care in the care of the adults at the [REDACTED] home when she was not there.

The OCC proved this violation.

COMAR 13A.15.03.03, "Program Records," at 03.03A(3) states that a childcare provider shall negotiate and maintain a written agreement with the child's parent that specifies the presence in the home of any pet animals. The Appellant took children in her care to the [REDACTED] home, where there were three pet dogs. The OCC found no record that the Appellant had

negotiated an agreement with the parents of the children who were taken to the [REDACTED] home regarding the presence of the dogs.

The OCC proved this violation.

COMAR 13A.15.03.03, at .03.03B, requires a provider to maintain a written record of each day a child is in care, verified by the child's parent. When the OCC inspected the Appellant's [REDACTED] childcare home, her attendance records failed to record all children in care for each childcare day, with each day verified by the child's parent. During its inspection at the [REDACTED] childcare home, the only written attendance record reflected that the Appellant provided care to one child in [REDACTED] 2025 when other records evaluated by the OCC, such as OCC child scholarship payments to the Appellant for [REDACTED] 2025, reflected that the Appellant provided care to several children.

The OCC proved this violation.

COMAR 13A.15.03.03, at .03.03C, requires a provider to maintain a record of each day on which a substitute provides care. I read this regulation to mean a day on which an OCC-authorized substitute provides care; authorized substitute is defined by COMAR 13A.15.01.02A(32) ("Substitute" means an adult who is responsible for the operation of a family childcare home when the provider is absent). The Appellant testified that her husband is an approved substitute but works nights and does not provide care to children. The only persons who provided care to the Appellant's children in care were the adults at the [REDACTED] home when the Appellant took her children in care there and left them with the [REDACTED] adults. This was not a situation in which the adults at the [REDACTED] home were responsible for operating the Appellant's [REDACTED] childcare home in the Appellant's absence.

The OCC did not prove this violation.

COMAR 13A.15.03.03F requires a childcare provider to maintain records of the time and date of fire evacuation drills and emergency and disaster drills required by COMAR 13A.15.10.01A(3)(a) (fire drills once monthly), and COMAR 13A.15.10.01(A)(3)(b) (emergency and disaster evacuation drills twice per year). The Appellant failed to maintain records of the times and dates of these drills and the children in care who participated in the drills at [REDACTED]

The OCC proved this violation.

COMAR 13A.15.08.02, “Off-Site Supervision,” at 08.02A, requires a provider, during an off-site activity, to exercise reasonable care to protect children from potentially hazardous areas and situations. “Off-site activity” is not defined by regulation, but applying a common-sense meaning to the term, the [REDACTED] home was an off-site activity as it was a site away from the Appellant’s [REDACTED] childcare home. The OCC presented several examples of hazardous areas, materials, and situations at the [REDACTED] home to which children in care were exposed. When the OCC visited the [REDACTED] home, children in care who were the responsibility of the Appellant were there, but the Appellant was not. The adults to whom the Appellant entrusted her children in care were unknown to the OCC, as was the location where the Appellant left the children. The Appellant failed to exercise reasonable care.

The OCC proved this violation.

COMAR 13A.15.06.03, “Provider Substitute,” at .06.03B(1), provides that an individual designated as a substitute may not be used in that capacity unless the OCC has approved the individual. As referenced above, an authorized substitute as defined by COMAR 13A.15.01.02A(32) means an adult who is responsible for the operation of a family childcare home when the provider is absent. That was not the case here. The Appellant did not use a

substitute, approved or not approved, to provide care for the children in her care at her [REDACTED] childcare home location.

The OCC did not prove this violation.

COMAR 13A.15.03.04, “Child Records,” at .03.04A(3), requires a provider to have emergency information for each child, on a form provided by the OCC, updated at least annually, signed and dated by the child’s parent. During its inspection of the Appellant’s [REDACTED] childcare home, the Appellant’s emergency contact records included some that had not been updated since 2022 and 2023.

The OCC proved this violation.

COMAR 13A.15.03.04, at 03.04B(3), requires a provider to obtain written permission from parents for a provider to transport a child in care in a vehicle. The Appellant had no records of any agreement by any parent to transport children in care. The Appellant at times transported her children in care to the [REDACTED] home.

The OCC proved this violation.

COMAR 13A.15.03.04, “Child Records,” at 03.04B(5), requires a provider to obtain written permission from a parent before a child participates in a supervised activity out of the provider’s childcare home when the supervised activity does not include attendance by the provider or a substitute. The OCC regulations do not define “supervised activity.” The OCC’s position was that leaving children in care at [REDACTED] was a supervised activity.

There is neither definition nor example of the term “supervised activity” in the regulations. The OCC’s position throughout the hearing was that the [REDACTED] home was not a childcare home at all because it was not authorized by the OCC and the adults providing care were not authorized providers, substitutes, or additional adults as defined by regulation. Leaving children with persons unknown to the OCC at a location unknown to the OCC means the activity

is not properly supervised. Essentially, the OCC's argument is that the Appellant was required to obtain written permission from parents to leave children at an unauthorized (or in the words of the OCC throughout its reports and in its Notice of Suspension, "illegal") childcare program. The theme of the OCC was that when a childcare home is not known to the OCC, and the adults providing care are not known to the OCC, the level of supervision and quality of care is also not known.

I conclude that when the Appellant left her children in care at the [REDACTED] home in her absence, this was not a "supervised activity."

The OCC did not prove this violation.

COMAR 13A.15.03.05, "Notifications,"³ at .03.05C(1), provides that a provider must inform the OCC immediately of any change that might affect the status of registration, such as a change in residents, operation, telephone number or the provider's residence. The Appellant did not tell the OCC that she was routinely taking her children in care to the [REDACTED] home, and that she was at times was leaving her children in care at the [REDACTED] home when she was not present. This is a significant change in the nature of the operation of the Appellant's childcare home.

The OCC proved this violation.

COMAR 13A.15.10.02, "Potentially Hazardous Items," provides that a provider shall properly store, and keep inaccessible to the children in care, all potentially harmful items, including, but not limited to, knives, sharp tools, firearms, matches, alcohol, tobacco, cannabis, cannabis edibles, and smoking and vaping paraphernalia and byproducts, petroleum, flammable products, cleaning agents, and poisonous products. [REDACTED] testified that on her [REDACTED] [REDACTED] inspection of the Appellant's [REDACTED] childcare home she saw electrical sockets without socket plugs, chipping paint, and cleaning supplies accessible to children in care. She also

³ The Notice of Suspension says .03.05C(1) relates to "Transportation Safety" but is in error. The nature of the violation as explained in the Notice of Suspension is that the Appellant transported children in care to another residence without telling the OCC.

testified that she saw a bathroom cabinet with no child lock. The Appellant took dispute with all these observations, insisting that the bathroom cabinet had a lock, and that the cleaning supplies and socket plug were not violations because no children had access to the socket or cleaning supplies because only two children were in care the day of the inspection and none of the noted items were accessible to children,

██████████ provided no detail as to the chipping paint, where it was, whether the chipping paint was accessible to children in care, or whether it was in rooms where childcare was provided. That is, there was no evidence why the chipping paint ██████████ saw was potentially hazardous. She did not describe in any detail what cleaning supplies she saw, where they were, or if children were nearby, nor did she describe where she saw a socket with no plug.

The OCC did not prove this violation.

COMAR 13A.15.05.04, “Rooms Used for Care,” at .05.04A(1), provides that a provider may use an area of the home for childcare only if it has been approved for use by the OCC. ██████████ testified that the ██████████ childcare home was approved for childcare on the first floor, only, and that a second-floor bathroom was also approved. She testified that during the ██████████, ██████████ inspection, the Appellant’s husband took a child in care upstairs to the bathroom for longer than a bathroom break would take, and that the Appellant’s husband returned to the first floor with the child when requested to do so. ██████████ then testified that the Appellant asked her husband to take the child to the upstairs bathroom again, and that the child and the Appellant’s husband were gone longer than a bathroom break would take, leading ██████████ to conclude that the upstairs of the Appellant’s home was being used for childcare when only the upstairs bathroom was approved. She testified that she did not go upstairs to investigate her suspicion that second floor rooms were being used for childcare.

In her inspection report, [REDACTED] wrote that the child was upstairs to go to the bathroom the first time for ten minutes, and the second time for seven to ten minutes.

No evidence was offered as to how long is too long for a child in care to use the bathroom. No other evidence was offered to support a conclusion that the second floor of the Appellant's childcare home was used for childcare.

The OCC did not prove this violation.

Appropriateness of the Emergency Suspension

The evidence strongly suggests that the Appellant was using [REDACTED] as an extension of [REDACTED] without the formalities of knowledge or approval by the OCC. The Appellant allowed her god sister, [REDACTED], to use the name of the Appellant's childcare home, [REDACTED], to generate business for a childcare home that, according to the Appellant, [REDACTED] wanted to open at [REDACTED]. [REDACTED] posted large letters on the front door of [REDACTED] that read "[REDACTED]" and posted the words "Child Care" in the window. When the OCC investigated complaints by neighbors of [REDACTED] about the large number of children in the home, [REDACTED] referred the OCC to the Appellant. [REDACTED] held herself out as an employee of the Appellant. When the OCC made a second visit the [REDACTED] home on [REDACTED], [REDACTED], [REDACTED] provided a business card that said in large letters "[REDACTED] [REDACTED]," depicted the Appellant, said "I'm [REDACTED], Call Me," and instructed readers to seek more information at [REDACTED] in [REDACTED]. The Appellant disclaimed any knowledge of the business card and testified that the telephone number on the card was not hers but rather belonged to [REDACTED]. Parents of children in care at times dropped off their children at [REDACTED] and picked them up at [REDACTED].

It is not important to decide whether [REDACTED] was an extension of [REDACTED], was an overflow for [REDACTED], or was simply a convenient place for the Appellant to take her children in

care and a convenient place for her to leave her children in care because she had other demands on her time. It is also unnecessary to determine how many parents of children in care at [REDACTED] were aware of the [REDACTED] - [REDACTED] association or arrangement and nevertheless continued to utilize the Appellant as childcare provider for their children. Even if the parents were aware of the arrangement does not mean it was proper because the OCC was not aware.

The OCC is entrusted with ensuring that the health, safety, and welfare of children is protected. When parents entrust their children to an approved childcare provider, they do so with the understanding that the State has investigated those who provide care, that the care providers are properly trained, and that only those qualified to provide childcare are approved to do so. Parents also understand that the State has determined that the childcare home is safe and is compliant with the vast array of family childcare home regulations related to occupancy limits, play activities, hours of operation, record keeping, provider training, sleeping arrangements, meals, safety, and overall health. Parents permit family childcare providers to be their surrogates because the State has reassured them that it is safe to do so. The Appellant's actions turn these reassurances into falsehoods.

The Appellant's casual relationship with regulatory compliance is unacceptable. She directly interfered with the OCC's mandate to protect the health, safety, and welfare of children by skirting the regulations and taking her children in care to [REDACTED] and at times leaving them there in the care of others the OCC does not know. It is not the Appellant's place to decide that the [REDACTED] home is an acceptable childcare home and that the adults there are qualified childcare providers. That is the role of the OCC, and the Appellant usurped that role.

The Appellant's actions warrant emergency suspension of her childcare certificate of registration because her actions directly affect the health, safety, and welfare of children in care.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the OCC proved the Appellant violated COMAR: 13A.15.07.07A; 13A.15.08.01A; 13A.15.03.03A(3); 13A.15.03.03B; 13A.15.03.03C; 13A.15.03.03F; 13A.15.08.02A; 13A.15.03.04A(3); 13A.15.03.04B(3); and 13A.15.03.05C(1).

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the OCC did not prove the Appellant violated COMAR: 13A.15.03.03C; 13A.15.06.03B(1); 13A.15.03.04B(5); 13A.15.10.02; and 13A.15.05.04A(1).

The OCC has proved that it properly suspended the Appellant's family childcare certificate of registration on an emergency basis, effective June 2, 2025. Md. Code Ann., State Gov't § 10-226(c)(2)(i); COMAR 13A.15.13.06. I further conclude that the emergency suspension shall remain in effect for no more than forty-five days from its effective date.

ORDER

I **ORDER** that the Office of Child Care's emergency suspension of the Appellant's Family Child Care certificate of registration is **AFFIRMED** for a period of no more than forty-five days from its effective date.

June 13, 2025
Date Decision Issued

Michael R. Osborn
Administrative Law Judge

MRO/ja
#218681

REVIEW RIGHTS

This is the final decision of the Maryland State Department of Education. A party aggrieved by this decision may, within thirty (30) days of the date of the decision, file a petition for judicial review with the Circuit Court for Baltimore City, if any party resides in Baltimore City or has a principal place of business there, or with the circuit court for the county in which any party resides or has a principal place of business. Md. Code Ann., State Gov't § 10-222 (a), (c) (2021); Md. Rules 7-201 through 7-210. A separate petition may be filed with the court to waive filing fees and costs on the ground of indigence. Md. Rule 1-325. The Office of Administrative Hearings is not a party to any review process.

Copies Mailed To:

[REDACTED]

Sean M. Fitzgerald, Assistant Attorney General
Maryland State Department of Education
Office of the Attorney General

[REDACTED]

[REDACTED]

