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Code of Maryland Agency Regulations

11.12.09

Point System Conference,
Driver Improvement Program,
3 Hour Alcohol and Drug Education Program

Title 11
DEPARTMENT OF TRANSPORTATION

**Subtitle 12 MOTOR VEHICLE ADMINISTRATION—LICENSING OF BUSINESSES
AND OCCUPATIONS**

Chapter 09 Driver Improvement Programs, 3-Hour Alcohol and Drug Education Programs,
and Point System Conferences

Authority: Transportation Article, §§12-104(b), 16-103.1, 16-206, 16-212, 16-212.1, 16-404;
State Finance and Procurement Article §3-403; Annotated Code of Maryland

.01 Programs.

Driver rehabilitation and educational programs authorized under Transportation Article, §§16-212 and 16-212.1, Annotated Code of Maryland, are conducted by the Administration or through a private provider approved by the Administration. The programs include point system conferences (PSC), driver improvement programs (DIP), and 3-hour alcohol and drug education programs (3-Hour ADEP).

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Motor Vehicle Administration.

(2) "Alcohol and Drug Abuse Administration" means the agency within the Department of Health and Mental Hygiene that approves and certifies programs for the prevention and treatment of alcohol and drug abuse.

(3) "Alternate format" means a program approved by the Administration, which is taught with web-based or other electronic learning tools.

(4) "Alternate format provider" means a provider approved by the Administration to provide a program under Regulation .01 of this chapter in both classroom and alternate formats.

(5) "Attend" means to complete all:

(a) The classroom units of instruction in the approved curriculum and pass the end of program test; or

(b) Instructional units of the approved curriculum presented in an alternate format and pass the end of program test.

(6) "Classroom format" means a program conducted with the participant and an approved instructor in a classroom setting approved by the Administration.

(7) "DIP" means a driver improvement program approved by the Administration to provide driver rehabilitation and education.

(8) "Program" means a driver rehabilitation and education program authorized under Transportation Article, §§16-212 and 16-212.1, Annotated Code of Maryland, and this chapter.

(9) "Provider" means a business entity, organization, or individual approved by the Administration to conduct driver rehabilitation and educational programs.

(10) "PSC" means a point system conference approved by the Administration to provide driver rehabilitation and education.

(11) "3-Hour ADEP" means a 3-hour alcohol and drug education program approved by the Administration and the Alcohol and Drug Abuse Administration to provide alcohol and drug education.

.03 Application for Approval.

A. A business entity, organization, or individual requesting approval to provide driver rehabilitation and education programs under this chapter shall submit to the Administration an application for approval.

B. An application shall be submitted for each rehabilitation and education program to be provided and a separate application is required for each program being presented in an alternate format.

.04 Approval Requirements.

A. The Administration shall require a business entity, organization, or individual requesting approval to provide any of the programs under Regulation .01 of this chapter to sign an agreement stating that they will comply with this chapter and indicating the term of the approval period.

B. A provider shall:

(1) Comply with all State and local requirements to be licensed and authorized to do business in Maryland;

(2) Submit documentation acceptable to the Administration that the business office used to conduct business and the classrooms used to conduct courses or to administer tests meet all State and local building, zoning, fire, and safety regulations, codes, and standards for use as an office or classroom;

(3) Have no past due tax or other financial obligations due to Maryland;

(4) Maintain at least one business office, approved by the Administration, which:

(a) Is located within the borders of Maryland,

(b) Has posted business hours; and

(c) The Administration and customers may access during the posted business hours;

(5) Have at least one classroom located within the borders of Maryland that has been inspected and certified to meet all required State and local building, zoning, fire, and safety regulations, codes, and standards including an up-to-date posted certificate identifying the maximum occupant capacity;

(6) Pay all application fees set forth in Regulation .05 of this chapter at the time the application is submitted to the Administration; and

(7) Designate the individuals authorized to transmit PSC and DIP completion information to the Administration, and shall ensure that these individuals complete the Administration's authorization form.

C. Operating Requirements. The provider shall:

(1) Use only instructors approved by the Administration;

(2) Use only the curriculums, instructional materials, quizzes, tests, and forms approved by the Administration;

(3) Make operation and participant completion records available for inspection by the Administration's representatives without notice during the provider's posted business hours;

(4) Comply with the requirements of all applicable local, State, and federal anti-discrimination laws and regulations, including but not limited to, the Americans with Disabilities Act (ADA);

(5) Enroll provisional driver's license holders younger than 18 years old in only the classroom format for PSC and DIP; and

(6) Transmit PSC and DIP participant completion information to the Administration within 24 hours of completing the programs.

D. Information Requirements. Before enrollment, the provider shall make available the following information in writing, or in electronic format for alternate format programs, to program participants:

(1) Classroom and testing locations, dates, and times;

(2) The provider's established policy regarding program:

(a) Cancellations and postponements; and

(b) Course fees, payment methods, refunds, and any retest fees; and

(3) Notice that the:

(a) Updating of the participant's driving record is dependent on the provider transmitting the PSC and DIP completion information to the Administration within 24 hours of completing the program; and

(b) Administration may not remove a suspension or reinstate the participant's driving privilege until the provider submits the program completion information updates to the participant's driving record.

E. Information Security and Documentation Retention Requirements. A provider shall:

(1) Identify, to the Administration, the individuals that will be authorized to transmit PSC and DIP completion information to the Administration and ensure that the individuals are approved before conducting a PSC or DIP;

(2) Notify the Administration within 24 hours if the individual authorized to transmit data to the Administration is no longer employed by the provider or no longer authorized to transmit completion information to the Administration;

(3) Accept full responsibility and indemnify the Administration for all claims by program participants when the provider fails to:

(a) Notify the Administration within 24 hours of the successful completion of the program by the participant; or

(b) Correct errors in transmitted participant completion information within 24 hours of notification by the Administration;

(4) Retain electronically or in paper format all participant enrollment, participation, and completion records for at least 3 years from the participant's completion date; and

(5) Secure all program records, including testing materials and answer templates in a manner acceptable to the Administration that protects the participant's privacy and ensures the integrity of the testing materials.

F. Additional Requirements for PSC or DIP Providers.

(1) A provider of PSC or DIP shall:

(a) Require each participant in a PSC or DIP to present a government issued driver's license or photo identification card;

(b) Require all participants enrolling in a PSC or DIP to present the Administration's letter of assignment to the program, if applicable, at the time of:

(i) Enrollment if the participant is completing a classroom format program; or

(ii) Final testing if using an alternate program format;

(c) Issue a certification of program completion to participants who successfully complete the program in a format required by the Administration that includes the:

(i) Provider's name, address, and phone number, and the Administration's provider identification number;

(ii) Participant's full name as it appears on the assignment letter, driver's license, or photo identification card;

(iii) Participant's driver's license number;

(iv) Date the program was completed; and

(v) Location where the program was completed;

(d) Submit electronically to the Administration the participant's completion reports within 24 hours after completion of the program;

(e) Correct all electronically submitted participant completion reports and re-submit to the Administration within 24-hours of discovery;

(f) Schedule a retest date with the participant at the time the individual fails the end of program test;

(g) Verify course completion before administering the final test;

(h) Notify the Administration 48 hours in advance of any non-emergency change in operational hours; and

(i) Notify the Administration before making any changes in a program.

(2) The final test in §F(1)(g) of this regulation shall contain at least 20 questions from the pool of 100 questions provided by the Administration. The pool of questions shall be used to create multiple and distinctly different tests to ensure that a test is not repeated until after a fourth retest.

(3) A provider of PSC or DIP may not:

(a) Issue a certification of completion to a participant who has not scored at least an 80 percent on the end of program test; or

(b) Allow a participant who fails the end of program test to retake the test on the same day the test is failed.

G. Additional Requirements for DIP and PSC Alternate Format Providers.

- (1) Alternate format providers shall meet the additional requirements of this section.
- (2) The provider shall first be approved by the Administration as a classroom provider for PSC and DIP in Maryland for 2 years before applying to the Administration to provide an alternate format PSC or DIP.
- (3) All alternate format programs shall be offered through a secure website with an active security certificate acceptable to the Administration.
- (4) The provider shall allow the Administration to access and monitor, at no cost, their alternate format programs.
- (5) Alternate format programs shall require participants:
 - (a) To achieve a minimum score of 80 percent on the end of unit quizzes before moving to the next unit of instruction; and
 - (b) That do not achieve the 80 percent score on the unit quiz to repeat the unit before retaking the quiz.
- (6) The end of program test for PSC or DIP alternate format programs shall occur only in a classroom setting approved by the Administration.
- (7) The alternate PSC and DIP provider may not allow a participant to retake the end of program test on the same day the test is failed.
- (8) A provider may not permit a provisional driver's license holder younger than 18 years old to participate in an alternate format program.
- (9) The alternate format provider for PSC and DIP shall have a help desk that participants can contact by phone, email, or facsimile if they are having a problem with the provider's electronic site or have questions regarding the programs. An Administration approved instructor shall respond to the participant for curriculum related issues by phone, email, or facsimile within 24 hours of being contacted by the participant.
- (10) The provider's help desk service shall be available between the hours of noon and midnight, 7 days a week, 365 days a year, excluding Maryland State holidays as defined in State Personnel and Pensions Article, §9-201, Annotated Code of Maryland. If the 24-hour deadline occurs on a State holiday, the provider's deadline for response is extended another 24 hours. This information shall be provided to individuals before enrollment.
- (11) The provider's program site shall be visually stimulating and interactive with enhancements such as simulations, sample assessment questions, and multimedia experiences. The provider's program site may not contain scanned snapshots of the Administration's approved curriculum. The provider's program site shall have clear images and a user-friendly layout.

H. Additional Documentation Requirements for 3-Hour ADEP Providers. A 3-Hour ADEP provider shall:

- (1) Issue a certification of program completion to participants who successfully complete the program, in the manner and format required by the Administration that includes the:
 - (a) Provider's name, address, and phone number, and the Administration's provider identification number;
 - (b) Participant's full name and date of birth;
 - (c) Date of completion; and
 - (d) Location where the program was completed;

(2) Provide information regarding the program, instructors, and participants at the Administration's request and in the format established by the Administration;

(3) Use only instructors approved by the Administration and the Alcohol and Drug Abuse Administration; and

(4) Acknowledge that 3-Hour ADEP providers and instructors are also subject to regulations by the Alcohol and Drug Abuse Administration.

I. Additional Requirements. The Administration may establish additional requirements concerning the programs as necessary to protect the information security, integrity, and reputation of the Administration and the Administration's public safety obligations.

.05 Fees.

A. Application Fee.

(1) An application fee under this chapter shall be established by the Administration.

(2) The application fee shall be submitted with each PSC, DIP, and 3-Hour ADEP application.

(3) Application fees submitted to the Administration under this regulation are nonrefundable and are only applicable to PSC, DIP, and 3-Hour ADEP.

B. Fees Charged by Providers.

(1) Program providers may establish and collect a reasonable fee for providing PSC, DIP, and 3-Hour ADEP.

(2) Fees shall be collected for alternate format programs after the completion of the alternate format curriculum and before the end of program test.

(3) Fees for classroom format programs shall be collected at the time of enrollment.

(4) A provider shall issue a refund within 48 hours to a participant when the Administration determines a participant is entitled to a full or partial refund.

.06 Instructor Requirements.

A. An individual applying for approval to be a PSC and DIP instructor shall:

(1) Be 21 years old or older;

(2) Be a graduate from a standard high school or possess a state high school equivalence certificate;

(3) Have a valid driver's license, issued by Maryland or another state, without any alcohol, ignition interlock, or work-only or education-only restrictions;

(4) Have less than five active points on their driving record;

(5) Successfully complete, as of March 2008, an Administration approved PSC and DIP instructor certification course;

(6) Have no outstanding charges or convictions of any crime of moral turpitude, unless acceptable evidence is presented to the Administration that satisfactory rehabilitation has taken place for the charge or conviction; and

(7) Have no sex offense convictions or charges.

B. 3-Hour Alcohol and Drug Education Program Instructors. In addition to the requirements set forth in §A of this regulation, a 3-Hour ADEP instructor shall:

(1) Complete a course on the effects of alcohol and drugs, or an equivalent course as specified by the Office of Education and Training for Addictions Services, Department of Health and Mental Hygiene; or

(2) Be approved by the Alcohol and Drug Abuse Administration to instruct an alcohol and drug education program.

C. An individual approved by the Administration to teach PSC and DIP before March 2008 is not required to complete the PSC and DIP instructor certification course if the individual:

(1) Is currently approved by the Administration as a PSC and DIP instructor; and

(2) Has taught at least one PSC and DIP course each year for the last 3 consecutive years.

D. Instructor's Driver Records.

(1) An instructor of a program under this chapter shall maintain a satisfactory driving record while approved to teach the PSC, DIP, and 3-Hour ADEP.

(2) The Administration approved provider for the PSC, DIP, and 3-Hour ADEP is responsible for:

(a) Monitoring the instructor's driver record;

(b) Immediately notifying the instructor if the instructor's driving record is unsatisfactory;

(c) Not scheduling an instructor with an unsatisfactory driving record to teach PSC, DIP, or 3-Hour ADEP; and

(d) Notifying the Administration by letter, email, or facsimile of the action taken by the provider against the instructor.

(3) The instructor's driving record is unsatisfactory when the instructor has:

(a) Been convicted of driving offenses, in this or any other state, that if such a conviction occurred in Maryland would result in an accumulation of five or more points on the instructor's driving record;

(b) Been charged or convicted of an offense involving alcohol, drugs, or controlled dangerous substances while operating a motor vehicle;

(c) Been charged or convicted of any felony involving the use of a motor vehicle; or

(d) Had their driving privileges canceled, suspended, revoked, or subject to alcohol, ignition interlock, or work-only or education-only restrictions.

.07 Approval Periods for Providers and Instructors.

A. The approval period for a provider to offer a program under Regulation .01 of this chapter shall be identified in the agreement established in Regulation .04 of this chapter and may not exceed 2 years from the date of approval by the Administration, unless otherwise extended by the Administration through an addendum to the agreement.

B. Approval to offer any program under Regulation .01 of this chapter automatically expires at the end of the approval period as identified in the agreement, unless renewed by the Administration in accordance with the requirements of this chapter.

C. The Administration may terminate its approval and agreement for a provider to offer any program at any time if the provider fails to comply with any of the requirements set forth in this chapter or in the agreement.

D. The Administration may terminate its approval of an instructor at any time if the instructor fails to meet, or fails to continue to meet, the requirements of Regulation .06 of this chapter.

E. To maintain approval as a PSC or DIP instructor, an individual shall teach at least two PSC or DIP programs each year.

.08 Renewal.

A. A provider who requests to renew its approval to offer any of the programs under Regulation .01 of this chapter shall submit a renewal application with the fee, sign the Administrator's agreement, and provide documentation required by the Administration regarding the business office, classroom, Internet format, and approved instructors, not less than 30 days before the end of the approval period.

B. A separate renewal application shall be submitted for each program or format the provider requests to continue to offer. The Administration may combine all or part of the renewal applications on the same form.

Administrative History

Effective date: March 1, 2008 (35:2 Md. R. 127)

COMAR

Code of Maryland Agency Regulations

11.23.01

Driving Schools

COMAR 11.23.01 DRIVER'S SCHOOLS

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Title 11
DEPARTMENT OF TRANSPORTATION

**Subtitle 23 MOTOR VEHICLE ADMINISTRATION—DRIVERS' SCHOOLS,
INSTRUCTORS, AND DRIVER EDUCATION PROGRAM**

Chapter 01 Drivers' Schools

Authority: Transportation Article, §§12-104(b), 12-117, 15-102—15-111, 15-701—15-710, and 15-801—15-807, Annotated Code of Maryland

.01 Scope.

This chapter applies to a business entity, organization, institution, or individual in the business of collecting a fee for providing instruction in the driving of motor vehicles.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Motor Vehicle Administration.

(2) "Drivers' school" or "school" has the meaning set forth in Transportation Article, §15-701, Annotated Code of Maryland.

(3) "Driving instructor" has the meaning set forth in Transportation Article, §15-801, Annotated Code of Maryland.

(4) "Branch site" means a drivers' school business office, classroom, or training site used by a licensed school other than the primary business office, classroom, or training site.

(5) "Instructor license" or "driving instructor license" means a license issued by the Administration under Transportation Article, Title 15, Subtitle 8, Annotated Code of Maryland, that authorizes an individual to give instruction in driving a motor vehicle.

(6) "License" or "drivers' school license" means a license issued by the Administration under Transportation Article, Title 15, Subtitle 7, Annotated Code of Maryland.

.03 Drivers' School License.

A. A driver school license issued by the Administration under Transportation Article, Title 15, Subtitle 7, Annotated Code of Maryland, authorizes a business entity, organization, institution, or individual to give instruction in the driving of motor vehicles in which a fee is collected.

B. A business entity, organization, institution, or individual requesting a license to provide instruction in the driving of motor vehicles shall:

(1) Submit an application to the Administration requesting licensure and approval to conduct specific courses; and

(2) Be licensed and receive approval from the Administration before conducting the approved courses.

C. A drivers' school license may not be transferred, sold, or assigned without written approval from the Administration. Assignment of all or substantially all of the school's assets, or

any assignment of interest in the stock or shares of the business, that results in a transfer of control of that business, shall be considered an assignment.

D. A drivers' school may only provide the driver education program courses under Transportation Article, Title 16, Subtitle 5, Annotated Code of Maryland, if the school is:

- (1) Licensed under this chapter; and
- (2) Certified by the Administration under COMAR 11.23.02.

.04 Qualifications for Drivers' School License Applicants.

A. An applicant for a drivers' school license:

- (1) Shall be 21 years old or older;
- (2) May not have a pending charge or criminal conviction for:
 - (a) Fraud in the operation of providing instruction;
 - (b) A crime of moral turpitude;
 - (c) A sex offense;
 - (d) Contributing to the delinquency of a minor; or
 - (e) An offense within the last 5 years involving:
 - (i) A controlled dangerous substance;
 - (ii) Alcohol or drugs while operating a motor vehicle; or
 - (iii) A felony while operating a motor vehicle;
- (3) May not have an outstanding complaint or pending charge for alleged violations that, if proven, would constitute grounds to refuse, suspend, or revoke the school license under Transportation Article, §§15-109 and 15-709, Annotated Code of Maryland;
- (4) May not have a conviction set forth in §A(2) of this regulation within 5 years preceding the application date;
- (5) Shall have a valid federal and State tax identification number;
- (6) May not have an unresolved past due tax or other financial obligation due to Maryland;
- (7) Shall be in compliance with all the State and local requirements to be licensed and authorized to do business in Maryland; and
- (8) Shall have a designated business office located in Maryland with posted business hours.

B. If the applicant for a school license is a partnership, corporation, or education institution, each individual responsible for the operation of the business shall meet the qualifications and requirements set forth in this regulation.

.05 Applying for a School License.

A. A business entity, organization, institution, or individual requesting a drivers' school license shall submit an application to the Administration.

B. The application shall be signed by the authorized representative of the business entity, organization, or institution.

- C. The application shall be completed, in its entirety, and be accompanied by:
- (1) A nonrefundable application fee set forth in COMAR 11.11.05;
 - (2) A description of the type of driving instruction that will be provided;
 - (3) A list of instructors, including qualifications, certifications, and education requirements for teaching the courses;
 - (4) A complete detailed copy of the curriculum that identifies:
 - (a) A detailed course description;
 - (b) The performance objectives to be achieved;
 - (c) The topic areas to be covered;
 - (d) A detailed description of the instruction that shall be completed in each unit or section;
 - (e) The standards for successful completion;
 - (f) The list of audiovisual materials to be used;
 - (g) The textbooks and reference materials to be used;
 - (h) Copies of the examinations, including knowledge and skill portions; and
 - (i) The typical course schedule of sessions;
 - (5) A description of the eligibility requirements to enroll and participate in the courses;
 - (6) A description of the course schedule that includes the:
 - (a) Number of hours per session;
 - (b) Number of sessions; and
 - (c) Normal times of day the course will be conducted;
 - (7) Documentation acceptable to the Administration that the applicant has:
 - (a) Workers' Compensation and Unemployment insurance for all school employees;
 - (b) General liability insurance covering all business offices and classroom sites for the protection of individuals using the premises and equipment during the program instruction; and
 - (c) A surety bond in the amount set forth in Transportation Article, §15-705, Annotated Code of Maryland;
 - (8) A list of each training vehicle to be used by the school for instruction to include:
 - (a) The vehicle's year, make, registration plate number, and vehicle identification number;
 - (b) Except for a new vehicle titled in the past year from a manufacturer's certificate of origin, a copy of the certificate of inspection issued within the last 3 months by a Maryland authorized inspection station;
 - (c) A copy of the insurance certificate showing evidence of current required vehicle liability coverage; and
 - (d) The safety equipment installed in each vehicle; and
 - (9) A statement certifying under penalty of perjury the applicant has never had a drivers' school license revoked in Maryland or any other state.

D. The Administration may waive the drivers' school application fee, license fee, renewal fee, and the surety bond requirement for an educational institution that:

- (1) Offers the instruction as part of the normal school-day curriculum; and
- (2) Does not charge a fee for conducting the approved course.

E. A separate application accompanied by all the required documentation shall be submitted for each drivers' school business office, classroom, or training site.

F. A drivers' school license may only be issued by the Administration if:

- (1) All the requirements set forth in this chapter have been met; and
- (2) The applicant has successfully completed the orientation conducted by the Administration.

.06 Branch School License.

A. A business office, classroom, or training site at a location other than the primary site listed in the drivers' school license application shall be separately licensed as a branch before use by a school.

B. The application for a branch license shall be submitted to the Administration on a form required by the Administration.

C. The application shall be signed and certified by the school's owner or authorized representative of the business entity, organization, or institution.

D. An applicant shall pay the fee set forth in COMAR 11.11.05 for the initial issuance and for each renewal of a branch license.

E. A branch license may only be issued by the Administration when all the requirements set forth in this regulation have been met.

.07 Operational Requirements for a Drivers' School License.

A. A drivers' school licensed by the Administration shall:

- (1) Display the school's license in a conspicuous place in the business office;
- (2) Use only school training vehicles approved by the Administration;
- (3) Use only the curricula, instructional materials, quizzes, tests, and forms approved by the Administration;
- (4) Make operation and student records available for inspection by the Administration during the school's posted business hours;
- (5) Comply with:
 - (a) Nondiscrimination requirements in providing services without regard to race, creed, color, age, gender, sexual orientation, national origin, marital status, disabilities, or any other classification required under local, State, and federal laws and regulations including, but not limited to the Americans with Disabilities Act;
 - (b) Any decisions, direction, or findings made by a federal or State agency as the result of any complaint filed with these agencies asserting a violation of any local, State, or federal law; and

(c) All State and local building, zoning, fire and safety regulations, codes and standards for use as a business office or classroom, including a posted certificate in the current business owner's name, identifying the maximum occupant capacity for all business offices used to conduct business and all classrooms used for instruction or to administer tests;

(6) Report, in writing, to the Administration within 30 days any changes in the information supplied in the latest application or renewal form, including information on any training vehicles or information on any instructors terminated or no longer employed by the school;

(7) Maintain at all times:

(a) An Administration approved business office located in Maryland;

(b) Workers' Compensation and Unemployment insurance continuously in force for all school employees;

(c) General liability insurance continuously in force for the protection of individuals using the premises and equipment during the program; and

(d) A surety bond continuously in force in the amount set forth in Transportation Article, §15-705, Annotated Code of Maryland; and

(8) Ensure that each class is conducted in only one language, excluding sign language.

B. Each school owner and individuals responsible for the operation of the business shall have no pending charges or criminal convictions for:

(1) Fraud in the operation of providing instruction;

(2) A sex offense;

(3) A crime of moral turpitude;

(4) Contributing to the delinquency of a minor;

(5) An offense involving a controlled dangerous substance;

(6) An offense involving alcohol or drugs while operating a motor vehicle; or

(7) A felony involving the use of a motor vehicle.

C. A drivers' school licensed by the Administration may not:

(1) Endanger an employee, a student, or instructor;

(2) Subcontract any portion of the program without prior approval from the Administration;

or

(3) Use any publication or advertisement that is false, deceptive, or misleading.

.08 Record and Report Requirements for a Drivers' School.

A. A drivers' school shall maintain for 3 years in a secure location, in hard copy or electronic format, records and reports of all business activities of the school. These records shall include:

(1) Instructor employment records;

(2) Training vehicle insurance, maintenance, inspection, and registration records;

(3) Surety bond certificates;

(4) Results of tests and evaluations administered to each student;

(5) The number of students trained annually; and

(6) Signed student rights and responsibilities forms provided in accordance with COMAR 11.23.02.08E.

B. Records shall be made available to the Administration during the school's posted business hours.

C. If the records of a drivers' school become lost, mutilated, or destroyed, the school shall notify the Administration immediately, in writing, and state the date and circumstances involving the loss, mutilation, or destruction of the records.

D. A school shall immediately notify the Administration of any vehicular crash involving a training vehicle resulting in a fatality.

E. Effective January 1, 2010, a school shall electronically submit an annual report to the Administration by January 31st for the previous calendar year in the format required by the Administration. The report shall include the number of students trained annually and each student's name, soundex or license number, and date of birth.

.09 Renewing a Drivers' School License.

A. A drivers' school license and branch license is valid for 2 years from the date issued.

B. A drivers' school license automatically expires at the end of 2 years unless renewed by the Administration in accordance with the requirements set forth in this regulation.

C. To apply for the renewal of a school license, a school shall be in compliance with all the laws, rules, regulations, and policies governing the program.

D. An applicant for the renewal of a school license shall submit a completed renewal application to the Administration accompanied by:

(1) The required license fee set forth in COMAR 11.11.05; and

(2) Documentation acceptable to the Administration that the applicant has:

(a) Workers' Compensation and Unemployment insurance for all school employees;

(b) General liability insurance covering all business offices and classroom sites for the protection of individuals using the premises and equipment during the program instruction; and

(c) A surety bond in the amount set forth in Transportation Article, §15-705, Annotated Code of Maryland.

E. Before the Administration approves a renewal, a licensed school shall resolve pending charges and complaints and take appropriate remedial action while the current license is in force.

F. A school license shall expire on the expiration date if the completed application for renewal is not received by the Administration at least 2 calendar weeks before expiration, as set forth in State Government Article, §10-226, Annotated Code of Maryland.

G. A licensed school that submits a renewal application to the Administration after the license has expired shall reapply for a license and meet all the application requirements for a license set forth in this chapter.

.10 Replacing a Drivers' School License.

A. A school may request a duplicate license to replace one that has been lost, stolen, mutilated, or destroyed.

B. To obtain a duplicate license, the school shall:

(1) Submit a request for a duplicate license on a form required by the Administration, to include the date and circumstances involving the loss, theft, mutilation, or destruction of the license;

(2) If mutilated, surrender the mutilated license; and

(3) Pay the duplicate license fee set forth in COMAR 11.11.05.

.11 Refusing, Suspending, or Revoking a Drivers' School License.

Under Transportation Article, §15-109, Annotated Code of

A. Maryland, the Administration may after notice and hearing suspend, revoke, or refuse to renew a drivers' school license or, after notice and opportunity for hearing, issue a drivers' school license, if the Administration finds that the school has failed to comply with any of the requirements pertaining to the program and school license set forth in this chapter or under Transportation Article, Title 15, Subtitle 7, Annotated Code of Maryland.

B. The Administration shall after notice and hearing refuse to renew or, after notice and opportunity for hearing, issue an initial school license, if the school or applicant:

(1) Provides fraudulent, inaccurate, or incomplete information on required applications, forms, reports, or other required documents; or

(2) Fails to meet any of the requirements set forth in Regulations .04 — .08 of this chapter.

C. A most serious violation, when committed by a school owner or individual responsible for the operation of the business, shall result in a fine of \$1,000 for each offense and other disciplinary action. Any second most serious violation shall result in a revocation of the school's license.

D. The most serious violations include a charge for:

(1) Fraud in the operation of providing instruction;

(2) A sex offense;

(3) A crime of moral turpitude;

(4) Contributing to the delinquency of a minor;

(5) An offense involving a controlled dangerous substance;

(6) An offense involving alcohol or drugs while operating a motor vehicle;

(7) A felony involving the use of a motor vehicle;

(8) Acting in a manner that is unsafe for students participating in the program; or

(9) Allowing an individual to provide instruction in the operation of a motor vehicle while the instructor license is refused, suspended, or revoked.

E. Except as provided in §D of this regulation, all other violations set forth in this regulation shall be considered a serious violation.

F. The Administration shall take progressive disciplinary action for any serious violation. The disciplinary action may include a conference, fines, or a suspension or revocation of a school's license.

G. If the Administration refuses to renew, suspends, or revokes a school's license, the school shall have the right to a hearing, as set forth in Transportation Article, §15-110, Annotated Code of Maryland.

H. A school whose license has been suspended or revoked shall immediately:

- (1) Surrender the school's license to the Administration;
- (2) Stop conducting courses and all school operations; and
- (3) Refund the fees paid by the students who enrolled in the courses as follows:

(a) Refund 100 percent of the fees paid if instruction has not started or if the first class of a course was not completed; and

(b) In all other cases, refund a prorated amount based on the portion of courses that have not been completed.

.12 Driving Instructor License.

A. Under Transportation Article, Title 15, Subtitle 8, Annotated Code of Maryland, an individual shall be licensed by the Administration as a driving instructor in order to provide instruction in driving of motor vehicles if the individual receives or expects to receive compensation for the instruction.

B. A licensed instructor may not provide instruction in the driving of a motor vehicle for compensation unless employed by a drivers' school licensed by the Administration.

C. An individual may be licensed by the Administration to provide:

- (1) Behind-the-wheel instruction only;
- (2) Classroom instruction only; or
- (3) Both classroom and behind-the-wheel instruction.

D. A driving instructor license may not be transferred, sold, or assigned.

E. A driving instructor may only teach the driver education program courses under Transportation Article, Title 16, Subtitle 5, Annotated Code of Maryland, if licensed under this chapter and certified by the Administration under COMAR 11.23.02.

.13 Qualifications for a Driving Instructor License.

A. An individual applying for a driving instructor license:

- (1) Shall be 21 years old or older;
- (2) Shall possess a high school certificate of graduation, its equivalent, or a college degree;
- (3) Shall possess a valid driver's license issued by Maryland or another state to drive the class of vehicle in which instruction is to be given, and have no driving restrictions, except for:

- (a) Corrective lenses; or
- (b) A restriction issued under Transportation Article, §16-203, Annotated Code of Maryland, for child support arrearages;
- (4) May not have more than four active points on their current driving record;
- (5) May not have a pending charge or criminal conviction for:
 - (a) Fraud in the operation of providing instruction;
 - (b) A crime of moral turpitude;
 - (c) A sex offense;
 - (d) Contributing to the delinquency of a minor; or
 - (e) Any offense within the last 3 years involving:
 - (i) A controlled dangerous substance;
 - (ii) Alcohol or drugs while operating a motor vehicle; or
 - (iii) A felony while operating a motor vehicle;
- (6) May not have a pending charge or criminal conviction for any offense within the last 3 years:
 - (a) Involving a controlled dangerous substance;
 - (b) Involving alcohol or drugs while operating a motor vehicle; and
 - (c) For any felony involving the use of a motor vehicle;
- (7) May not have a reportable medical condition; and
- (8) May not have an outstanding criminal complaint or charge for an alleged violation that if proved would constitute grounds for refusal, cancellation, suspension, or revocation of the instructor's certification, driver's license, or driving instructor's license.

B. An individual applying for an instructor license shall meet all the requirements for licensure before submitting an application to the Administration.

.14 Background Checks.

A. An individual applying for a driving instructor license or renewal of a driving instructor license shall be fingerprinted and have a criminal background check conducted by the Criminal Justice Information System (CJIS) Central Repository of the Department of Public Safety and Correctional Services.

B. The applicant shall:

- (1) Be fingerprinted at an official site that provides electronic digital fingerprinting, to include:
 - (a) An official CJIS Central Repository site; or
 - (b) A CJIS Central Repository approved provider;
- (2) Pay the required fee, including the fee authorized under Criminal Procedure Article, §10-221(b), Annotated Code of Maryland, for access to Maryland criminal history records; and

(3) Obtain a dated official receipt verifying that fingerprinting has been completed and a criminal background check has been requested.

(C) In accordance with Criminal Procedure Article, §§10-201—10-234, C. Annotated Code of Maryland, the CJIS Central Repository shall forward to the Administration the applicant's criminal history record information.

D. Information received by the Administration on an applicant from the CJIS Central Repository shall be:

(1) Confidential and may not be disseminated; and

(2) Used only to determine the eligibility or disqualification of a driving instructor license or renewal of the driving instructor license.

E. An individual subject to a criminal background check under this regulation may contest the contents of the printed statement issued by the CJIS Central Repository as provided in Criminal Procedure Article, §10-223, Annotated Code of Maryland.

F. An applicant otherwise qualified by the Administration for an instructor license, may begin providing instruction:

(1) Pending the receipt of satisfactory data on their criminal history record, as set forth in Regulation .16 of this chapter; and

(3) Only while under the direct supervision of a licensed instructor, with a minimum of 2 years teaching experience.

.15 Applying for a Driving Instructor License.

A. A licensed school shall ensure that a prospective driving instructor's application is complete and contains all the required documents and information.

B. The application for licensing shall be submitted to the Administration accompanied by:

(1) The license fee set forth in COMAR 11.11.05;

(2) Documentation of the successful completion of the required training and certification to teach the courses;

(3) A copy of the applicant's high school certificate, its equivalent, or college degree;

(4) A dated official receipt verifying that fingerprinting has been completed and a criminal background check has been requested;

(5) A copy of the applicant's driving record for the past 3 years issued by the driving license authority of the applicant's state of licensure;

(6) Certification by the applicant there are no reportable medical conditions; and

(7) A statement certifying under penalty of perjury whether the applicant has ever had a drivers' school instructor license or school certification revoked in Maryland or any other state.

.16 Driving Instructor License Requirements.

- A. An instructor license may not be transferred, sold, or assigned.
- B. A driving instructor identification badge shall be issued by the Administration to a licensed instructor at the time of licensure.
- C. The driving instructor identification badge shall be worn by the instructor, in full view at all times, when functioning in the capacity of an instructor.
- D. An instructor:
 - (1) Shall teach the courses in accordance with the program curriculum approved by the Administration for the licensed school;
 - (2) Shall maintain a valid driver's license to drive the class of vehicle in which instruction is to be given with no driving restrictions, except for:
 - (a) Corrective lenses; or
 - (b) A restriction issued under Transportation Article, §16-203, (b) Annotated Code of Maryland, for child support arrearages;
 - (3) May not have more than four active points on their current driving record;
 - (4) Shall maintain satisfactory data on their criminal history record, which means having no pending charges or criminal convictions for:
 - (a) Fraud;
 - (b) A crime of moral turpitude;
 - (c) A sex offense;
 - (d) Contributing to the delinquency of a minor;
 - (e) An offense involving a controlled dangerous substance;
 - (f) An offense involving alcohol or drugs while operating a motor vehicle; or
 - (g) A felony involving the use of a motor vehicle;
 - (5) Shall disclose any reportable medical conditions;
 - (6) Shall report to the Administration, in writing, any change in the information supplied in the latest application or renewal form within 30 days of any change; and
 - (7) Shall continuously follow all the requirements of this chapter.

.17 Renewing a Driving Instructor License.

- A. An instructor license is valid for 2 years from the date issued and shall automatically expire at the end of 2 years, unless renewed by the Administration in accordance with the requirements set forth in this chapter.
- B. To qualify for renewal of an instructor license, the instructor shall:
 - (1) Have demonstrated proficiency in teaching the approved curriculum of instruction; and
 - (2) Submit a renewal application on a form required by the Administration, accompanied by:
 - (a) The required license fee set forth in COMAR 11.11.05; and

(b) Certification from the licensed school that the instructor is (b) in compliance with all the laws, regulations, policies, and rules governing providing instruction in the operating of a motor vehicle.

C. Before the Administration approves a renewal, a licensed instructor shall resolve pending charges and complaints and take appropriate remedial action while the current license remains in force.

D. An instructor license shall be considered expired on the expiration date if the completed application for renewal was not received by the Administration at least 2 calendar weeks before expiration, as set forth in State Government Article, §10-226, Annotated Code of Maryland.

E. Any instructor who submits a renewal application to the Administration after the license has expired shall:

(1) Reapply for a license and meet all the license application requirements; and

(2) Demonstrate proficiency in teaching the approved curriculum of instruction, as determined by the Administration.

.18 Replacing a Drivers' School Instructor Badge.

A. Upon request the Administration may issue a duplicate driving instructor badge to replace one that has been lost, stolen, mutilated, or destroyed.

B. To obtain a duplicate driving instructor badge, the instructor shall:

(1) Submit an application for a duplicate license on a form) required by the Administration, to include the date and circumstances involving the loss, theft, mutilation, or destruction of the badge;

(2) If mutilated, surrender the mutilated license; and

(3) Pay the duplicate license fee set forth in COMAR 11.11.05.

.19 Refusing, Suspending, or Revoking a Driving Instructor License.

A. Under Transportation Article, §15-109, Annotated Code of Maryland, the Administration may, after notice and hearing, suspend, revoke, or refuse to renew a driving instructor license or, after notice and opportunity for hearing, refuse to issue an initial instructor license if the Administration finds that the instructor or applicant failed to comply with any of the requirements pertaining to driving instruction and the instructor license as set forth in this chapter or under Transportation Article, Title 15, Subtitle 8, Annotated Code of Maryland.

B. The Administration shall, after notice and hearing, refuse to renew or, after notice and opportunity for hearing, refuse to issue an initial instructor's license, if the instructor or applicant:

(1) Provides fraudulent, inaccurate, or incomplete information on required applications, forms, reports, or other required documents; or

(2) Does not meet the requirements for license instructors set forth in this chapter.

C. Violations committed by a licensed instructor considered most serious shall result in a fine to the instructor of \$1,000 for each offense and other disciplinary action. A second most serious violation shall result in a revocation of the instructor license.

D. Most serious violations include a charge for:

- (1) Fraud in the operation of providing instruction;
- (2) A sex offense;
- (3) A crime of moral turpitude;
- (4) Contributing to the delinquency of a minor;
- (5) An offense involving a controlled dangerous substance;
- (6) An offense involving alcohol or drugs while operating a motor vehicle;
- (7) A felony involving the use of a motor vehicle;
- (8) Acting in a manner that is unsafe for students participating in the program;
- (9) Permitting instruction in the operation of a motor vehicle while an instructor's license is refused, suspended, or revoked;
- (10) Failure of an instructor to maintain a valid driver's license to drive the class of vehicle in which instruction is to be given, with no driving restrictions, except for:
 - (a) Corrective lenses; or
 - (b) A restriction issued under Transportation Article, §16-203, Annotated Code of Maryland, for child support arrearages; or
- (11) Providing instruction with more than four active points on the instructor's current driving record.

E. Except as provided in §D of this regulation, all other violations set forth in this regulation shall be considered a serious violation.

F. The Administration shall take progressive disciplinary action for any serious violation. The disciplinary action may include a conference, fines, or suspension or revocation of an instructor's license.

G. An individual whose instructor license has been suspended or revoked shall immediately:

- (1) Surrender the instructor license badge to the Administration; and
- (2) Stop conducting instruction and refrain from any involvement in the program.

.20 Drivers' School Business Office Requirements.

A. A business office of a licensed drivers' school shall:

- (1) Be its principal place of business having a legal Maryland address;
- (2) Comply with all State and local building, zoning, fire and safety regulations, codes, and standards for use as a business office;
- (3) Be equipped with:
 - (a) A telephone with either voicemail or an answering machine; and
 - (b) A computer with email access;
- (4) Clearly identify and display the drivers' school's name on an exterior sign, a lobby listing, or interior door sign;
- (5) Be open for business to the public and open for inspection by the Administration during posted business hours; and

(6) Be clean, orderly, and suitable for conducting business.

B. A drivers' school business office shall be inspected and approved by the Administration before a drivers' school license is issued.

C. A drivers' school business office being relocated within the same building or being moved to a different site shall be inspected and approved by the Administration before being used by the drivers' school as a business office.

D. The following shall be prominently displayed in the school's business office:

- (1) The drivers' school license;
- (2) Office hours;
- (3) Fees for courses and remedial or additional training;
- (4) Procedure for obtaining refunds from the school; and
- (5) Procedures for filing complaints about the school with the Administration.

E. An office shall be in a permanent building at a fixed location with a legal business address.

F. A portable structure, preengineered building, or mobile home is a permanent building if it:

- (1) Is installed on a permanent foundation with conventional utility hookups; and
- (2) Has been approved by the Administration.

G. If the physical design of a building requires that the classroom and adjacent business office share the same space, the business office hours shall be adjusted so that the office is not open to the public while classes are in session.

.21 Classroom Requirements.

A. Classrooms shall be inspected and approved by the Administration before being used for instruction.

B. Classrooms in educational institutions regulated by the Maryland State Department of Education or the Maryland Higher Education Commission need not be inspected by the Administration.

C. A classroom shall:

- (1) Be in a permanent building at a fixed location with an actual address for delivery of mail that is not a post office box or mail drop address;
- (2) Comply with all State and local building, zoning, fire and safety regulations, codes and standards, for use as a classroom, including an up-to-date posted certificate identifying the maximum occupant capacity for all classrooms used for instruction or to administer tests;
- (3) Meet the Americans with Disabilities Act (ADA) requirements;
- (4) Have adequate student seating and writing surfaces, an instructor's desk or podium, and room for storage of materials;
- (5) Have heating, ventilation, and air-conditioning systems in good repair that keep students comfortable while classroom sessions are being conducted;
- (6) Be clean, orderly, and suitable for conducting instruction; and

(7) Be free from visible or audible activities other than instructional activities.

D. A portable structure, pre-engineered building, or mobile home is a permanent building if it:

(1) Is installed on a permanent foundation with conventional utility hookups; and

(2) Has been approved by the Administration.

E. A classroom being relocated within the same building and a classroom being moved to a different site shall be inspected and approved by the Administration before being used for instruction.

F. If the physical design of the building requires that a classroom and an adjacent business office share the same space, the business office hours shall be adjusted so that the office is not open to the public while classes are in session.

.22 Training Vehicle Requirements.

A. A licensed drivers' school shall provide appropriately equipped training vehicles that comply with this regulation for instruction in driving motor vehicles.

B. Except as otherwise provided in §C of this regulation or with prior approval by the Administration, all training vehicles shall be titled and registered in the name of the driving school.

C. A drivers' school:

(1) Shall maintain motor vehicle liability insurance on each training vehicle in the amount set forth in Transportation Article, §17-103, Annotated Code of Maryland;

(2) Shall service, clean, and maintain training vehicles on a regular schedule;

(3) Shall have a training vehicle inspected annually by a licensed State inspection station;

(4) Shall immediately remove from service a training vehicle with any condition that is not in compliance with Maryland inspection standards; and

(5) May not use a training vehicle for instruction unless it has passed the annual Maryland inspection, except for a new vehicle titled in the past year from a manufacturer's certificate of origin.

D. A copy of the annual State inspection certificate for a training vehicle shall be submitted within 1 business day to the Administration and the original certificate shall be filed at the school's business office.

E. The vehicle registration card and a copy of the required insurance certificate for a training vehicle shall be kept in the training vehicle's glove compartment.

F. Signs or other devices the Administration determines may interfere with the safe operation of the vehicle may not be attached or affixed to a training vehicle and shall be removed immediately at the direction of the Administration.

G. A drivers' school shall notify the Administration, in writing, within 1 business day of the addition or removal of a training vehicle by providing:

(1) The vehicle's year, make, tag number, and vehicle identification number; and

(2) Insurance and inspection certificates required under §§D and E of this regulation, if a training vehicle is being added.

.23 Approving Course Curriculum.

A. The curriculum used for giving instruction in driving motor vehicles shall be approved by the Administration before a drivers' school provides instruction using that curriculum.

B. A drivers' school giving instruction in driving motor vehicles may only use the curriculum approved by the Administration and shall include the components set forth in Regulation .05C of this chapter.

C. Any revisions and modifications to a curriculum shall be approved by the Administration before being used for instruction.

.24 Quality Control.

The Administration may conduct unannounced visits and audits of licensed drivers' schools to evaluate compliance with laws, regulations, standards, and the quality of instruction.

Administrative History

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COMAR

Code of Maryland Agency Regulations

11.23.02

Driver Education Program

COMAR 11.23.02 DRIVER EDUCATION PROGRAM

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Title 11
DEPARTMENT OF TRANSPORTATION

**Subtitle 23 MOTOR VEHICLE ADMINISTRATION—DRIVERS' SCHOOLS,
INSTRUCTORS, AND DRIVER EDUCATION PROGRAM**

Chapter 02 Driver Education Program

Authority: Transportation Article, §§12-104(b), 12-117, 13-621, 15-102—15-111, 15-701—15-710, 15-801—15-807, 16-212.1(b), and 16-501—16-507, Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to establish requirements, procedures, and standards to administer the driver education program under Transportation Article, §16-505, Annotated Code of Maryland. The regulations in this chapter establish:

A. The requirements and procedures for the certification of:

- (1) A business entity, organization, institution, or individual to provide the driver education program required to obtain a noncommercial driver's license; and
- (2) Instructors to teach the driver education program; and

B. Standards for monitoring certified schools and instructors to:

- (1) Ensure the quality, content, and availability of the driver education program; and
- (2) Evaluate the effectiveness of the driver education program.

.02 Scope.

This chapter applies to the Administration's certification and monitoring of certified schools and instructors that provide the driver education program an individual is required to complete to obtain a noncommercial driver's license.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Administration" means the Motor Vehicle Administration.
- (2) "Apprentice instructor" means an individual authorized by the Administration to give instruction in the driver education program courses under the supervision and mentoring of an experienced certified driver education instructor.
- (3) "Day" means calendar day.
- (4) "Driver education course" has the meaning stated in Transportation Article, §16-501, Annotated Code of Maryland.
- (5) "Driver education instructor" or "certified instructor" has the meaning stated in Transportation Article, §16-501, Annotated Code of Maryland.

(6) "Driver education program" or "program" has the meaning stated in Transportation Article, §16-501, Annotated Code of Maryland.

(7) "Driver education school" or "certified school" has the meaning stated in Transportation Article, §16-501, Annotated Code of Maryland.

(8) "Instructor certification courses" means the training courses approved by the Administration that an individual is required to complete to obtain certification by the Administration to teach the driver education program.

(9) "Instructor trainer" means an individual trained and approved by the Administration to conduct the approved instructor certification courses.

(10) "Program completion certification" or "driver education program completion certification" means the documentation or electronic information submitted by a certified school to the Administration that verifies an individual has successfully completed the driver education program.

(11) "Reportable medical condition" means any medical disorder set forth in COMAR 11.17.03.02-1 that an applicant for a driver's license, if diagnosed as having, is required to report to the Administration.

(12) "School" means a business entity, organization, institution, or individual authorized to provide the driver education program, whether or not the program or courses are conducted for profit.

(13) "School certification" means the approval issued by the Administration that authorizes a drivers' school to conduct the driver education program required to obtain a noncommercial driver's license.

(14) "Student" means an individual enrolled in a driver education program.

(15) "Supervision" means the act of mentoring by an experienced instructor to oversee and provide guidance to an inexperienced instructor.

(16) "Training vehicle" means a passenger vehicle used to teach the behind-the-wheel instruction of the driver education program.

.04 School Certification.

A. A school certification issued by the Administration authorizes a school to offer the driver education program.

B. A school shall receive certification from the Administration before offering the driver education program.

C. The Administration may certify the following business entities, organizations, institutions, or individuals as schools to provide the driver education program:

- (1) Licensed drivers' schools;
- (2) Public and private school systems;
- (3) Community colleges;
- (4) Colleges and universities; and

(5) Organizations that provide instruction for students with special needs.

D. A school certification may not be transferred, sold, or assigned without written approval from the Administration. Assignment of all or substantially all of the school's assets, or any assignment of interest in the stock or shares of the business, that results in a transfer of control of that business, shall be considered an assignment.

.05 Qualifications for School Certification Applicants.

A. An applicant for an initial school certification:

(1) Shall be 21 years old or older;

(2) Shall be licensed as a drivers' school under Transportation Article, Title 15, Subtitle 7, Annotated Code of Maryland, and be in compliance with all the laws, rules, regulations, and policies pertaining to the drivers' school license;

(3) May not have any pending charges or criminal convictions for:

(a) Fraud;

(b) A crime of moral turpitude;

(c) A sex offense;

(d) Contributing to the delinquency of a minor; or

(e) An offense within the last 5 years involving:

(i) A controlled dangerous substance;

(ii) Alcohol or drugs while operating a motor vehicle; or

(iii) A felony while operating a motor vehicle;

(4) May not have any outstanding complaints or pending charges for alleged violations that, if proven, would constitute grounds to refuse, suspend, or revoke the school's:

(a) Certification under Transportation Article, §16-506, Annotated Code of Maryland; or

(b) License under Transportation Article, §15-109, Annotated Code of Maryland;

(5) Shall have a valid federal and State tax identification number;

(6) May not have any unresolved past due tax or other financial obligation due to Maryland; and

(7) Shall be in compliance with all the State and local requirements to be licensed and authorized to do business in Maryland.

B. If an applicant for a school certification is a partnership, corporation, or education institution, each individual responsible for the operation of the program shall meet the qualifications and requirements set forth in this regulation.

.06 Applying for a School Certification.

A. A business entity, organization, institution, or individual shall submit an application to the Administration requesting certification as a driver education school.

B. The application shall be signed by the authorized representative of the business entity, organization, or institution requesting the certification.

C. The application shall be completed, in its entirety, and be accompanied by:

(1) Documentation acceptable to the Administration that:

(a) The applicant has at least one business office located in Maryland with posted business hours; and

(b) The business office used by the applicant to conduct business and all classrooms used for instruction or to administer tests meet all State and local building, zoning, fire and safety regulations, codes, and standards for use as a driver education school business office or classroom or other applicable zoning classification, including a certificate in the current business owner's name, identifying the maximum occupant capacity for all business offices used to conduct business and all classrooms used for instruction or to administer tests;

(2) Documentation acceptable to the Administration that the applicant has:

(a) Workers' Compensation and Unemployment insurance for all school employees;

(b) General liability insurance covering all business offices and classroom sites for the protection of individuals using the premises and equipment during the program instruction; and

(c) A surety bond in the amount set forth in Transportation Article, §15-705, Annotated Code of Maryland;

(3) A description of the course schedule for classroom and behind-the-wheel instruction;

(4) The applicant's written policy detailing a proposed payment or assistance plan for students with verifiable financial hardships to participate in the program courses;

(5) A list of the instructors who are to be employed to teach the scheduled courses;

(6) A list of the designated individuals to be authorized by the Administration to transmit program completion certification information to the Administration;

(7) A list of training vehicles to be used by the certified school for instruction to include for each vehicle:

(a) The year, make, registration plate number, and vehicle identification number;

(b) Except for a new vehicle titled in the past year from a manufacturer's certificate of origin, a copy of the certificate of inspection issued within the last 3 months by a Maryland authorized inspection station; and

(c) A copy of the insurance certificate showing evidence of current required motor vehicle liability insurance; and

(8) A statement certifying under penalty of perjury whether the applicant has ever had a drivers' school license or school certification revoked in Maryland or any other State.

D. A school certification may only be issued by the Administration if all requirements have been met and the applicant has completed the orientation conducted by the Administration.

.07 Certified School's Requirements.

A certified school owner and each individual responsible for the operation of the program may not have pending charges or criminal convictions for:

- A. Fraud in the operation of providing instruction;
- B. A crime of moral turpitude;
- C. A sex offense;
- D. Contributing to the delinquency of a minor;
- E. An offense involving a controlled dangerous substance;
- F. An offense involving alcohol or drugs while operating a motor vehicle; or
- G. A felony involving the use of a motor vehicle.

.08 Certified School's Operation Requirements.

A. A certified school shall:

- (1) Display the school's certification in a conspicuous place in the business office;
- (2) Only use school training vehicles approved by the Administration;
- (3) Only use curricula, instructional materials, quizzes, tests, and forms approved by the Administration;
- (4) Conduct an Administration-approved parent orientation at the start of each driver education program course;
- (5) Make operation and student completion records available for inspection upon request by the Administration during the school's posted business hours;
- (6) Comply with nondiscrimination requirements in providing services without regard to race, creed, color, age, gender, sexual orientation, national origin, marital status, disabilities, or any other classification required under local, State, and federal laws and regulations;
- (7) Comply with any decisions, direction, or findings made by a federal or State agency as the result of any complaint filed with these agencies asserting a violation of any local, State, or federal law;
- (8) Issue a certified completion certificate, signed by the designated official of the certified school, through December 31, 2008, to students who successfully complete the program, unless authorized by the Administration to submit the completion information electronically;
- (9) Effective January 1, 2009:
 - (a) Transmit student program completion information electronically to the Administration within 1 business day of the student's completion of the program; and
 - (b) Inform the student that the student's driving record will not be updated by the Administration for at least 3 business days after the student completes the program;
- (10) Schedule additional or remedial sessions for students who need additional instruction;
- (11) Comply with all State and local building, zoning, fire and safety regulations, codes, and standards for use as a driver education school business office or classroom, or other applicable zoning classification, including a posted certificate in the current business owner's name,

identifying the maximum occupant capacity for all business offices used to conduct business and all classrooms used for instruction or to administer tests;

(12) Report, in writing, to the Administration within 5 business days any changes in the information supplied in the latest application or renewal form including changes in:

- (a) Training vehicles; and
- (b) Newly employed or terminated instructors;

(13) Provide not less than 8 hours notice to the student in the event of a cancellation or postponement of more than 2 hours of a scheduled behind-the-wheel or classroom instructional period; and

(14) Provide a prorated refund to a student who withdraws or transfers from the school.

B. A certified school shall at all times maintain:

- (1) An approved business office located in Maryland;
- (2) Workers' Compensation insurance continuously in force for all school employees;
- (3) General liability insurance continuously in force for the protection of individuals using the premises and equipment during the program;
- (4) A surety bond continuously in force in the amount set forth in Transportation Article, §15-705, Annotated Code of Maryland; and
- (5) A payment or assistance policy that will permit students with verifiable financial hardships to participate in the program courses.

C. A certified school shall ensure that:

- (1) All courses are taught in English unless authorization has been granted in writing by the Administration to teach in another language;
- (2) Each class is conducted in only one language other than sign language, which may be used simultaneously or singularly;
- (3) In courses taught in a spoken language other than English, that each student enrolled in that course can understand, speak, and read the alternate language;
- (4) Only tests included in the approved program course curriculum are administered;
- (5) Only certified instructors conduct the testing, evaluation, and teaching of students in classroom and behind-the-wheel instruction;
- (6) Only authorized school employees correct and grade tests;
- (7) Only instructors review the test results with a student; and
- (8) The classroom and behind-the-wheel instruction is completed within 18 weeks unless a student requests an extension.

D. A certified school may not:

- (1) Publish, advertise, or otherwise suggest or imply that a driver's license is guaranteed or assured after completing the school's instruction;

- (2) Use any publication or advertisement that is false, deceptive, or misleading;
- (3) Endanger an employee, a student, or instructor; or
- (4) Subcontract to another organization or individual to conduct any portion of the program, without prior approval from the Administration.

E. At the time of student enrollment, the certified school shall require the student and if student is under 18 years of age the parent or guardian, to sign a rights and responsibilities form and return a copy of the signed form to the student that contains the following information:

- (1) Classroom and testing locations, dates, and times;
- (2) The certified school's established policy for:
 - (a) Course cancellations and postponements, that conform with §A(13) of this regulation;
 - (b) Course fees, payment methods, refund policy, and retest fees;
 - (c) Fees for remedial and additional instruction;
 - (d) Make-up policies; and
 - (e) How and when the behind-the-wheel instruction is scheduled;
- (3) Payment or assistance policy that permit students with verified financial hardships to participate in the program courses;
- (4) That the student driving record kept by the Administration will be updated within 3 business days after the student completes the program;
- (5) That after presenting a complaint to the driving school, the student has a right to file a complaint against a certified school with the Administration, including the appropriate Administration official's contact information, on a violation of the responsibilities required by the schools as set forth in this form or dissatisfaction with the service provided by the school; and
- (6) That if the student withdraws from a certified school course, the student shall be provided with a classroom student record and completion form and a behind-the-wheel student record and completion form listing the amount of instruction that has occurred which will be transferable to a new school and receive a prorated refund in accordance with §A(14) of this regulation.

.09 Record and Report Requirements for Certified Schools.

A. A certified school shall maintain for at least 3 years, in a secure location, in hard copy or electronic format, records and reports of all business activities for the program. These records and reports shall include:

- (1) Instructor employment records;
- (2) Training vehicle insurance, maintenance, inspection, and registration records;
- (3) Surety bond certificates;
- (4) Results of tests and evaluations administered to each student;
- (5) Copies of each student's program completion forms; and

(6) Signed student rights and responsibilities forms provided in accordance with Regulation .08E of this chapter.

B. The records and reports shall be made available for inspection by the Administration, during the school's posted business hours.

C. If the records or reports of a school become lost, mutilated, or destroyed, the school shall notify the Administration immediately, in writing, and state the date and circumstances involving the loss, mutilation, or destruction.

D. A school shall within 1 business day notify the Administration, in writing, of any vehicular crash that involves a training vehicle and results in a fatality.

E. Effective January 1, 2010, a school shall submit an annual report to the Administration by January 31 for the previous calendar year. The report shall be submitted in the format required by the Administration and shall include:

- (1) The number of applicants and students enrolled in the program; and
- (2) The number of students participating in the program who:
 - (a) Were deaf and hard of hearing;
 - (b) Were 18 years old or older;
 - (c) Required additional or remedial training;
 - (d) Dropped out of the program before completion; or
 - (e) Transferred to another school.

F. Effective January 1, 2009, a school shall submit a completion certification report electronically to the Administration for each student who successfully completes the program within 1 business day of the student's completion, in the format approved by the Administration.

G. The completion certification report shall include the successful completion of the program, including both classroom and behind-the-wheel program instruction for each student.

H. A certified school shall electronically submit corrected information to the Administration within 1 business day of the notification of any errors in the submission of a completion certification report.

.10 Certified School's Requirements for Instructors.

A. A certified school shall only:

- (1) Employ instructors certified by the Administration to teach the program courses; and
- (2) Use instructors who are employed by the certified school.

B. A certified school shall notify the Administration, in writing, within 5 business days of any newly employed instructors by the school or of any instructors terminated.

C. The Administration may monitor the driving records of all employed instructors, and report to a certified school any changes to the driving records of the instructors it employs.

D. A certified school shall require each employed instructor to notify the school immediately of any:

(1) Complaints or charges for alleged violations that, if proven, would constitute grounds for refusal, cancellation, suspension, or revocation of the instructor's certification, driver's license, or driving instructor's license; or

(2) Convictions or other dispositions of any complaints or charges that would constitute grounds for refusal, cancellation, suspension, or revocation of the instructor's certification, driver's license, or driving instructor's license.

E. A certified school may not allow a certified instructor to teach the program courses, if the instructor:

(1) Fails to maintain a valid driver license for the class of vehicle in which instruction is to be given, with no driving restrictions, except for:

(a) Corrective lenses; or

(b) A restriction issued under Transportation Article, §16-203, Annotated Code of Maryland, for child support arrearages;

(2) Has more than four active points on their current driving record;

(3) Fails to maintain satisfactory data on their criminal history record, as defined in Regulation .18 of this chapter; or

(4) Notifies the school of any reportable medical conditions.

F. A certified school shall be responsible for ensuring instructors follow all the requirements set forth in this chapter.

G. A certified school shall annually monitor and document on a form provided by the Administration an instructor's performance evaluation for proficiency in teaching the classroom and the behind-the-wheel instruction of the program courses and have the document available for review by the Administration.

.11 Renewing a School Certification.

A. A school certification issued under this chapter is valid for 2 years from the issue date of the certification.

B. A school certification expires 2 years from the date of issuance, unless renewed by the Administration in accordance with the requirements of this regulation.

C. To qualify for a renewal of a school certification an applicant shall:

(1) Be in compliance with all the laws, rules, regulations, and policies governing the program; and

(2) Submit a completed renewal application to the Administration, with documentation acceptable to the Administration, that the applicant meets all the requirements set forth in Regulations .05 and .06 of this chapter.

D. Before the Administration approves a renewal, a certified school shall resolve pending charges and complaints and take appropriate remedial action while the current school certification remains in force.

E. A school certification shall expire on the expiration date if the completed application for renewal is not received by the Administration at least 2 calendar weeks before expiration, as set forth in State Government Article, §10-226, Annotated Code of Maryland.

F. A certified school that submits a renewal application after the certification has expired shall reapply for the certification and meet all the certification requirements set forth in this chapter.

.12 Replacing a School Certification Certificate.

A. A certified school may request a duplicate certification certificate to replace one that has been lost, stolen, mutilated, or destroyed.

B. To obtain a duplicate certification certificate, the school shall:

(1) Submit a request for a duplicate on a form approved by the Administration, that includes the date and circumstances involving the loss, theft, mutilation, or destruction of the certificate; and

(2) If applicable, surrender the mutilated certificate.

.13 Refusing, Suspending, or Revoking a School Certification.

A. Under Transportation Article, §16-506, Annotated Code of Maryland, the Administration may, after a hearing, suspend, revoke, or refuse to renew the certification of a school, or refuse to issue, after notice and hearing, a certification of a school, if the Administration finds the school has failed to comply with any of the requirements pertaining to the program or school certification as:

(1) Set forth in this chapter; or

(2) Adopted under Transportation Article, Title 15, Subtitle 7, or Title 16, Subtitle 5, Annotated Code of Maryland.

B. The Administration shall, after notice and hearing, refuse to renew or, after notice and opportunity for hearing, refuse to issue an initial school certification, if the school or applicant:

(1) Provides fraudulent, inaccurate, or incomplete information on required applications, forms, reports, or other required documents required by the Administration; or

(2) Does not meet the requirements set forth in this chapter.

C. Under Transportation Article, §16-506, Annotated Code of Maryland, the Administration shall immediately suspend or revoke a school certification with notice of the right to a hearing within 7 days of a request, if the Administration determines there is a danger of immediate, substantial, and continuing harm to the public.

D. A most serious violation, if committed by a school owner or any individual responsible for the operation of the program, shall result in an immediate suspension of a school certification, with notice of the right to a hearing within 7 days of a request, if the Administration determines that there is a danger of immediate, substantial, and continued harm to the public.

E. A second most serious violation shall result in an immediate revocation of a school certification, with notice of the right to a hearing within 7 days of a request, if the Administration determines that there is a danger of immediate, substantial, and continued harm to the public.

F. Most serious violations include a charge for:

- (1) Fraud;
- (2) A crime of moral turpitude;
- (3) A sex offense;
- (4) Contributing to the delinquency of a minor;
- (5) An offense involving a controlled dangerous substance;
- (6) An offense involving alcohol or drugs while operating a motor vehicle;
- (7) A felony involving the use of a motor vehicle;
- (8) Acting in a manner that is unsafe for students participating in the program;
- (9) Knowingly providing program courses while the school certification is refused, suspended, or revoked;
- (10) Knowingly issuing a program completion certificate to an individual who did not complete the program; or
- (11) Knowingly allowing an individual to teach the program courses, conduct behind-the-wheel instruction, or test or evaluate students without the required instructor permit or certification by the Administration.

G. Except as provided in §F of this regulation, all other violations shall be considered a serious violation and subject to progressive disciplinary action by the Administration.

H. The progressive disciplinary action may include a conference, fines, or suspension or revocation of a school certification.

I. When a school certification is suspended or revoked the school shall immediately:

- (1) Surrender the school certification certificate to the Administration;
- (2) Stop conducting program courses and all operations of the program;
- (3) Refund the fee paid by the students enrolled in the program courses as follows:
 - (a) Refund 100 percent of the fee paid if instruction has not started or if the first class of a course was not completed; and
 - (b) In all other cases, refund fees prorated separately based on the hours of instruction in the classroom and behind-the-wheel that have not been completed;
- (4) Provide information, in a format acceptable to the Administration, identifying the students who successfully completed program courses and the program courses each student successfully completed; and
- (5) Surrender all student records and property of the Administration to the Administration.

.14 Criminal Background Check.

A. An individual applying for an instructor certification or renewal of an instructor certification shall be fingerprinted and have a criminal background check conducted by the

Criminal Justice Information System (CJIS) Central Repository of the Department of Public Safety and Correctional Services.

B. The applicant shall:

(1) Be fingerprinted at an official site that provides electronic digital fingerprinting, which shall include:

- (a) An official CJIS Central Repository site; or
- (b) A CJIS Central Repository approved private provider;

(2) Pay the required fee, including the fee authorized under Criminal Procedure Article, §10-221(b), Annotated Code of Maryland, for access to Maryland criminal history records; and

(3) Obtain a dated official receipt verifying that fingerprinting has been completed and a criminal background check has been requested.

C. In accordance with Criminal Procedure Article, §§10-201—10-234, Annotated Code of Maryland, the CJIS Central Repository shall forward to the Administration the applicant's criminal history record information.

D. Information received by the Administration on an applicant from the CJIS Central Repository shall be:

- (1) Confidential and may not be redisclosed; and
- (2) Used only to determine the eligibility or disqualification of an apprentice instructor, an instructor certification, or the renewal of an instructor's certification.

E. An individual subject to a criminal background check under this regulation may contest the contents of the printed statement issued by the CJIS Central Repository as provided in Criminal Procedure Article, §10-223, Annotated Code of Maryland.

.15 Instructor Certification.

A. Certification by the Administration is required to teach any part of the driver education program.

B. A certified instructor may not teach the program courses unless the instructor is employed by a school certified by the Administration.

C. Classroom and behind-the-wheel instruction shall be taught by a certified instructor authorized to give the instruction provided.

D. An instructor certification may not be transferred, sold, or assigned.

.16 Qualifications for Instructor Certification.

A. To qualify for certification as an instructor, an applicant shall be licensed under Transportation Article, Title 15, Subtitle 8, Annotated Code of Maryland, as an instructor and be in compliance with all the laws, regulations, rules, and policies pertaining to that license.

B. An applicant requesting certification as an instructor:

- (1) Shall be 21 years old or older;
- (2) Shall possess a high school certificate, its equivalent, or a college degree;

(3) Shall possess a valid driver's license issued by Maryland or another state to drive the class of vehicle in which instruction is to be given, and may not have any driving restrictions, except for:

(a) Corrective lenses; or

(b) A restriction issued under Transportation Article §16-203, Annotated Code of Maryland, for child support arrearages;

(4) May not have more than four active points on their current driving record;

(5) May not have any pending charges or criminal convictions for:

(a) Fraud in the operation of providing instruction;

(b) A crime of moral turpitude;

(c) A sex offense;

(d) Contributing to the delinquency of a minor; or

(e) An offense within the last 3 years involving:

(i) A controlled dangerous substances;

(ii) Alcohol or drugs while operating a motor vehicle; or

(iii) A felony involving the use of a motor vehicle;

(6) May not have any reportable medical conditions;

(7) May not have any outstanding complaints or pending charges for alleged violations that if proven would constitute grounds for refusal, cancellation, suspension, or revocation of the instructor's certification, driver's license, or driving instructor's license;

(8) Shall have first been approved as an apprentice instructor;

(9) Shall have successfully completed the required instructor certification courses approved by the Administration; and

(10) Shall have successfully passed a final skills evaluation to demonstrate competency and proficiency in teaching both the behind-the-wheel and the classroom instruction of the program.

.17 Applying for Instructor Certification.

A. The school where the applicant for instructor certification is employed shall ensure that:

(1) The applicant meets the qualifications for instructor certification; and

(2) The application for instructor certification is complete and contains all the required documents and information.

B. The application for instructor certification shall be submitted to the Administration accompanied by:

(1) Documentation signed by the certified school that the applicant has successfully completed the required instructor certification courses approved by the Administration to be qualified for an apprentice instructor permit;

(2) A copy of the applicant's high school certificate, its equivalent, or college degree;

(3) A dated official receipt verifying that fingerprinting has been completed and a criminal background check has been requested within the past 15 days;

(4) A copy of the applicant's driving record for the past 3 years issued by the driving license authority of the applicant's state of licensure;

(5) Certification by the applicant that the applicant does not have any reportable medical conditions; and

(6) A statement certifying under penalty of perjury whether the applicant has ever had a driving instructor license or instructor certification revoked in Maryland or any other state.

C. Prior to scheduling the final skills evaluation for competency and proficiency, an applicant shall also submit to the Administration:

(1) Documentation signed by the certified school that the applicant has successfully completed the required instructor certification courses approved by the Administration to be qualified for instructor certification; and

(2) A copy of the logbook provided by the Administration documenting the learning activities during the time as an apprentice instructor.

.18 Certified Instructor Requirements.

A. An instructor certification and instructor certification badge may not be transferred, sold, or assigned.

B. An instructor certification badge, issued by the Administration, shall be worn by the certified instructor in full view and at all times when functioning in the capacity of an instructor.

C. A certified instructor shall:

(1) Use the program curriculum approved by the Administration; and

(2) Teach the program curriculum in accordance with the regulations, policies, standards, and guidelines established by the Administration.

D. A certified instructor may not use a cell phone or allow the student to use a cell phone in a moving motor vehicle while conducting behind-the-wheel instruction, except in the event of an emergency.

E. A certified instructor shall maintain:

(1) A valid driver's license to drive the class of vehicle in which instruction is to be given, with no driving restrictions, except for:

(a) Corrective lenses; or

(b) A restriction issued under Transportation Article, §16-203, Annotated Code of Maryland, for child support arrearages;

(2) A driving record with not more than four active points; and

(3) A satisfactory criminal history record, which means having no pending charges or criminal convictions for:

(a) Fraud in the operation of providing instruction;

- (b) A crime of moral turpitude;
- (c) A sex offense;
- (d) Contributing to the delinquency of a minor;
- (e) An offense involving a controlled dangerous substance;
- (f) An offense involving alcohol or drugs while operating a motor vehicle; or
- (g) A felony involving the use of a motor vehicle.

F. A certified instructor shall disclose any reportable medical conditions.

G. A certified instructor shall report to the employing school:

- (1) Proof of all satisfactory completion of any professional development;
- (2) Any complaints or charges for alleged violations that if proven would constitute grounds for refusal, cancellation, suspension, or revocation of the instructor certification, driver's license, or instructor license;
- (3) Any convictions or other disposition of complaints or charges that would constitute grounds for refusal, cancellation, suspension, or revocation of the instructor's certification, driver's license, or instructor license; and
- (4) Any reportable medical conditions.

H. A certified instructor shall report to the Administration, in writing, within 5 business days of any change in the information supplied in the latest application or renewal form submitted to the Administration.

I. An instructor certified by the Administration shall continuously follow all the requirements set forth in this chapter.

.19 Renewing an Instructor Certification.

A. An instructor certification issued under this chapter is valid for 2 years from the date of issuance.

B. An instructor certification shall automatically expire 2 years from the date of issuance, unless renewed by the Administration in accordance with the requirements of this regulation.

C. An applicant for renewal of an instructor certification shall submit a renewal application on a form required by the Administration with documentation attached signed by the certified school stating that the instructor:

- (1) Has in the last 2 years taught a minimum of 30 hours of the program courses;
- (2) Has in the last 2 years satisfactorily completed a minimum of 8 hours or 4 hours each year of professional development approved by the Administration; and
- (3) Is in compliance with all the laws, regulations, policies, and rules governing the program.

D. Before the Administration approves a renewal, a certified instructor shall resolve pending charges and complaints and take appropriate remedial action while the existing school certification remains in force.

E. An instructor certification shall expire on the expiration date of the certification if the completed application for renewal was not received by the Administration at least 2 calendar weeks before the expiration date, as set forth in State Government Article, §10-226, Annotated Code of Maryland.

F. An instructor who submits a renewal application to the Administration after the certification has expired shall:

- (1) Reapply for certification and meet all the qualifications for certification; and
- (2) Demonstrate proficiency in teaching the program courses, as determined by the Administration.

.20 Replacing an Instructor Certification Badge.

A. The Administration may issue a duplicate instructor certification badge to replace one that has been lost, stolen, mutilated, or destroyed.

B. To obtain a duplicate instructor certification badge, the instructor shall:

- (1) Submit an application on a form required by the Administration, to include the date and circumstances involving the loss, theft, mutilation, or destruction of the badge; and
- (2) If applicable, surrender the mutilated badge.

.21 Refusing, Suspending, or Revoking an Instructor Certification.

A. Under Transportation Article, §16-506, Annotated Code of Maryland, the Administration may, after notice and hearing, suspend, revoke, or refuse to renew an instructor certification or, after notice and opportunity for hearing, issue an initial instructor certification if the Administration finds that the applicant or instructor has failed to comply with any of the requirements pertaining to the program or certification of an instructor as:

- (1) Set forth in this chapter; or
- (2) Adopted under Transportation Article:
 - (a) Title 15, Subtitle 8, Annotated Code of Maryland; or
 - (b) Title 16, Subtitle 5, Annotated Code of Maryland.

B. The Administration shall after notice and hearing refuse to renew or, after notice and opportunity for hearing, issue an initial instructor certification, if the instructor or applicant:

- (1) Provided fraudulent, inaccurate, or incomplete information on required applications, forms, reports, or other required documents; or
- (2) Fails to meet any of the requirements set forth in this chapter.

C. Under Transportation Article, §16-506, Annotated Code of Maryland, the Administration shall immediately suspend or revoke an instructor's certification, with notice of the right to a hearing within 7 days of the request, if the Administration determines there is a danger of immediate, substantial, and continuing harm to the public.

D. A most serious violation, if committed by a certified instructor, shall result in an immediate suspension of an instructor certification with notice of the right to a hearing within 7 days of a

request, if the Administration determines that there is a danger of immediate, substantial, and continuing harm to the public.

E. Any second most serious violation shall result in an immediate revocation of the instructor certification, with notice of the right to a hearing within 7 days of a request, if the Administration determines that there is a danger of immediate, substantial, and continuing harm to the public.

F. Most serious violations include charges for:

- (1) Fraud;
- (2) A crime of moral turpitude;
- (3) A sex offense;
- (4) Contributing to the delinquency of a minor;
- (5) An offense involving a controlled dangerous substance;
- (6) An offense involving alcohol or drugs while operating a motor vehicle;
- (7) A felony involving the use of a motor vehicle;
- (8) Acting in a manner that is unsafe for students participating in the program;
- (9) Knowingly providing the program courses while instructor certification is refused, suspended, or revoked;
- (10) Knowingly providing program course instruction when the instructor is not certified;
- (11) Knowingly failing to provide classroom and the behind-the-wheel instruction as approved by the Administration;
- (12) Failing to maintain a valid driver license for the class of vehicle in which instruction is to be given, with no driving restrictions, except for:
 - (a) Corrective lenses; or
 - (b) A restriction issued under Transportation Article, §16-203, Annotated Code of Maryland, for child support arrearages; and
- (13) Having more than four active points on the instructor's current driving record.

G. Except as provided in §F of this regulation, all other violations of the laws, rules, policies, and regulations under this chapter governing the program or instructor certification shall be considered a serious violation and subject to progressive disciplinary action by the Administration.

H. The progressive disciplinary action may include a conference, fines, and suspension or revocation of an instructor certification.

I. If an instructor certification is refused, suspended, or revoked, the instructor shall immediately:

- (1) Surrender the instructor certification badge to the Administration;
- (2) Stop conducting program courses and all involvement in the program; and

(3) Surrender all student records and property of the Administration to the school or to the Administration.

.22 Apprentice Instructor Permit.

A. The Administration may issue an apprentice instructor permit authorizing a qualified applicant to give instruction in the driver education program courses under the supervision of a certified driver education instructor.

B. The apprentice instructor permit is valid for 6 months and may not be extended or renewed.

C. An apprentice instructor permit shall:

(1) Only be issued once to the same individual;

(2) Authorize teaching both behind-the-wheel and classroom instruction; and

(3) Authorize instruction only with the certified school where the apprentice instructor is employed.

D. An apprentice instructor permit may not be transferred, sold, or assigned.

.23 Qualifications for Apprentice Instructor.

A. An applicant qualifying for approval as an apprentice instructor shall:

(1) With the exception of §§A and B(10) of this regulation, meet all the qualifications for instructor certification as set forth in Regulation .16 of this chapter; and

(2) Have successfully passed the knowledge test and the basic skills evaluation in both classroom and behind-the-wheel instruction conducted by the Administration.

B. Pending the receipt of satisfactory data on their criminal history record as set forth in Regulation .18 of this chapter, an applicant otherwise qualified for an apprentice instructor permit may begin teaching under the direct supervision of an experienced certified instructor.

.24 Apprentice Instructor Permit Requirements.

A. An apprentice instructor permit may not be transferred, sold, or assigned.

B. An apprentice instructor shall continuously follow all the requirements set forth for a certified instructor under Regulation .18 of this chapter.

C. The certified school shall:

(1) Ensure an apprentice instructor is supervised by a certified instructor experienced in teaching the driver education program courses with:

(a) A minimum of 2 years experience in teaching the driver education program courses; or

(b) The Administration's approval to teach apprentice instructors;

(2) Continue supervision until the Administration is in receipt of satisfactory data on the individual's criminal history record as set forth in Regulation .18 of this chapter, and the individual is issued an instructor's certification; and

(3) Have a certified instructor observe performance and conduct a one-on-one session with the apprentice instructor for a minimum of 2 hours every 2 weeks and document the performance and sessions in the apprentice instructor activities log.

.25 Replacing an Apprentice Instructor Badge.

A. The Administration may issue a duplicate apprentice instructor badge to replace one that has been lost, stolen, mutilated, or destroyed.

B. To obtain a duplicate apprentice instructor badge, the apprentice instructor shall:

(1) Submit an application on a form required by the Administration, which should include the date and circumstances involving the loss, theft, mutilation, or destruction of the badge; and

(2) If applicable, surrender the mutilated badge.

.26 Cancelling an Apprentice Instructor Permit.

A. An apprentice instructor permit shall be cancelled:

(1) If the applicant's criminal history record fails to contain satisfactory data;

(2) At the expiration of the 6 month approval period; or

(3) If the apprentice instructor is no longer employed by the certified school.

B. Approval of an apprentice instructor permit may be revoked or suspended after notice and hearing, if the certified school or the apprentice instructor fails to comply with any of the program requirements or requirements set forth in:

(1) This chapter; or

(2) Transportation Article, Title 15, Subtitle 8, or Title 16, Subtitle 5, Annotated Code of Maryland.

.27 Testing for Apprentice Instructor Permit and Instructor Certification.

A. An individual shall successfully pass the knowledge test and the basic skills evaluation in both classroom and behind-the-wheel instruction conducted by the Administration to qualify for an apprentice instructor permit.

B. To qualify for an apprentice instructor permit an applicant shall:

(1) Pass the knowledge test before attempting the basic skills evaluation;

(2) Pass both the knowledge test and the basic skills evaluation for both the classroom and the behind-the-wheel instruction;

(3) Wait at least 7 days, in the event of failure, prior to any additional attempts; and

(4) Wait at least 1 year after failing the fifth attempt to pass the test or evaluation, before reapplying for an apprentice instructor permit.

C. An individual shall successfully pass the final skills evaluation to demonstrate competency and proficiency in teaching both classroom and behind-the-wheel instruction conducted by the Administration to qualify for an instructor certification.

D. To qualify for an instructor certification an applicant shall:

- (1) Pass the final skills evaluation in both the behind-the-wheel instruction and the classroom instruction;
- (2) Wait at least 7 days, in the event of failure, prior to any additional attempts; and
- (3) Wait at least 1 year after failing the fifth attempt before reapplying for instructor certification.

.28 Course Requirements for Apprentice Instructor Permit and Instructor Certification.

A. An individual shall successfully complete the following Administration approved courses to qualify for an apprentice instructor permit and instructor certification.

B. To qualify for an apprentice instructor permit, an individual shall complete the following Administration approved instructor certification courses conducted by the employing certified school:

- (1) An introductory course that provides a detailed review of:
 - (a) Maryland's Graduated Licensing System; and
 - (b) The driver education program;
- (2) A primary level classroom instruction course that provides basic knowledge of how to teach and facilitate student learning activities in the classroom instruction of the program curriculum; and
- (3) A primary level behind-the-wheel instruction course that provides basic knowledge of how to teach and facilitate student learning activities in behind-the-wheel instruction of the program curriculum.

C. To qualify for an instructor certification, an individual shall complete the following instructor certification courses conducted by an Administration approved instructor trainer:

- (1) An advanced level classroom instruction course that provides comprehensive knowledge of how to teach and facilitate student learning activities in the classroom instruction of the program curriculum; and
- (2) An advanced level behind-the-wheel instruction course that provides comprehensive knowledge of how to teach and facilitate student learning activities in the behind-the-wheel instruction of the program curriculum.

D. The Administration may waive the instructor certification course requirements in classroom instruction for individuals who possess a valid teaching certificate from a state department of education if the individual meets all other requirements for instructor certification.

E. The Administration may waive the instructor certification course requirements for classroom and behind-the-wheel training for individuals who provide documented and verifiable training and experience as a driver education instructor from another state if the individual:

- (1) Provides proof acceptable to the Administration that their training and experience is equivalent to the training requirements set forth in this regulation;
- (2) Successfully completes the introductory course outlined in §B(1) of this regulation;
- (3) Successfully passes the knowledge test outlined in Regulation .27 of this chapter; and

(4) Successfully passes the final skills evaluations to demonstrate competency and proficiency in teaching both classroom and behind-the-wheel instruction as set forth in Regulation .27 of this chapter.

.29 Requirements for Instructor Trainers.

A. An instructor trainer is an individual approved by the Administration to conduct the approved instructor certification courses.

B. An individual shall be approved by the Administration as an instructor trainer before teaching the advanced level instructor certification courses.

C. The Administration shall establish the criteria for the approval of an instructor trainer, including, but not limited to, the requirement that all courses shall be open to the public.

D. The Administration may, as needed, conduct the required training and professional development courses for instructor trainers.

E. An approved instructor trainer shall permit the Administration to:

- (1) Review course and course participant records during normal operating hours; and
- (2) Monitor the instruction given in all instructor certification courses.

.30 Professional Development Courses.

A. The Administration shall approve all courses required for professional development of instructors required under Regulations .18 and .19 of this chapter.

B. The Administration may, as needed, conduct the professional development courses.

C. An organization requesting approval of professional development courses shall submit course information to the Administration for approval at least 4 weeks before the planned advertisement date or the course start date, whichever date is the earlier. The course information submitted shall include:

- (1) The course outline;
- (2) The course description;
- (3) The content areas of the curriculum; and
- (4) The performance criteria necessary to complete the course.

D. An organization that conducts approved professional development courses shall issue a course completion certificate to each course participant who meets the performance criteria for successfully completing the professional development courses.

E. An organization that conducts approved professional development courses shall permit the Administration to:

- (1) Review the course and course participant records during normal operating hours; and
- (2) Monitor the instruction given in all the professional development courses and the instructor certification courses.

.31 Classroom Requirements.

A. Classroom instruction shall be conducted in a room inspected and approved by the Administration before a school may use the room to conduct the program.

B. A classroom in an educational institution regulated by the Maryland State Department of Education or the Maryland Higher Education Commission is exempt from the inspection requirement in §A of this regulation.

C. All classrooms shall include student desks or tables and chairs. The desks or tables and chairs shall be arranged to allow:

(1) An unobstructed view of the chalkboard or whiteboard and other visual aids used in program instruction; and

(2) Student seating and writing surfaces for each student that provide privacy when tests are being administered.

D. A classroom shall be equipped with:

(1) A chalkboard or whiteboard with a minimum surface area of 4 feet by 6 feet; and

(2) Audiovisual equipment required for conducting classroom instruction including, but not limited to:

(a) A videocassette or digital video disc (DVD) player;

(b) An overhead projector and screen;

(c) A television monitor visible by all students with a minimum screen size of 25 inches measured diagonally; and

(d) More than one television for larger classrooms.

E. Certified schools shall make available classroom supplies and materials included in the approved curriculum. Classroom supplies and materials shall consist of:

(1) Copies of instructional worksheets, fact sheets, and examinations for each student;

(2) Textbooks for assignment for each student throughout the entire course of instruction;

(3) Instructional videos or DVDs; and

(4) Instructional transparencies, slides, or PowerPoint presentations.

F. A portable structure, preengineered building, or mobile home may be a permanent building and used as a classroom if it:

(1) Is installed on a permanent foundation with conventional utility hookups;

(2) Has been inspected and approved by the Administration; and

(3) Complies with fire, safety, and zoning requirements.

.32 Classroom Operation Requirements.

A. Under Transportation Article, §16-505, Annotated Code of Maryland, a student shall complete a minimum of 30 hours of classroom instruction.

B. The classroom instruction of the driver education course curriculum shall be taught by:

(1) A certified instructor; or

(2) An apprentice instructor under the supervision of an experienced certified instructor.

C. A certified school shall conduct the classroom instruction of the driver education course curriculum approved by the Administration in its entirety:

(1) According to the standards established by the Administration; and

(2) In the sequence approved by the Administration.

D. Other than items already in the approved curriculum, any textbooks, videos, worksheets, fact sheets, and any other supporting materials that students may use throughout the course shall be approved by the Administration before use.

E. The maximum number of individuals a certified school may enroll for one driver education course may not exceed 30 individuals or the maximum number of students allowed under the pertinent zoning and fire codes, whichever is lower.

F. A school:

(1) Shall request approval in writing from the Administration for a class size greater than 30 students, even if permitted under fire and zoning codes, which approval may not be unreasonably withheld; and

(2) If denied approval for a class size greater than 30 students, may request a hearing under Transportation Article, §12-203, Annotated Code of Maryland, to demonstrate that approval of a class size greater than 30 students is reasonable.

G. Individuals other than those enrolled in the driver education course may be permitted to be in the approved classroom during the classroom instruction as long as:

(1) The posted maximum occupancy capacity for the room is not exceeded;

(2) Visitors or observers present photo identification and sign a log form kept by the certified school;

(3) There are individual seats for everyone in the room; and

(4) The additional individuals do not interfere with or interrupt the instruction being provided.

H. Individuals permitted in the classroom during the classroom instruction other than those enrolled in the driver education course are:

(1) Individuals making up missed classroom instruction;

(2) Parents, guardians, or supervising drivers for individuals enrolled in the course;

(3) Administration staff conducting compliance or quality assurance visits;

(4) Approved instructor trainers conducting instructor certification courses;

(5) A certified instructor supervising an apprentice instructor;

(6) An apprentice instructor;

(7) A certified school employee responsible for observing and evaluating the instructor's performance;

(8) Parents or guardians of potential students interested in evaluating the instruction and operation of a certified school;

(9) Individuals designated and approved by the Administration to evaluate or conduct research on the driver education program; and

(10) An interpreter for the hearing impaired.

I. A driver education school shall permit the Administration to enter the classroom and observe the instruction and operations of the classroom.

J. A driver education school may not schedule classroom instruction:

(1) For more than 3 hours in one day;

(2) To start before 8 a.m. or after 8 p.m.; or

(3) To end after 9:30 p.m.

K. A minimum rest period of 15 minutes shall be provided to course participants at the end of each 90-minute period of instruction.

L. The time provided for rest periods or meal intermissions may not be counted as classroom instructional time.

M. Classroom instruction shall not exceed 3 hours per day.

N. A certified school shall make up all missed classroom instruction if the scheduled instruction is canceled or postponed.

.33 Training Vehicle Requirements.

A. Except as otherwise provided in §§B and C of this regulation or with prior approval by the Administration, all driver education training vehicles shall be titled and registered in the name of the certified school.

B. A certified school may use a vehicle obtained from a manufacturer-sponsored driver education loan program as a training vehicle if it meets the requirements of the driver's education loan program under Transportation Article, §13-621(c)(2)(ii), Annotated Code of Maryland.

C. The certified school shall:

(1) Provide an adequate number of training vehicles to allow each course participant to complete the course;

(2) Maintain motor vehicle liability insurance on each training vehicle in the amounts established in Transportation Article, §17-103, Annotated Code of Maryland;

(3) Service, clean, and maintain training vehicles on a regular schedule;

(4) Have all training vehicles inspected annually by a licensed State inspection station;

(5) Only use a training vehicle for instruction in the driver education program that has passed the annual Maryland State Inspection;

(6) Ensure the instructor dual brake and clutch, if the vehicle is equipped with a standard transmission, is:

(a) Physically in the vehicle and operational at the time of the annual Maryland State Inspection; and

(b) Operational by producing the same effect as the manufacturer installed original equipment brake or clutch when applied;

(7) Immediately remove from service a training vehicle with any condition that is not in compliance with Maryland State Inspection standards;

(8) Affix signs to both sides of a vehicle containing the name and telephone number of the certified school;

(9) Affix to the rear of the training vehicle in letters not less than 3 inches high the words "Student Driver"; and

(10) Keep the vehicle registration card and a copy of the required insurance certificate for a training vehicle in the vehicle's glove compartment at all times.

D. A copy of the annual State inspection certificate for a training vehicle shall be submitted within 1 business day to the Administration, and the original certificate shall be filed at the certified school's business office. Except for a new vehicle titled in the past year from a manufacturer's certificate of origin, an uninspected vehicle may not be used for behind-the-wheel instruction.

E. A certified school shall notify the Administration within 2 business days, in writing, of the addition or removal of a training vehicle from its fleet by providing:

(1) The vehicle's year, make, registration plate number, and vehicle identification number (VIN); and

(2) Insurance and inspection certificates required under §B of this regulation.

F. A training vehicle may not be more than 7 model years old.

G. In addition to other safety laws and regulations for vehicles, a training vehicle shall be equipped with:

(1) Dual brake pedals;

(2) Dual clutch pedals if the vehicle is not equipped with an automatic transmission;

(3) Reflectors or emergency triangles; and

(4) Instructor mirrors that shall:

(a) Provide an unobstructed view of the traffic conditions to the rear of the vehicle from the instructor's seat;

(b) Be affixed inside the vehicle in a fashion that eliminates blurring due to mirror vibration and reduces the possibility of unintentional changes in mirror adjustment; and

(c) Include a second mirror that:

(i) Is affixed to the right passenger side mirror housing and provide an unobstructed view of traffic conditions to the rear and right rear of the vehicle from the instructor's seat; and

(ii) Is not affixed to the mirror surface or otherwise obstructs the driver's use of the right passenger side mirror.

H. The certified school shall make available for use in all training vehicles the following equipment approved by the Administration:

- (1) Pedal extensions for the brake, gas, and clutch pedals; and
- (2) Seat cushions to ensure proper seating position.

.34 Behind-the-Wheel Instruction Requirements.

A. Under Transportation Article, §16-505, Annotated Code of Maryland, a student shall complete a minimum of 6 hours behind-the-wheel instruction.

B. The behind-the-wheel instruction of the driver education program shall be taught by:

- (1) A certified instructor; or
- (2) An apprentice instructor under supervision of an experienced certified instructor.

C. A certified school shall conduct the behind-the-wheel instruction of the driver education course curriculum only for a student that has a valid learner's permit.

D. An instructor shall verify that the individual receiving the behind-the-wheel instruction has a valid learner's permit prior to providing the instruction.

E. Certified schools shall conduct the behind-the-wheel instruction of the driver education course curriculum according to the standards established by the Administration.

F. Behind-the-wheel instruction shall be conducted:

- (1) In an approved training vehicle as set forth in Regulation .33 of this chapter; and
- (2) On routes that:
 - (a) Are preplanned, documented, and available at the driver education school office and in the training vehicle for review by the Administration;
 - (b) Allow a student to practice the concepts taught in the classroom; and
 - (c) Achieve the objectives of the approved curriculum of instruction.

G. Behind-the-wheel instruction shall:

- (1) Be based on a written lesson plan with routes that support the concepts and objectives in the approved curriculum of instruction;
- (2) Provide a student with an opportunity to operate the training vehicle on a variety of traffic mixes and conditions;
- (3) Emphasize the knowledge, skills, and behavior needed to safely operate a motor vehicle;
- (4) Be scheduled in a manner that allows for:
 - (a) Debriefing periods during the session for the instructor to review activities and evaluate performance;
 - (b) A student to complete the learning activities in the approved sequence; and
 - (c) A student to complete missed instruction in a reasonable time frame;

(5) Include time for remedial and additional instruction as needed;

(6) Include evaluation of a student's performance based on the learning objectives in the approved driver education curriculum; and

(7) Include documentation of the evaluation results on a form approved by the Administration.

H. Any time provided for rest periods or meal intermissions may not be counted as part of the minimum 6 hours behind-the-wheel instruction.

I. The certified school shall develop a schedule and assign instructors and training vehicles so that individuals participating in a course may complete the required 6 hours of behind-the-wheel instruction within 18 weeks or longer on request of the student.

J. Behind-the-wheel instruction for a student operating a training vehicle may not exceed 2 hours.

K. An instructor shall be seated in the front passenger seat at all times during the behind-the-wheel instruction.

L. During an enrolled student's behind-the-wheel instruction, only two observers at a time may be permitted to ride along and shall be limited to:

(1) Students enrolled in the program;

(2) Approved instructor trainers conducting instructor certification courses;

(3) A certified instructor supervising an apprentice instructor;

(4) An apprentice instructor;

(5) Parents or guardians of students enrolled in the program;

(6) A representative of the driving school management involved in a quality assurance function;

(7) A representative from the Administration; or

(8) An interpreter.

M. Time spent observing an instructor or another student completing a behind-the-wheel instruction may not be counted as part of the minimum 6 hours behind-the-wheel instruction.

.35 Student Eligibility for Enrollment.

A. To be eligible to enroll in the program, an individual shall:

(1) Be seeking a noncommercial driver's license; and

(2) Prior to participating in the behind-the-wheel instruction of the program, obtain and present to the certified school a valid learner's permit.

B. A certified school shall make accommodations for a student with special needs in compliance with all local, State, and federal nondiscrimination laws and regulations including, but not limited to, the Americans with Disabilities Act.

.36 Student Performance Criteria.

- A. To successfully complete the program, a student shall:
- (1) Attend and participate in all required classroom and behind-the-wheel instruction;
 - (2) Achieve a minimum passing score of 80 percent on the final knowledge examination;
- and
- (3) Achieve a minimum passing score of 80 percent on the final behind-the-wheel evaluation.
- B. A student may miss 12 hours or less of classroom instruction and continue the course. A student shall make up any instruction missed before a school may submit a program completion certification to the Administration.
- C. A school shall provide make-up instruction, within a reasonable time frame, for a student who misses 12 hours or less of classroom instruction.
- D. Students may not continue to participate in the program if they:
- (1) Consistently arrive late for the course instruction or consistently leave course instruction early;
 - (2) Miss more than 12 hours of classroom instruction; or
 - (3) Act in a disruptive manner.
- E. An instructor shall continuously evaluate the students' performance and provide remedial or additional instruction as required.
- F. A certified school may charge a student an additional fee for remedial and additional instruction.
- G. If a school does not allow a student to continue participating in the program, the school shall:
- (1) Notify the student and parent or guardian of a student under 18 years of age; and
 - (2) Fully document the reasons and details of problems in the student's records.

.37 Certification of Program Completion.

- A. A certified school shall submit a program completion certification to the Administration, in a format established by the Administration, for each student who successfully completes the program.
- B. Effective January 1, 2009, a certified school:
- (1) Shall submit a program completion certification electronically to the Administration in the format established by the Administration within 1 business day of the student's completion of the program;
 - (2) May submit program completion information on-line to the Administration, in the electronic format established by the Administration, for a student who has never received their license and lost a previously issued Driver Education Program Completion Certificate Form DE-004, providing the school has the student's records for successfully completing the program;

(3) May not issue a Driver Education Program Completion Certificate Form DE-004 to any student that completes a program course after December 31, 2008; and

(4) Shall return to the Administration by April 1, 2009, all unused inventory and accounting information for all Driver Education Program Completion Certificates Form DE-004 in a manner established by the Administration.

.38 Program Transfer and Reciprocity.

A. A certified school shall provide to the student documentary evidence of any instruction of the program successfully completed, with the following documentation:

(1) A Classroom Student Record and Completion Form DE-003A, signed by an authorized school official for documentation of classroom instruction completed; and

(2) A Behind-the-Wheel Student Record and Completion Form DE-003B, signed by an authorized school official for documentation of the behind-the-wheel instruction completed.

B. The Administration may accept documentary evidence of satisfactory completion of a driver education program from another state or jurisdiction, as meeting the requirements of Transportation Article, §16-105, Annotated Code of Maryland, if the driver education program completed in the other state or jurisdiction meets or exceeds the statutory requirements and standards in Maryland.

.39 Program Evaluation.

A. The Administration may conduct unannounced visits during the school's posted business hours to observe instructors and audits of certified schools to evaluate the school's compliance with the laws, regulations, standards, and the quality of instruction.

B. The Administration may develop one or more research models to evaluate the effectiveness of the program under the provisions of Transportation Article, §16-505, Annotated Code of Maryland.

C. The Administration may require certified schools to provide statistical information in an approved format to support the research models outlined in §B of this regulation.

Administrative History

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