

CHAPTER 3: REGULATIONS GOVERNING REGISTRATION OF CHILD RESIDENTIAL HOMES

Subchapter 1: GENERAL

Rule 3.1.1 **Legal Authority.** The Child Residential Home Notification Act, §43-16-1 et seq. of the Mississippi Code of 1972 provides the legal authority under which the Mississippi State Department of Health prescribes minimum regulations for child residential homes defined under the law. The Mississippi State Department of Health shall be the notification agency for all child residential homes, and the department shall discharge the provisions the Child Residential Home Notification Act, §43-16-1 et. seq. of the Mississippi Code of 1972.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.1.2 **Purpose.**

1. The purpose of these regulations is to protect and promote the health and safety of children in this state by providing for the registration of child residential homes as defined herein to assure that certain minimum standards are maintained in such facilities. This policy is predicated upon the fact that a child is not capable of protecting himself, and when his parents for any reason have relinquished his care to others, there arises the probability of exposure of that child to certain risks to his health and safety that require the offsetting statutory protection of registration. This document and its appendices constitute the Regulations Governing the Registration of Child Residential Homes.
2. A child residential home may exceed the minimum quality standards required in these regulations but may not operate without meeting the minimum standards set forth in these regulations.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.1.3 **Severability.** If any provision of these regulations or the application thereof to any persons or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.1.4 **Definitions.**

1. **Act:** The Child Residential Home Notification Act, §43-16-1 et. seq. of the Mississippi Code of 1972.
2. **Agency Representative:** An authorized representative of the Mississippi State Department of Health.
3. **Child:** A person who has not reached the age of 18 years or who has not otherwise been legally emancipated.
4. **Child Residential Home:** Any place, facility or home operated by any person which receives children who are not related to the operators and whose parents or guardians are not residents of the same facility for supervision, care, lodging and maintenance for 24 hours a day, with or without transfer of custody.

The term “A Child Residential Home” shall not include:

- A. residential homes which are licensed by the Mississippi Department of Human Services under the provisions of §43-15-5, Mississippi Code of 1972 (such facility shall hereafter be known as a Residential Child-Caring Agency);
 - B. any public school;
 - C. any such home operated by a state agency;
 - D. child care facilities as defined in §43-20-5, Mississippi Code of 1972;
 - E. youth camps as defined in §75-74-3, Mississippi Code of 1972; or
 - F. health care facilities licensed by the Department of Health.
5. **Department:** The Mississippi State Department of Health (MSDH).
 6. **Person:** An individual, partnership, organization, association, or corporation.
 7. **Director:** An individual, designated by the operator, who has met minimum state requirements and who has on-site responsibility for the operation of a child care facility. This person may or may not be the operator.
 8. **Health:** The condition of being sound in mind and body and encompassing an individual's physical, mental, and emotional welfare.
 9. **Operator:** Any person, acting individually or jointly with another person or persons, who shall establish, own, operate, conduct, or maintain a child residential home. The child residential home registration shall be issued in the name of the operator, or, if there is more than one (1) operator, in the name of one (1) of the operators. In the

event that there is more than one (1) operator, all statutory and regulatory provisions concerning the background checks of operators shall be equally applied to all operators of a facility, including, but not limited to, a spouse who jointly owns, operates or maintains the child residential home regardless of which operator is named on the license.

10. **Parent:** As used in these regulations, parent shall mean custodial parent, legal guardian, foster parent, guardian ad litem, and other individuals or institutions to whom a court of competent jurisdiction has granted legal authority over the child.
11. **Personal Care:** Assistance rendered by personnel of the childcare facility in performing one or more of the activities of daily living, which includes but is not limited to the feeding, personal grooming, supervising and dressing of children placed in the childcare facility.
12. **Safety:** The condition of being protected from hurt, injury or loss.
13. **Service Staff :** A person who provides support services such as cooking, cleaning, or driving a vehicle, but is not a caregiver.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 2: REGISTRATION

Rule 3.2.1 Requirement for Registration.

1. No person shall establish, own, operate, conduct, or maintain a child residential home in this state without being registered pursuant to these regulations.
2. The operator of any child residential home shall provide notification/registration in accordance with these regulations within 60 days of beginning operation.

The registering authority will require no entity exempt from the licensure requirement to apply for a license. However, should an exempt entity desire to obtain a license, it will be subject to these regulations.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.2 Eligibility for Registration. Any Child Residential Home not meeting the following criteria is required by §43-15-101 through §43-15-125 to be licensed by the Mississippi Department of Human Services. It is the responsibility of operator of the home claiming exemption from licensure to provide the required documentation to both the Mississippi State Department of Health (MSDH) and the Mississippi Department of Human Services (MDHS).

To be exempt from MDHS licensure and eligible to register with the MSDH, a Child Residential Home shall:

1. Operate under the auspices of a religious institution.
 - A. Such religious institution must have a tax-exempt status as a nonprofit religious institution in accordance with §501(c) of the Internal Revenue Code of 1954, as amended, or
 - B. The real property owned and exclusively occupied by the religious institution must be exempt from location taxation.
2. The agency or institution must be in compliance with the requirements of the Child Residential Notification Act, §43-16-1 et seq., Mississippi Code of 1972 and these regulations.
3. The agency or institution must not be in violation of §43-16-21(c) regarding the abuse and/or neglect of any child served by such home who has been adjudicated by the youth court as an abused and/or neglected child.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.3 Application for Registration. An application for registration under these regulations shall be made to the registering agency upon forms provided by it and shall contain such information as the registering agency may reasonably require.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.4 Registration Fee. All registration fees, registration renewal fees, and administrative charges shall be paid by certified check or money order payable to the **Mississippi State Department of Health** and are non-refundable. Checks returned for insufficient funds, closed account, etc., shall be assessed an additional \$50 fee.

1. Initial Registration Fee.....	\$100.00
2. Registration Renewal Fee.....	\$100.00
3. Reinstatement Fee	\$200.00
4. Returned Check Fee	\$ 50.00
5. Late Fee.....	\$ 25.00
6. Fingerprinting Fee (Per Fingerprint Card).....	\$ 50.00

NOTE: Except for the fingerprinting fee, no governmental entity or agency that operates a child care facility shall be required to pay the fees set forth in this section. Third party providers that contract with a state agency for the provision of child care services are subject to all fees, fines, etc. Further, should an entity exempt from licensure apply for a license, it shall be subject to all fees listed in this section.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.5 Certificate of Inspection by Fire Department.

1. A certificate of inspection and approval by the fire department of the municipality or other political subdivision in which the child residential home is located shall be submitted to the licensing agency with the application and registration fee. Except that if no fire department exists where the facility is located, the State Fire Marshall shall certify as to the inspection for safety from fire hazards.
2. The inspection form to be used for fire inspections shall be MSDH Form #333 and shall be signed by a signatory authority of the fire inspection authority making the inspection.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.6 Inspection. An agency representative(s) shall inspect each childcare facility prior to issuing or renewing a registration to assure compliance with these regulations.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.7 Record of Inspection. Whenever an inspection is made of a child residential home, the findings shall be recorded on an official inspection form and furnished to the operator, director, and/or their representative, at the time the inspection is made.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.8 Renewal of Registration.

1. The registering agency shall issue licenses which may be renewed annually. The registering agency shall mail renewal notices, at least 75 days prior to the expiration date of the license to the address of the operator registered with the registering agency. The operator shall:
 - A. Complete the renewal form;
 - B. Submit any and all certificates of inspection and approval required by the registering agency;
 - C. Enclose the renewal fee; and
 - D. File the above with the registering agency at least 30 days prior to the expiration date on the registration.

NOTE: Renewal applications postmarked less than 30 days prior to the expiration date of the registration shall be assessed a \$25.00 late fee.

2. An operator who does not file the renewal application prior to the date that the registration expires will be deemed to have allowed the registration to lapse. Said registration may be reinstated by the registering agency, in its discretion, by payment of both the renewal fee and the reinstatement fee, provided said application for reinstatement is made within one (1) month of the expiration date of the registration. After the one-month reinstatement period, it shall be required that an application for an initial registration be submitted. All registration requirements in effect at the time the new initial application is filed shall be met. In addition, all delinquent fees shall be paid.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.9 Registration Not Transferable or Assignable. Each registration shall be issued only for the premises and operator named in the application and shall not be transferable or assignable. A change of ownership includes, but is not limited to, inter vivos gifts, purchases, transfers, lease arrangements, cash and/or stock transactions or other comparable arrangements whenever any person or entity acquires or controls a majority interest of the child residential home. Changes of ownership from partnerships, single proprietorships, or corporations to another form of ownership are specifically included.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.2.10 Display of Registration. The current registration issued by the registering agency to the named child residential home and operator shall be posted and displayed in a conspicuous place and in easy view of all persons who enter the childcare facility. The facility operator shall also post next to the license, in plain view, a notice provided by the MSDH that informs the public of where and how they may report a complaint against the facility.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 3: RIGHT OF ENTRY AND VIOLATIONS

Rule 3.3.1 Right of Entry. An agency representative may enter any child residential home for the purpose of making inspections or investigations to determine compliance with these regulations.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.3.2 Violations. If violations noted on the inspection form are not corrected within the period of time specified by the registering agency, a registration may be denied, suspended, or revoked in accordance with these regulations.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 4: INITIAL NOTIFICATION REQUIREMENTS

Rule 3.4.1 When making the initial notification that a Child Residential Home is operating or intending to operate, the executive director of the Child Residential Home shall provide the following information to the department on forms provided by the department:

1. Documentation that the agency is exempt from the licensure requirements of the MDHS.
2. Name, street address, mailing address and phone number of the home.
3. Name of the executive director and all staff members of the home.
4. Name and description of the agency or organization operating the home, which shall include a statement as to whether or not the agency or organization is incorporated.
5. Name and address of the sponsoring organization of the home, if applicable.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.4.2 The names of all children living at the home which shall include the following personal data:

1. Full name and a copy of the child's birth certificate;
2. Name and address of parent(s) or guardian(s); and
3. Name and address of other nearest relative.
4. School(s) attended by the children served by such home.
5. Fire department or State Fire Marshal inspection certificate.
6. Local health department inspection certificate.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.4.3 Criminal Record (Fingerprinting), Child Abuse Central Registry Checks, and Sex Offender Records Checks: Pursuant to Section 43-20-1 et seq., of the Mississippi Code of 1972, Section 658(d) of the Child Care Development Block Grant (CCDBG) Act of 2014, and Federal Rules and Regulations 45 CFR 98.43 Criminal Background Checks all operators, employees, and prospective employees of a child residential home and any individual residing in a residence licensed as a child residential home shall have an FBI national criminal history records check (fingerprint), State criminal history records check (fingerprint), State child abuse registry check, National Crime Information Center (NCIC) National Sex Offender Registry (NSOR) sex offender registry check, and State sex offender registry check. Further, such checks must be completed at least every five years on the owner and staff of a child residential home.

1. Before a prospective staff member may begin work in a child residential home a valid Letter of Suitability must have been issued by the MSDH Criminal Records Check Unit. The child residential home shall submit the following for processing:

- A. A completed fingerprint card and fees, as appropriate, shall be submitted to the Mississippi State Department of Health (MSDH) for processing. A copy of the submitted fingerprint card, fees paid, and evidence of mailing shall be maintained in the employee's personnel file until the facility receives notification from the Mississippi State Department of Health (Department) verifying the employee's suitability for employment. If the facility is notified that the fingerprints submitted were incomplete or of such poor quality that prevented processing, the facility shall resubmit the necessary information within ten days of the dated letter on the notification.
 - B. A Child Abuse Registry Form shall be submitted to the Department of Human Services for processing. A copy of the submitted form and evidence of mailing shall be maintained in the employee's personnel file until the facility receives notification from the Department of the employee's suitability for employment.
2. Each licensed child residential home with internet capabilities may electronically access, monitor, and verify the suitability status of any submitted employee through a department-maintained webpage: <http://www.HealthyMS.com>.
3. Upon receipt of notification, that the employee has been deemed suitable for employment in a child residential home, the facility shall provide the employee the original Letter of Suitability and shall maintain a copy of the suitability letter for the facility files.
 - A. Unless otherwise voided, the letter confirming an employee's Suitability for Employment is valid for a period of five years from the date of the letter. However, if an individual has been separated from employment (break in service) in a child residential home for more than 180 consecutive days a new criminal history records check must be submitted and approved before the individual may begin work in a child residential home regardless of the date of issuance on the letter.
 - B. The facility owner and each employee shall have criminal history records checks (fingerprint), child abuse registry checks, and sex offender registry checks completed at least every five years.
 - C. The Letter of Suitability is not transferable to another program licensed by the Child Care Licensure Bureau after the date of expiration as specified within the suitability letter.
4. Individuals under the age of 18 that are employed by a child provider for compensation are required to complete a comprehensive background check that includes everything an adult criminal history records check requires.
5. Child residential home providers shall require each applicant that lives outside of Mississippi and/or has lived outside of Mississippi within the last 5 years to complete an interstate background check for the previous state(s) of residence, which includes at a minimum a state criminal history record check, state sex offender registry check, and state child abuse and neglect registry check. The

interstate background check must be completed within 45 days of the submission of the prospective employee's child residential home employment application.

6. Volunteers.

- A. The facility shall maintain the following on any individual who volunteers in a child residential home for less than 120 hours per licensure year:
 - i. A timesheet on all volunteers indicating the number of hours they worked each time they were at the facility; and
 - ii. Immunization Compliance Form 121.
- B. The facility shall maintain the following on any individual who volunteers in a child residential home for 120 or more hours per licensure year:
 - i. Letter of Suitability that reflects the completion of a full criminal records check, child abuse registry check, and sex offender check. Also, if required an out-of-state criminal records check, child abuse registry check, and sex offender check; and
 - ii. Immunization Compliance Form 121.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.4.4 Proof, to be shown by sworn affidavit of the executive director of the home, that medical records are maintained for each child.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 5: ACKNOWLEDGMENT OF NOTIFICATION AND CERTIFICATE OF REGISTRATION

Rule 3.5.1 Upon the submission of a properly completed notification form accompanied by

- 1. A certificate of inspection and approval by the fire department of the municipally or other political subdivision in which the home is located, and
- 2. a certificate of inspection and approval by the health department of the county in which the home is located, the department will acknowledge that the home has properly notified the department regarding its operation and issue a "Certificate of Registration."

Source: Miss. Code Ann. § 43-16-5.

Rule 3.5.2 Upon issuing the acknowledgment of notification and certificate of registration the MSDH shall provide copies of the notification form to the chancery court or the youth court, as appropriate, of the county in which the home is located.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 6: MONTHLY REPORTS

Rule 3.6.1 Each child residential home shall file monthly reports with the department, on forms provided by the department. Said monthly report shall indicate any changes in the notification information originally provided in accordance with Subchapter 4 of these regulations which have occurred, if any.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 7: ANNUAL INSPECTION OF HOMES

Rule 3.7.1 The department, once a year, shall make or cause to be made inspections limited to health, nutrition, cleanliness, sanitation, written medical records for children, discipline policy, family communication policy, and required criminal checks of all child residential homes.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.7.2 Reasonable additional inspections may be made as often as may be deemed necessary by the department but shall not be scheduled so as to disrupt the normal activities of the home.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.7.3 Annual fire inspections are required and shall be made of the home.

Source: Miss. Code Ann. § 43-16-5.

Rule 3.7.4 Any violation of state law on the premises of a child residential home shall immediately be reported by such inspection personnel to the appropriate law enforcement official.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 8: REQUIRED WRITTEN POLICIES

Rule 3.8.1 Every child residential home shall have a written discipline policy and written family communication policy which shall be approved in writing, if possible, by the parent(s) or guardian(s) of the children residing at such home and shall be made available to authorized inspection personnel upon request.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 9: ENFORCEMENT OF NOTIFICATION/REGISTRATION REQUIREMENTS

Rule 3.9.1 Whenever the department is advised or has reason to believe that any child residential home is operating without proper notification in accordance with this chapter, it shall request a meeting with the governing board and executive director of such home to ascertain the fact. If the department finds that such home is providing supervision, care, lodging or maintenance for any children without such notification, it shall give the executive director of the home written notice by certified mail that such person shall file notification in accordance with this chapter within 60 days after receipt of such notice or the department may request a court injunction as provided in

§43-16-21.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 10: COURT ACTION FOR INJUNCTION OR RESTRAINING ORDER AGAINST HOME: GROUNDS

Rule 3.10.1 Notwithstanding the existence of any other remedy, the department may, in the manner provided by law, in term time or in vacation, upon the advice of the Attorney General who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or restraining order to cease the operation of the home, and to provide for the appropriate removal of the children from the home and placement in the custody of the parents or legal guardians, the Department of Human Services, or any other appropriate entity in the discretion of the court. Such action shall be brought in the chancery court or the youth court, as appropriate, of the county in which such child residential home is located, and shall only be initiated for the following violations:

1. Providing supervision, care, lodging, or maintenance for any children in such home without filing notification in accordance with this chapter.
2. Failure to satisfactorily comply with local health department or State Fire Marshal inspections made pursuant to §43-16-15, regarding the health, nutrition, cleanliness, safety, sanitation, written records and discipline policy of such home.
3. Suspected abuse and/or neglect of the children served by such home, as defined in §43-21-105, Mississippi Code of 1972.

Source: Miss. Code Ann. § 43-16-5.

Subchapter 11: REGULATION OF PROGRAM CONTENT

Rule 3.11.1 No governmental agency shall have jurisdiction or authority to regulate or attempt to regulate, control or influence the form, manner or content of the religious curriculum, program or ministry of a school or of a facility sponsored by a church or religious organization.

Source: Miss. Code Ann. § 43-16-5.