

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Child Care Commission

RULE CITATION: 10A NCAC 09 .0713

DEADLINE FOR RECEIPT: Tuesday, October 15, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*At both (a)(9) and (e)(1) and (2) the Rule allows the operator to choose whether to post the name of the adult who has agreed to provide emergency relief, or to simply have a second adult on the premises. However, in G.S. 110-91(7)(a)(2)II, the statute directs that “when only one caregiver is required to meet the staff-child ratio, the operator **shall** make available to parents the name, address, and phone number of an adult who is nearby and available for emergency relief.” It appears to me that to the extent the Rule permits the operator to simply bring a second adult on the premises for emergency relief without providing the parents with the name, address, and phone number of that person, the Rule is without statutory authority.*

In (a)(7), line 22-23, what are “other duties that are not direct child care responsibilities”? Are these defined elsewhere?

In (a)(8), line 28, the “and” seems to be misplaced, I think it should go after (a)(9).

In (a)(9), p.2, line 3, does “an adult” mean any adult? Must they meet the requirements in G.S. 110-91(8)?

On line 13, it says “(b)(1).” This is improperly formatted, please correct per our formatting rules.

In the table under (b)(1), there is no “Maximum Group Size” as there is in the other tables. Just wanted to confirm this is intentional.

In the table under (b)(1), please define “school-age children” in both the 0-12 Months and 12-24 Months row.

Would it not violate (a)(5) and (6) to allow “school-age children” (assuming they are over 2 years old) to be grouped in with children under the age of two?

In (c), line 17, does “Paragraph (b)” refer to (b) or (b)(1) or both?

Brian Liebman
Commission Counsel

Date submitted to agency: October 1, 2024

In (c)(1), p.3, line 6, does “an adult” mean any adult? Must they meet the requirements in G.S. 110-91(8)?

In (c)(1), line 7, define “reasonable time”.

In (f), line 10, does this apply to any center, including those in residential settings?

In (f)(1), line 16, can you provide more specifics on the written notification? Who must make the notification? Is there a particular street address or email address where the notification must be sent?

In (f)(3), line 19, what classroom? Is this different from being in the center generally?

In (f)(3), line 19, please define “infants”.

In (f)(3), line 20, can you provide further detail regarding the “transition plan”? A transition from what to what?

In (f)(3), line 21, what is a “local partner”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: October 1, 2024

1 **10A NCAC 09 .0713 is amended as published in 39:01 NCR 14-16 as follows:**

2

3 **10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS**

4 (a) The staff/child ratios and group sizes for single-age groups of children in centers shall be as follows:

5

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5	10
12 to 24 Months	1/6	12
2 to 3 Years	1/10	20
3 to 4 Years	1/15	25
4 to 5 Years	1/20	25
5 Years and Older	1/25	25

6

7 (1) when combining age groups, the staff/child ratio for the youngest child in the group shall be
8 maintained for the entire group;

9 (2) children of all ages may be cared for together in groups for the first and last operating hour of the
10 day, provided the staff/child ratio for the youngest child in the group is maintained;

11 (3) a child two years of age and older may be placed with children under one year of age when a
12 physician certifies that the developmental age of the child makes this placement appropriate;

13 (4) when determined to be developmentally appropriate by the operator and parent, a child age two or
14 older may be placed one age level above his or her chronological age without affecting the staff/child
15 ratio for that group. This provision shall be limited to one child per group;

16 (5) except as provided in Subparagraphs (2) and (3) of this Paragraph, children under one year of age
17 shall be kept separate from children two years of age and over;

18 (6) except as provided in Subparagraph (2) of this Paragraph, children between the ages of 12 months
19 and 24 months shall not be grouped with older children unless all children in the group are less than
20 three years of age;

21 (7) when only one caregiver is required to meet the staff/child ratio and no children under two years of
22 age are in care, that caregiver may concurrently perform food preparation or other duties that are
23 not direct child care responsibilities as long as supervision of the children as specified in 10A NCAC
24 09 .1801 is maintained;

25 (8) except as provided in Subparagraph (7) of this Paragraph, staff members and child care
26 administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not
27 concurrently perform food preparation or other duties that are not direct child care responsibilities;
28 and

1 (9) when only one caregiver is required to meet the staff/child ratio, the operator shall select one of the
2 following options for emergency relief:

3 (A) the center shall post the name, address, and telephone number of an adult who has agreed
4 in writing to be available to provide emergency relief; or

5 (B) there shall be a second adult on the premises who is available to provide emergency relief.

6 (10) the staff/child ratio applicable to a classroom as described in this Paragraph shall be posted in that
7 classroom in an area that parents are able to view at all times.

8 (b) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children when any
9 preschool age child is enrolled, or with a licensed capacity of 3 13 to 15 children when only school age children are
10 enrolled, are as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5 preschool children plus three additional school-age children	<u>10</u>
12 to 24 Months	1/6 preschool children plus two additional school-age children	<u>12</u>
2 to 13 Years	1/10	<u>15</u>
3 to 13 Years	1/12 <u>15</u>	<u>15</u>
All school-age	1/15	

12
13 (b) (1) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children are as
14 follows:

<u>Age of Children</u>	<u>Ratio Staff/Children</u>
<u>0 to 12 Months</u>	<u>1/5 preschool children plus three additional school-age children</u>
<u>12 to 24 Months</u>	<u>1/6 preschool children plus two additional school-age children</u>
<u>2 to 13 Years</u>	<u>1/10</u>
<u>3 to 13 Years</u>	<u>1/12</u>

16
17 (c) The staff/child ratio applicable to a classroom for a center located in a residence as described in Paragraph (b) of
18 this Rule shall be posted in that classroom in an area that parents are able to view at all times.

1 (d) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described
2 in Paragraph (b) of this Rule and children under two years of age are in care, that person shall not concurrently perform
3 food preparation or other duties that are not direct child care responsibilities.

4 (e) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described
5 in Paragraph (b) of this Rule the operator shall select one of the following options for emergency relief:

6 (1) the center shall post the name, address, and telephone number of an adult who has agreed in writing
7 to be available to provide emergency relief and who can respond within a reasonable period of time;
8 or

9 (2) there shall be a second adult on the premises who is available to provide emergency relief.

10 (f) Upon the Division's receipt of a written request, a center may choose to group children in multi-age groups rather
11 than single-aged groups. The staff/child ratios and group sizes for multi-age groups of children in centers shall be as
12 follows:

13

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 36 months	1/4	8
12 months to 36 months	1/5	10
24 months to 47 months	1/6	10
4 years of age to 6 years of age	1/9	18
6 years of age through 12 years of age	1/19	25

14

15 (1) Before meeting the ratios outlined in this Paragraph or before changing from multi-age group ratios
16 to single-age group ratios, the Division must be notified in writing;

17 (2) Paragraphs (a) through (e) of this Rule do not apply to centers that choose to meet the ratios outlined
18 in this Paragraph, with the exception of Subparagraphs (a)(7), (8) and (9) of this Rule;

19 (3) Children 36 months through 47 months may remain in the classroom with infants provided there is
20 an agreed upon transition plan between the child care facility, the child's parents or legal guardian,
21 and local partners if the plan includes future care outside of the center. Transition plans must be
22 initiated at least six months prior to a child's third birthday, maintained in each child's file, and be
23 available for review by the Division; and

24 (4) The staff/child ratio applicable for a multi-age group as described in this Paragraph shall be posted
25 in that classroom in an area that parents are able to view at all times.

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27 *History Note: Authority G.S. 110-85; 110-91(7); 143B-168.3;*

28 *Eff. December 1, 1988;*

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*Amended Eff. January 1, 2006; July 1, 1998; July 1, 1994; January 1, 1992; August 1, 1990;
November 1, 1989;
Readopted Eff. October 1, 2017;
Amended Eff. November 1, 2024; July 1, 2023; February 1, 2021.*