

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0102

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In Item (48), please consider breaking this out into two sentences. A suggestion would be as follows: "... in planning and implementing the daily ~~program,~~ program. A teacher's aide shall be at least years old..."

In Item (48), please delete or define "direct" in "direct supervision."

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 **10A NCAC 09 .0102 is amended as published in 35:04 NCR 387-393 as follows:**

2
3 **SECTION .0100 - DEFINITIONS**
4

5 **10A NCAC 09 .0102 DEFINITIONS**

6 The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a
7 different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- 8 (1) "Activity area" means a space that is accessible to children and where related equipment and
9 materials are kept in accordance with G.S. 110-91(12).
- 10 (2) "Agency" as used in this Chapter means Division of Child Development and Early Education,
11 Department of Health and Human Services located at 333 Six Forks Road, Raleigh, North Carolina
12 27609.
- 13 (3) "Appellant" means the person or persons who request a contested case hearing.
- 14 (4) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality
15 afterschool care for school-age children, developed by the North Carolina State University
16 Department of 4-H Youth Development and subsequently revised by the North Carolina School-age
17 Quality Improvement Project.
- 18 (5) "Biocontaminant" means blood, bodily fluids, or excretions that may spread infectious disease.
- 19 (6) "Child Care Center" means an arrangement where, at any one time, there are three or more
20 preschool-age children or nine or more school-age children receiving child care. This does not
21 include arrangements described in Item (18) of this Rule regarding Family Child Care Homes.
- 22 (7) "Child Care Facility" means child care centers, family child care homes, and any other child care
23 arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day,
24 wherever operated, and whether or not operated for profit.
- 25 (8) "Child care provider" as defined by G.S. 110-90.2(a)(2) includes the following employees who have
26 contact with the children in a child care program:
- 27 (a) facility directors;
 - 28 (b) child care administrative staff;
 - 29 (c) teachers;
 - 30 (d) teachers' aides;
 - 31 (e) substitute providers;
 - 32 (f) uncompensated providers;
 - 33 (g) cooks;
 - 34 (h) maintenance personnel; and
 - 35 (i) drivers.
- 36 (9) "Child Development Associate Credential" means the national early childhood credential
37 administered by the Council for Early Childhood Professional Recognition.

- (10) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidenced-based, and with a reading component.
- (11) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (12) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (13) "Domains" means the developmental areas of learning described in the North Carolina Foundations for Early Learning and Development © 2013, available on the Division's website at http://ncchildcare.nc.gov/providers/pv_foundations.asp. This instrument is incorporated by reference and does not include subsequent editions. The domains address children's emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development.
- (14) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (15) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at http://www.teacherscollegepress.com/assessment_materials.html. The cost of this scale is twenty-four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours. For the purposes of this Rule, "regular business hours" for the Division means 8 a.m. to 5 p.m. during weekdays, excluding state holidays.
- (16) "Experience working with school-age children" means working with school-age children as a child care administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- (17) "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at http://www.teacherscollegepress.com/assessment_materials.html. The cost of this scale is twenty-four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection during regular business hours.

- (18) "Family Child Care Home" means a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. Family child care home operators must reside at the location of the family child care home.
- (19) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- (20) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and in this Chapter, using space the Division has identified for each group.
- (21) "Health care professional" means:
- (a) a physician licensed in North Carolina;
 - (b) a nurse practitioner approved to practice in North Carolina; or
 - (c) a licensed physician assistant.
- (22) "Household member" means a person who resides in a family home as evidenced by factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (23) "If weather conditions permit" means:
- (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://idph.iowa.gov/Portals/1/Files/HCCI/weatherwatch.pdf>; and is incorporated by reference and includes subsequent editions and amendments;
 - (b) following the air quality standards as set out in 15A NCAC 18A .2832(d). The Air Quality Color Guide can be found on the Division's web site at <https://xapps.ncdenr.org/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
 - (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.
- (24) "Infant" means any child from birth through 12 months of age.
- (25) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than 30 months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and does not include subsequent

1 editions. A copy of the scale is available for purchase on the Teachers College Press website at
2 http://www.teacherscollegepress.com/assessment_materials.html. The cost of this scale is twenty-
3 four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the
4 address given in Item (2) of this Rule and is available for public inspection during regular business
5 hours.

6 (26) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training
7 developed by the NC Healthy Start Foundation and administered by the North Carolina Child Care
8 Health and Safety Resource Center for the Division of Child Development and Early Education for
9 caregivers of children ages 12 months and younger. Information regarding trainer and training
10 availability can be found on the Division's website at
11 http://ncchildcare.ncdhhs.gov/providers/pv_itssidsproject.asp.

12 (27) "Lead Teacher" means an individual who is responsible for planning and implementing the daily
13 program of activities for a group of children in a child care facility. A lead teacher is counted in
14 staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the
15 facility.

16 (28) "Licensee" means the person or entity that is granted permission by the State of North Carolina to
17 operate a child care facility. The owner of a facility is the licensee.

18 (29) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain
19 in a locked indoor space and is used when emergency personnel or law enforcement determine a
20 dangerous person is in the vicinity.

21 (30) "North Carolina Early Childhood Administration Credential" means the state early childhood
22 administration credential that is based on completion of required early childhood coursework taken
23 at any NC Community College. Other post secondary curriculum coursework shall be approved as
24 equivalent if the Division determines that the content of the other post secondary curriculum
25 coursework offered is substantially equivalent to the NC Early Childhood Administration Credential
26 Coursework. A copy of the North Carolina Early Childhood Administration Credential requirements
27 is on file at the Division at the address given in Item (2) of this Rule and is available for public
28 inspection or copying at no charge during regular business hours. This information can be found on
29 the Division's website at <http://ncchildcare.ncdhhs.gov/providers/credent.asp>.

30 ~~(30)~~(31) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an
31 individual's verified level of educational achievement based on a standardized scale. The North
32 Carolina Institute for Child Development Professionals certifies individuals and assigns a
33 certification level on two scales:

34 (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010;
35 or

36 (b) the School Age Professional Scale (SA Scale) in effect as of May 19, 2010.

Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings. Information on the voluntary certification process can be found on the North Carolina Institute for Child Development Professionals website at <http://ncicdp.org/certification-licensure/eec-overview/>.

~~(31)~~(32) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (2) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <http://ncchildcare.ncdhhs.gov/providers/credent.asp>.

~~(32)~~(33) "Operator" means the owner, director, or other person having responsibility for operation of a child care facility subject to licensing.

~~(33)~~(34) "Owner" means any person with a five percent or greater equity interest in a child care facility; however, stockholders of corporations who own child care facilities shall not be subject to mandatory criminal history checks pursuant to G.S. 110-90.2 unless they are a child care provider.

~~(34)~~(35) "Parent" means a child's parent, legal guardian, or full-time custodian.

~~(35)~~(36) "Passageway" means a hall or corridor.

~~(36)~~(37) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.

~~(37)~~(38) "Premises" means the entire child care building and grounds including natural areas, outbuildings, dwellings, vehicles, parking lots, driveways and other structures located on the property.

~~(38)~~(39) "Preschooler" or "preschool-age child" means any child who is at least three years of age and does not fit the definition of school-age child in this Rule.

~~(39)~~(40) "Reside" refers to any person that lives at a child care facility location. Factors for determining residence include:

- (a) use of the child care facility address as a permanent address for personal identification or mail delivery;
- (b) use of the child care facility to store personal belongings such as furniture, clothing, and toiletry items; and
- (c) names listed on official documents such as criminal records or property tax records.

1 ~~(40)~~(41) "School-Age Care Environment Rating Scale, Updated Edition" (Harms, Jacobs, and White, 2014,
2 published by Teachers College Press) is the instrument used to evaluate the quality of care received
3 by a group of children in a child care center, when the majority of the children in the group are older
4 than five years, to achieve three or more points for the program standards of a rated license. This
5 instrument is incorporated by reference and does not include subsequent editions. A copy of the
6 scale is available for purchase on the Teacher College Press website at
7 http://www.teacherscollegepress.com/assessment_materials.html. The cost of this scale is twenty-
8 four dollars and ninety-five cents (\$24.95). A copy of this instrument is on file at the Division at the
9 address given in Item (2) of this Rule and is available for public inspection during regular business
10 hours.

11 ~~(41)~~(42) "School-age child" means any child who is attending or who has attended a public or private grade
12 school or kindergarten and meets age requirements as specified in G.S. 115C-364.

13 ~~(42)~~(43) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).

14 ~~(43)~~(44) "Shelter-in-Place drill" means staying in place to take shelter rather than evacuating. It involves
15 selecting a small interior room, with no or few windows, and used when emergency personnel or
16 law enforcement determine there is an environmental or weather related threat.

17 ~~(44)~~(45) "Staff" or "staff member" as used in this Chapter includes child care providers, substitute providers,
18 and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.

19 ~~(45)~~(46) "Substitute provider" means any person who temporarily assumes the duties of a staff person for a
20 time period not to exceed two consecutive months and may or may not be monetarily compensated
21 by the facility. Any substitute provider ~~shall~~ must be at least 18 years of age and literate.

22 ~~(46)~~(47) "Teacher" means an individual who assists the Lead Teacher in planning and implementing the daily
23 program of activities for a group of children in a child care facility. A teacher is counted in staff/child
24 ratio, has unsupervised contact with children, and is monetarily compensated by the facility.

25 ~~(47)~~(48) "Teacher's aide" or "Aide" means a person who assists the lead teacher or the teacher in planning
26 and implementing the daily program, ~~is monetarily compensated,~~ shall be at least 16 years old and
27 less than 18 years old, shall be literate, and may count in staff/child ratio as long as they work under
28 the direct supervision of a credentialed staff person who is at least 21 years of age. ~~shall not be~~
29 ~~counted in staff/child ratio or have unsupervised contact with children.~~

30 ~~(48)~~(49) "Toddler" means any child ages 13 months to ~~3 years of age.~~ 35 months of age.

31 ~~(49)~~(50) "Track-Out Program" means any child care provided to school-age children when they are out of
32 school on a year-round school calendar.

33 ~~(50)~~(51) "Uncompensated provider" means a person who works in a child care facility and is counted in
34 staff/child ratio or has unsupervised contact with children, but who is not monetarily compensated
35 by the facility. Any uncompensated provider ~~shall~~ must be at least 18 years of age and literate.

36 ~~(51)~~(52) "Volunteer" means a person who works in a child care facility and is not counted in staff/child ratio,
37 does not have unsupervised contact with children, and is not monetarily compensated by the facility.

1 A person who is at least 13 years of age, but less than 16 years of age, may work on a volunteer
2 basis, as long as he or she is supervised by and works with a staff person who is at least 21 years of
3 age and meets staff qualification requirements.
4

5 *History Note: Authority G.S. 110-85; 110-88; 110-90.2; 143B-168.3;*
6 *Eff. January 1, 1986;*
7 *Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989;*
8 *Temporary Amendment Eff. January 1, 1996;*
9 *Amended Eff. March 1, 2015; May 1, 2013; September 1, 2012; July 3, 2012; July 1, 2012;*
10 *November 1, 2007; May 2006; May 1, 2004; April 1, 2003; July 1, 2000; April 1, 1999; July 1,*
11 *1998; April 1, 1997;*
12 *Readopted Eff. October 1, 2017;*
13 *Amended Eff. February 1, 2021; September 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0302

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (d)(4), should “and shall be maintained” be “which shall be maintained”?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 **10A NCAC 09 .0302 is amended as published in 35:04 NCR 393-394 as follows:**

2
3 **SECTION .0300 - PROCEDURES FOR OBTAINING A LICENSE**

4
5 **10A NCAC 09 .0302 APPLICATION FOR A LICENSE FOR A CHILD CARE CENTER**

6 (a) An application for a license for a child care center shall be submitted on the form provided by the Division, which
7 may be found online at http://ncchildcare.ncdhhs.gov/PDF_forms/FacilityProfileApp.pdf. The application for a child
8 care center license shall include the following information:

- 9 (1) owner name;
- 10 (2) center name, address, phone number, and location address;
- 11 (3) center contact information;
- 12 (4) requested age range of children in the child care center;
- 13 (5) hours of operation;
- 14 (6) type of care to be provided;
- 15 (7) type of building;
- 16 (8) type of center;
- 17 (9) proposed opening date;
- 18 (10) proposed number of children to be served;
- 19 (11) type of business operation;
- 20 (12) history of operation or licensing of child care facilities; and
- 21 (13) signature of applicant of either:
- 22 (A) the individual who will be responsible for the operation of the center and for assuring
- 23 compliance with G.S. 110, Article 7 and this Chapter; or
- 24 (B) an officer of an entity who will be responsible for the operation of the center and for
- 25 ensuring compliance with G.S. 110, Article 7 and this Chapter.

26 Upon receipt of the application, the Division shall assess the information provided to determine if the prospective
27 licensee may be denied a license for one or more of the reasons set forth in 10A NCAC 09 .2215.

28 (b) In addition to the application, an applicant shall submit the following documentation:

- 29 (1) the required criminal ~~record~~ background check qualification letter as set forth in 10A NCAC 09
- 30 .2703;
- 31 (2) inspection reports required by G.S. 110-91(1), (4), and (5). If a center does not conform with a
- 32 building, fire, or sanitation standard, the Division shall accept an inspector's determination that
- 33 equivalent, alternative protection is provided;
- 34 (3) measurements of all rooms to be used for child care and a sketch of the center's floor plan, including
- 35 ceiling height, location of bathrooms, doors, and required exits; and
- 36 (4) written information to verify compliance with G.S. 110, Article 7 and the Rules in this Chapter as
- 37 follows:

- (A) emergency medical plan;
- (B) activity plans;
- (C) discipline policy;
- (D) incident reports; and
- (E) incident logs.

(c) During the pre-licensing visits, the applicant or the operator shall be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center shall comply with applicable requirements for activities, equipment, and staff-child ratios for the capacity of the center and type of license requested.

(d) During the pre-licensing visit the applicant shall have the following available for review pursuant to 10A NCAC 09 .0304(g):

(1) staff records that include:

- (A) an application for employment and date of birth;
- (B) documentation of education, training, and experience;
- (C) medical and health records;
- (D) documentation of staff orientation, participation in training, and staff development activities; and
- (E) required criminal history ~~records~~ background check documentation;

(2) children's records that include an application for enrollment, medical and immunization records, and permission to seek emergency medical care;

(3) daily attendance records;

(4) daily records of arrival and departure times at the center for each ~~child~~; child and shall be maintained as children arrive and depart;

(5) records of monthly fire drills documenting the date and time of each drill, the length of time taken to evacuate the building, and the signature of the person who conducted the drill as required by NC Fire Code 405.5; A copy of the form may be found on the Division's website at http://ncchildcare.ncdhhs.gov/pdf_forms/EPR_EmergencyDrillLog_Centers.pdf;

(6) records of monthly playground inspections documented on a checklist provided by the Division; A copy of the form may be found on the Division's website at http://ncchildcare.ncdhhs.gov/pdf_forms/playground.pdf;

(7) records of administered medications;

(8) records of lockdown or shelter-in-place drills as defined in 10A NCAC 09 .0102, giving the date each drill was held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill. A copy of the form may be found on the Division's website at https://ncchildcare.ncdhhs.gov/pdf_forms/EPR_EmergencyDrillLog_Centers.pdf; and

(9) an electronic mail address for the center.

(e) The Division shall make one or more inspections of the center and premises to assess compliance with all applicable licensure statutes and rules and either:

- (1) issue a single license for the address of the center if all applicable requirements of G.S. 110, Article 7 and this Section are met;
- (2) issue a provisional license pursuant to 10A NCAC 09 .2204; or
- (3) deny the application in accordance with 10A NCAC 09 .2215.

History Note: Authority G.S. 110-85; 110-86; 110-88(2); 110-88(5); 110-91; 110-91(1), (4) and (5); 110-92; 110-93; 110-99; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 2015; March 1, 2014; August 1, 2011; July 1, 2010; April 1, 2003; April 1, 2001; July 1, 1998; January 1, 1996; November 1, 1989; July 1, 1988; January 1, 1987;
Readopted Eff. October 1, 2017;
Amended Eff. February 1, 2021; September 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0403

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In Paragraph (c), what is your authority to allow a temporary license to remain in effect for longer than six months? G.S. 110-88(10) says that a temporary license "shall expire in six months." As such, I don't see where the authority is to say "a minimum."

Here, do you mean something like "The temporary license shall remain in effect for six months, unless one of the following occurs prior to the expiration of the six-month time period:

- (1) the operator is issued a star-rated, special provisional, provisional, or probationary license; or*
- (2) a summary suspension, suspension, or a denial of a rated license to the operator."*

I assume that if one of the above happens, then it will be the earlier of six months or the date of the action?

Just to be clear, would the summary suspension or suspension only apply to those centers who are changing ownership or location?

In (c), what is the different between a "special provisional license" and a "provisional license"? I see both are referred to in statute, so I'm not concerned with authority.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 10A NCAC 09 .0403 is amended as published in 35:04 NCR 394 as follows:

2
3 10A NCAC 09 .0403 TEMPORARY LICENSES FOR CENTERS

4 (a) When an operator proposes to open a new center or to change the ownership or location of an existing center, the
5 Division shall issue the operator a temporary license upon the receipt of a license application pursuant to 10A NCAC
6 09 .0204 or .0302 and the documents specified in 10A NCAC 09 .0301 and .0302.

7 (b) The temporary license shall be posted in a prominent place in the center that parents are able to view daily.

8 (c) The temporary license shall remain in effect for a minimum of six months or until expire after six months or upon
9 the issuance of a star-rated license, provisional license, a special provisional, provisional, or probationary license,
10 summary suspension, suspension, or a denial of a rated license to the operator. operator whichever occurs earlier.

11
12 *History Note: Authority G.S. 110-88(10); 110-99; 143B-168.3;*

13 *Eff. July 1, 1988;*

14 *Amended Eff. July 1, 1998; April 1, 1992; November 1, 1989;*

15 *Readopted Eff. October 1, 2017. 2017;*

16 *Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0601

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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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 call our office to inquire concerning the staff recommendation.

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

In (b), what is meant by "good repair"? Do you mean something like "maintained in accordance with the manufacturer's specifications"? Are you using "good repair" to track the statutory language?

In (c), what is meant by "sturdy"? Are you using this term to track the statutory language?

In (d), by "all broken equipment or furnishings referenced in Paragraph (c)", do you mean "All equipment and furnishings not meeting the requirements of Paragraph (c) of this Rule"?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .0601 is amended as published in 35:04 NCR 394-395 as follows:

SECTION .0600 - SAFETY REQUIREMENTS FOR CHILD CARE CENTERS

10A NCAC 09 .0601 SAFE ENVIRONMENT

(a) A safe indoor and outdoor environment shall be provided for the children in care in accordance with rules in this Section.

(b) All equipment and furnishings shall be in good repair. All commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer. For equipment and furnishings purchased after September 1, 2017, the manufacturer's instructions shall be kept on file or electronically accessible, if available.

(c) Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based or peeling paint, rust, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.

(d) All broken equipment or furnishings referenced in Paragraph (c) of this Rule shall be removed from the premises immediately or made inaccessible to the children.

(e) Each child care center shall provide equipment and furnishings that are child-size or that can be adapted use by children. Chairs and tables shall be of appropriate height for the children who will be using them.

(f) Each child care center shall be free of lead poisoning hazards as defined in G.S. 130A-131.7(7).

*History Note: Authority G.S. 110-91(3),(6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. January 1, 1996; January 1, 1991;
Readopted Eff. October 1, ~~2017~~ 2017;
Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0606

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (b), delete or define "easily"

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 **10A NCAC 09 .0606 is amended as published in 35:04 NCR 395 as follows:**

2
3 **10A NCAC 09 .0606 SAFE SLEEP PRACTICES**

4 (a) Each center licensed to care for infants aged 12 months or younger shall develop, adopt, and comply with a written
5 safe sleep policy that:

- 6 (1) specifies that caregivers shall place infants aged 12 months or younger on their backs for sleeping,
7 unless:
 - 8 (A) for an infant aged six months or less, the center receives a written waiver of this
9 requirement from a health care professional; or
 - 10 (B) for an infant older than six months, the center receives a written waiver of this requirement
11 from a health care professional, or a parent or a legal guardian;
- 12 (2) specifies no pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads,
13 quilts, sheepskins, loose bedding, towels and washcloths, or other objects may be placed with a
14 sleeping infant aged 12 months or younger;
- 15 (3) specifies that children shall not be swaddled;
- 16 (4) specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger
17 when the infant is laid down to sleep;
- 18 (5) specifies that the temperature in the room where infants aged 12 months or younger are sleeping
19 does not exceed 75° F;
- 20 (6) specifies that caregivers shall visually check, in person, sleeping infants aged 12 months or younger
21 at least every 15 minutes;
- 22 (7) specifies how caregivers shall document compliance with visually checking on sleeping infants aged
23 12 months or younger;
- 24 (8) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
- 25 (9) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, play pen, mat, or
26 cot;
- 27 (10) specifies that infants aged 12 months or younger are prohibited from sleeping in sitting devices,
28 including car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting
29 devices shall be moved to a crib, bassinet, play pen, mat, or cot; and
- 30 (11) specifies any other steps the center shall take to provide a safe sleep environment for infants aged
31 12 months or younger.

32 (b) The center shall post a copy of its safe sleep policy about infant safe sleep practices in the infant room where it
33 can be easily seen by parents and caregivers.

34 (c) A copy of the center's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or
35 younger on or before the first day the infant attends the center. The parent shall sign a statement acknowledging the
36 receipt and explanation of the policy. The acknowledgement shall contain:

- 37 (1) the infant's name;

1 (2) the date the infant first attended the center;
 2 (3) the date the center's safe sleep policy was given and explained to the parent; and
 3 (4) the date the parent signed the acknowledgement.
 4 The center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.
 5 (d) If a center amends its safe sleep policy, it shall give written notice of the amendment to the parents of all enrolled
 6 infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign
 7 a statement acknowledging the receipt and explanation of the amendment. The center shall retain the
 8 acknowledgement in the child's record as long as the child is enrolled at the center.
 9 (e) A caregiver shall place a child age 12 months or younger on the child's back for sleeping, unless for a child age 6
 10 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6
 11 months, the operator obtains a written waiver from a health care professional or parent. Waivers shall include the
 12 following:
 13 (1) the infant's name and birth date;
 14 (2) the signature and date of the infant's health care professional or parent;
 15 (3) if a wedge is needed specify why it is needed and how it is to be used; and
 16 (4) the infant's authorized sleep positions.
 17 The center shall retain the waiver in the child's record as long as the child is enrolled at the center.
 18 (f) For each infant with a waiver on file at the center as specified in Paragraph (e) of this Rule, a notice shall be posted
 19 for quick reference near the infant's crib, bassinet, play pen, cot or mat that shall include:
 20 (1) the infant's name;
 21 (2) the infant's authorized sleep position; and
 22 (3) the location of the signed waiver.
 23 No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.
 24 (g) Documents that verify staff member's compliance with visual checks on infants shall be maintained for a minimum
 25 of one month.
 26 (h) A bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick and a fitted sheet shall be
 27 provided for each child who remains in the center after midnight. The top of bunk beds shall be used by school-age
 28 children only.
 29 (i) A caregiver shall not place anything over the face of a child during rest time.
 30
 31 *History Note: Authority G.S. 110-85; 110-91(15); 143B-168.3;*
 32 *Eff. May 1, 2004;*
 33 *Amended Eff. July 1, 2010;*
 34 *Readopted Eff. October 1, ~~2017~~, 2017;*
 35 *Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0607

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In Paragraph (c), please check the link provided on line 19. It does not work for me, but I recognize that could be because I don't have access to the portal. Please confirm.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .0607 is amended as published in 35:04 NCR 395-396 as follows:

10A NCAC 09 .0607 EMERGENCY PREPAREDNESS AND RESPONSE IN CHILD CARE CENTERS

(a) For the purposes of this Rule, the Emergency Preparedness and Response in Child Care is a session training developed by the ~~Division of Public Health~~ North Carolina Child Care Health and Safety Resource Center for child care operators and providers on creating an Emergency Preparedness and Response Plan and practicing, responding to and recovering from emergencies in child care centers.

(b) Existing child care centers shall have one person on staff who has completed the Emergency Preparedness and Response in Child Care training. New centers shall have one person on staff who has completed the Emergency Preparedness and Response in Child Care training within one year of the effective date of the initial license. When the trained staff member leaves employment, the center shall ensure that another staff member completes the required training within four months of the vacancy. Documentation of completion of the training shall be maintained in the individual's personnel file or in a file designated for emergency preparedness and response plan documents.

(c) Upon completion of the Emergency Preparedness and Response in Child Care training, the trained staff shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care center will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disasters, or a dangerous person or persons in the vicinity, to ensure the safety and protection of the children and staff. This Plan must be on a template provided by the Division available at <https://rmp.nc.gov/portal/#>, and completed within four months of completion of the Emergency Preparedness and Response in Child Care training.

(d) The Emergency Preparedness and Response Plan shall include:

- (1) written procedures for accounting for all in attendance including:
 - (A) the location of the children, staff, volunteer and visitor attendance lists; and
 - (B) the name of the person(s) responsible for bringing the children, staff, volunteer and visitor attendance lists in the event of an emergency.
- (2) a description for how and when children shall be transported;
- (3) methods for communicating with parents and emergency personnel or law enforcement;
- (4) a description of how children's nutritional and health needs will be met;
- (5) the relocation and reunification process;
- (6) emergency telephone numbers;
- (7) evacuation diagrams showing how the staff, children, and any other individuals who may be present will evacuate during an emergency;
- (8) the date of the last revision of the plan;
- (9) specific considerations for non-mobile children and children with special needs; and
- (10) the location of a Ready to Go File. A Ready to Go File means a collection of information on children, staff and the facility, to utilize, if an evacuation occurs. The file shall include, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up

1 children, each child's Application for Child Care, medication authorizations and instructions, any
2 action plans for children with special health care needs, a list of any known food allergies of children
3 and staff, staff contact information, Incident Report forms, an area map, and emergency telephone
4 numbers.

5 (e) The trained staff shall review the Emergency Preparedness and Response Plan annually, or when information in
6 the plan changes, to ensure all information is current.

7 (f) All staff shall review the center's Emergency Preparedness and Response Plan during orientation and on an annual
8 basis with the trained staff. Documentation of the review shall be maintained at the center in the individual's personnel
9 file or in a file designated for emergency preparedness and response plan documents.

10 (g) All substitutes and volunteers counted in ratio shall be informed of the child care center's Emergency Preparedness
11 and Response Plan and its location. Documentation of this notice shall be maintained in the individual personnel files
12 or in a file designated for emergency preparedness and response plan documents.

13 (h) Centers operated by a Local Education Agency that have completed critical incident training and a School Risk
14 Management Plan as set forth by the Department of Public Instruction shall be exempt from Paragraphs (a) through
15 (e) of this Rule. When a School Risk Management Plan has been completed, the requirements of Paragraphs (f) and
16 (g) of this Rule shall be applicable. The School Risk Management Plan shall be available for review by the Division.
17 More information regarding the School Risk Management Plan is located online at <https://sera.nc.gov/srmp/>.

18
19 *History Note: Authority G.S. 110-85; 143B-168.3;*
20 *Eff. July 1, 2015;*
21 *Amended Eff. August 1, 2015;*
22 *Readopted Eff. October 1, ~~2017~~, 2017;*
23 *Amended Eff February 1, 2021.*

10A NCAC 09 .0701 is amended as published in 35:04 NCR 396-397 as follows:

SECTION .0700 - STAFF QUALIFICATIONS

10A NCAC 09 .0701 HEALTH STANDARDS FOR CHILD CARE PROVIDERS, SUBSTITUTE PROVIDERS, VOLUNTEERS, AND UNCOMPENSATED PROVIDERS

(a) Health and emergency information shall be obtained for staff members as specified in the chart below:

Required for:	Item Requirements:	Due Date:
Child care providers and uncompensated providers who are not substitute providers or volunteers as defined in 10A NCAC 09 .0102, including the director.	Medical Report A statement signed by a health care professional that indicates that the person is emotionally and physically fit to care for children.	Within 60 days of employment. <u>Prior to employment.</u> When submitted, the medical statement shall not be older than 12 months.
All staff, including the director and individuals who volunteer more than once per week.	Tuberculin (TB) Test or Screening The results indicating the individual is free of active tuberculosis shall be obtained within the 12 months prior to the date of employment.	On or before first day of work.
Child care providers, including the director, uncompensated providers, substitute providers, and volunteers.	Emergency Information Form, including the name, address, and telephone number of the person to be contacted in case of an emergency, <u>and</u> the responsible party's choice of health care <u>professional.</u> professional, any chronic illness, any medication taken for that illness, and any other information that has a direct bearing on ensuring safe medical treatment for the individual.	On or before the first day of work. The emergency information shall be updated as changes occur and at least annually.
All staff, including the director.	Health Questionnaire	Annually following the initial medical statement.

	A statement signed by the staff member that indicates that the person is emotionally and physically fit to care for children.	
Substitute providers and volunteers.	Health Questionnaire A statement signed by the substitute provider or volunteer that indicates that the person is emotionally and physically fit to care for children.	On or before first day of work and annually thereafter.

(b) The Division, or the director of the child care center, may request an evaluation of a staff member's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the staff member's emotional or physical fitness to care for children. This request may be based upon factors such as observations by the director or center staff, reports of concern from family, reports from law enforcement or reports from medical personnel.

(c) A copy of the forms in the chart in Paragraph (a) of this Rule may be found on the Division's website at

~~http://ncchildcare.nc.gov/providers/pv_provideforms.asp~~

http://ncchildcare.ncdhhs.gov/providers/pv_provideforms.asp.

(d) Staff medical statements, proof of a tuberculosis test or screening, and completed health questionnaires shall be included in the staff member's medical file, which must be maintained separately from the staff member's individual personnel file in the center.

History Note: Authority G.S. 110-85; 110-91(1),(8),(9); 143B-168.3;

Eff. January 1, 1986;

Amended Eff. July 1, 2010; July 1, 1998;

Readopted Eff. October 1, ~~2017~~ 2017;

Amended Eff. February 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0713

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

Regarding (a)(2) and (6), can children between 12 months and 24 months be grouped with pre-schoolers for the first and last operating hours of the day? As written, these provisions appear to conflict with each other. Is (a)(6) only applicable to hours other than the first and last?

What is the overall of Paragraph (f)? I would suggest using consistent language with the rest of the rule. Do you mean something like "All centers designed to care for children in multi-age group settings shall comply with the following ratios:

CHART

These centers shall notify the Division in writing before meeting the ratios provided in this Paragraph or before changing from multi-group ratios to single group ratios."

In (f), please remove the comma after "this Paragraph"

How does (f) go with the requirement in (a)(1)? They appear to conflict.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .0713 is amended as published in 35:04 NCR 397-398 as follows:

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

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

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

- (1) ~~in any multi-age group situation, when combining age groups,~~ the staff/child ratio for the youngest child in the group shall be maintained for the entire group;
- (2) ~~children of all ages may be cared for together in groups younger than two years old may be cared for in groups with older children~~ for the first and last operating hour of the day, provided the staff/child ratio for the youngest child in the group is maintained;
- (3) a child two years of age and older may be placed with children under one year of age when a physician certifies that the developmental age of the child makes this placement appropriate;
- (4) when determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed one age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per group;
- (5) except as provided in Subparagraphs (2) and (3) of this Paragraph, children under one year of age shall be kept separate from children two years of age and over;
- (6) children between the ages of 12 months and 24 months shall not be grouped with older children unless all children in the group are less than three years of age;
- ~~(6)(7)~~ (7) when only one caregiver is required to meet the staff/child ratio and no children under two years of age are in care, that caregiver may concurrently perform food preparation or other duties that are not direct child care responsibilities as long as supervision of the children as specified in 10A NCAC 09 .1801 is maintained;
- ~~(7)(8)~~ (8) except as provided in Subparagraph ~~(6)(7)~~ of this Paragraph, staff members and child care administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently perform food preparation or other duties that are not direct child care responsibilities; and
- ~~(8)(9)~~ (9) when only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:

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

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

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

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

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

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

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

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

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

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

(f) This Paragraph is for centers designed to care for children in multi-age group settings. Before meeting the ratios outlined in the chart of this Paragraph, or before changing from multi-age group ratios to single age group ratios, the Division must be notified in writing. The ratios are as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
<u>0 to 3 years of age</u>	<u>1/4</u>	<u>8</u>
<u>12 months to 36 months</u>	<u>1/5</u>	<u>10</u>
<u>24 months to 60 months</u>	<u>1/6</u>	<u>10</u>

(1) Paragraphs (a) through (e) of this Rule do not apply to centers that choose to meet the ratios outlined in this Paragraph; and

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

*History Note: Authority G.S. 110-85; 110-91(7); 143B-168.3;
Eff. December 1, 1988;
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~~ 2017;
Amended Eff. February 1, 2021.*

10A NCAC 09 .0801 is amended as published in 35:04 NCR 398 as follows:

SECTION .0800 - HEALTH STANDARDS FOR CHILDREN

10A NCAC 09 .0801 APPLICATION FOR ENROLLMENT

(a) Each child in care shall have an individual application for enrollment completed and signed by the child's parent, as defined in 10A NCAC 09 .0102. The completed, signed application shall be on file in the center on the first day the child attends and shall include the following information:

- (1) emergency medical information as set forth in Rule .0802(c) of this Section;
- (2) the child's full name and the name the child is to be called;
- (3) the child's date of birth;
- (4) any allergies and the symptoms and type of response required for allergic reactions;
- (5) any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
- (6) fears or behavior characteristics that the child has; and
- (7) the names of individuals to whom the center may release the child, as authorized by the person who signs the application.

(b) For any child with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services, a medical action plan shall be attached to the application. The medical action plan shall be completed by the child's parent or a health care professional and may include the following:

- (1) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
- (2) contact information for the child's health care professional(s);
- (3) medications to be administered on a scheduled basis; and
- (4) medications to be administered on an emergency basis with symptoms, and instructions.

The medical action plan shall be updated on an annual ~~basis~~, basis and when changes to the plan are made by the child's parent or health care professional. Sample medical action plans may be found on the Division's website at http://ncchildcare.ncdhhs.gov/providers/pv_provideforms.asp;

(c) Center administrators and staff shall release a child only to an individual listed on the application.

(d) The information contained in Subparagraphs (a)(1) through (a)(7) and Paragraph (b) of this Rule, shall be accessible to caregiving staff during the time the child is in care.

(e) Center administrators and staff shall use the information provided on the application to ensure that each individual child's needs are met during the time the child is in care.

History Note: Authority G.S. 110-88; 143B-168.3;

Eff. January 1, 1986;

Amended Eff. November 1, 1989;

- 1 *Temporary Amendment Eff. September 23, 2016;*
- 2 *Readopted Eff. October 1, 2017;*
- 3 *Amended Eff. February 1, 2021; September 1, 2019.*

10A NCAC 09 .0802 is amended with changes as published in 35:04 NCR 399-400 as follows:

10A NCAC 09 .0802 EMERGENCY MEDICAL CARE

(a) Each child care center shall have a written plan that sets forth the steps to follow in the event of a child medical emergency. The plan shall be reviewed with all staff annually and whenever the plan is revised. This plan shall give the procedures to be followed to ensure that any child who becomes ill or is injured and requires medical attention while in care at the center receives appropriate medical attention. The following information shall be included in the center's emergency medical care plan:

- (1) The name of the person and at least one alternate, responsible for carrying out that plan of action, ensuring that appropriate medical care is given, and determining which of the following is needed:
 - (A) first aid given at the center for an injury or illness needing only minimal attention; and
 - (B) calling 911 in accordance with CPR or First Aid training recommendations.
- (2) The name of the person and one alternate, at the center responsible for:
 - (A) ensuring that the signed authorization described in Paragraph (d) of this Rule is taken with the ill or injured child to the medical facility;
 - (B) accompanying the ill or injured child to the medical facility;
 - (C) notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment;
 - (D) obtaining substitute staff, if needed, to maintain required staff/child ratio and adequate supervision of children who remain in the center; and
- (3) A statement giving the location of the telephone located on the premises available for use in case of emergency. A telephone located in an office in the center that is sometimes locked during the time the children are present shall not be designated for use in an emergency.

(b) One person identified as the person or alternate responsible for carrying out the emergency medical care plan and ensuring that appropriate medical care is given shall:

- (1) be on the premises at all times; and
- (2) accompany children for ~~off-premise~~ off-premises activities.

(c) Emergency medical care information shall be on file for each child. That information shall include:

- (1) the name, address, and telephone number of the parent or other person to be contacted in case of an emergency;
- (2) the responsible party's choice of health care professional;
- (3) any chronic illness and any medication taken for that illness; and
- (4) any other information that has a direct bearing on ensuring safe medical treatment for the child.

This emergency medical care information shall be on file in the center on the child's first day of attendance and shall be updated as changes occur and at least annually.

(d) Each child's parent, legal guardian, or full-time custodian shall sign a statement authorizing the center to obtain medical attention for the child in an emergency. That statement shall be on file on the first day the child attends the

center. It shall be easily accessible to staff so that it can be taken with the child whenever emergency medical treatment is necessary.

(e) The child care provider shall complete an incident report each time a child is injured as a result of an incident occurring while the child is in care. This incident report shall include:

- (1) facility identifying information; ~~the child's name, date and time of incident, part of body injured,~~
type of injury;
- (2) the child's name;
- ~~(2)(3)~~ date and time of the incident; ~~the names of adult witnesses to incident;~~
- ~~(3)(4)~~ witness to the incident; ~~a description of how and where incident occurred;~~
- ~~(4)(5)~~ time the parent is notified of the incident and by whom; ~~the piece of equipment involved (if any);~~
- ~~(5)(6)~~ piece of equipment involved, if applicable; ~~any treatment received; and~~
- ~~(6)(7)~~ cause of injury, if applicable; ~~the steps taken to prevent reoccurrence.~~
- (8) type of injury, if applicable;
- (9) body part injured, if applicable;
- (10) where the child received medical treatment, if applicable;
- (11) description of how and where the incident occurred, and the First Aid received; and
- (12) steps taken to prevent reoccurrence.

This report shall be signed by the person completing it and by the parent, a copy given to the parent, and the report maintained in the child's file. A copy of the form may be found on the Division's website at http://ncchildcare.ncdhhs.gov/pdf_forms/DCDEE-0058.pdf.

(f) When medical treatment is required by a health care professional, community clinic, or local health department as a result of an incident occurring while the child is in care, a copy of the incident report shall be mailed to a representative of the Division within seven calendar days after the incident.

(g) An incident log shall be completed any time an incident report is completed. This log shall:

- (1) include the name of the child;
- (2) include the date of the incident;
- (3) include the date the incident report was submitted to the Division, if applicable;
- (4) include the name of the staff member who complete the incident report;
- (5) be cumulative and maintained in a separate file; and
- (6) be available for review by a representative of the Division.

This log shall be completed on a form provided by the Division. A copy of the log may be found on the Division's website at https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/I/incident_log_i.pdf?ver=2017-05-16-105723-723.

(h) A First Aid information sheet shall be posted in a place for referral. The information sheet shall include first aid guidance regarding burns, scalds, fractures, sprains, head injuries, poisons, skin wounds, stings and bites. An information sheet may be requested free of charge from the North Carolina Child Care Health and Safety Resource Center at 1-800-367-2229.

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History Note: Authority G.S. 110-85; 110-91(1),(9); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 2010; July 1, 1998; January 1, 1996; October 1, 1991; November 1, 1989;
Readopted Eff. October 1, 2017;
Amended Eff. February 1, 2021; September 1, 2019.

10A NCAC 09 .1103 is amended as published in 35:04 NCR 400-401 as follows:

10A NCAC 09 .1103 ON-GOING TRAINING AND PROFESSIONAL DEVELOPMENT
REQUIREMENTS

(a) After the first year of employment, the child care administrator and any staff who have responsibility for planning and supervising a child care center, and staff who work with children, shall participate in on-going training activities annually, as follows:

<u>Education and Experience</u>	<u>Required Training</u>
Four-year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university	5 clock hours
Two-year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential	8 clock hours
Certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential	10 clock hours
10 years documented experience as a teacher, director, or caregiver in a licensed child care arrangement	15 clock hours
If none of the other criteria in this chart apply	20 clock hours

(b) Health and safety training shall be completed as part of on-going training so that every five years, all of the topic areas set forth in 10A NCAC 09 .1102(b) will have been covered.

(c) Completion of cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training requirements.

~~(d) A combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete the requirements in Paragraph (a) of this Rule.~~

~~(e)~~(d) Any staff working less than 40 hours per week may choose to complete on-going training requirements as outlined in Paragraph (a) of this Rule, or the training requirement may be prorated as follows:

<u>WORKING HOURS PER</u> <u>WEEK</u>	<u>CLOCK HOURS REQUIRED</u>
0-10	5
11-20	10
21-30	15

(~~f~~)(e) For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:

- (1) Middle States Association of Colleges and Schools;
- (2) New England Association of School and Colleges;
- (3) North Central Association of Colleges and Schools;
- (4) Northwest Accreditation Commission;
- (5) Southern Association of Colleges and Schools; or
- (6) Western Association of Schools and Colleges.

(f) For every three hours of countable technical assistance provided, one hour may be counted toward annual training requirements set forth in Paragraph (a) of this Rule, not to exceed 50 percent of the total required so long as:

- (1) the child care center has a 3-5 star rated license; and
- (2) the participating administrator or staff member has earned at least 18 semester hours in early childhood education.

(g) For purposes of this Section, "countable technical assistance" means technical assistance provided to administrative or caregiving staff members at a child care center by a person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider and shall include:

- (1) a cycle of observation;
- (2) identified goals based on the observation;
- (3) a timeline for completion of identified goals;
- (4) evaluation and feedback for each participant;
- (5) technical assistance time in the classroom; and
- (6) one-on-one consultation with each participant at a time when they are not responsible for a child or group of children.

(h) A combination of college coursework, Continuing Education Units (CEU's), clock hours, or countable technical assistance shall be used to complete the requirements in Paragraph (a) of this Rule.

History Note: Authority G.S. 110-85; 110-91(11); 143B-168.3;
Eff. October 1, 2017; 2017;
Amended Eff. February 1, 2021.

1 10A NCAC 09 .1106 is amended as published in 35:04 NCR 401 as follows:

2
3 10A NCAC 09 .1106 DOCUMENTATION OF ON-GOING TRAINING AND PROFESSIONAL
4 DEVELOPMENT

5 (a) Each center shall have a record of training activities in which each staff member participates, including copies of
6 training certificates or official documentation provided by the trainer. That record shall include the subject matter,
7 topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training.
8 This documentation shall be on file and current.

9 (b) Each center shall have a record of countable technical assistance in which each staff member participates,
10 including copies of documentation, observations and evaluations provided by the person who has been endorsed by
11 the NC Institute for Child Development Professionals as a technical assistance provider. That record shall include the
12 dates and times of technical assistance with staff, names of all participating staff members and the name of the
13 technical assistance provider. This documentation shall be on file and current.

14
15 *History Note: Authority G.S. 110-85; 110-91(9),(11); 143B-168.3;*

16 *Eff. January 1, 1986;*

17 *Amended Eff. July 1, 1998; July 1, 1988;*

18 *Readopted Eff. October 1, 2017 (Transferred from 10A NCAC 09 .0709). .0709);*

19 *Amended Eff. February 1, 2021.*

1 10A NCAC 09 .1402 is amended as published in 35:04 NCR 401 as follows:

2
3 10A NCAC 09 .1402 OUTDOOR SPACE

4 (a) ~~When a center is licensed for 6 to 29 children, the~~ The outdoor play area shall be no smaller than 75 square feet
5 ~~times the total number of children for which the center is licensed.~~ for each child using the outdoor learning
6 environment at any one time.

7 (b) ~~When a center is licensed for 30 or more children, the outdoor play area shall be no smaller than 75 square feet~~
8 ~~times one-half of the total number of children for which the center is licensed or shall be 2,250 square feet, whichever~~
9 ~~is larger.~~

10 (e)(b) ~~Paragraphs (a) and (b)~~ Paragraph (a) of this Rule apply only to child care centers initially licensed after April
11 1, 1984.

12 (d)(c) The outdoor play area shall provide an area that is shaded by a building, awnings, trees, or other methods.

13 (e)(d) The outdoor area shall be designed so that staff is able to adequately supervise the entire area in accordance
14 with 10A NCAC 09 .1801(a).

15
16 *History Note: Authority G.S. 110-85(1),(2); 110-91(6); 143B-168.3;*

17 *Eff. January 1, 1986;*

18 *Amended Eff. January 1, 1996;*

19 *Readopted Eff. October 1, 2017. 2017;*

20 *Amended Eff. February 1, 2021.*

10A NCAC 09 .1403 is amended as published in 35:04 NCR 401-402 as follows:

10A NCAC 09 .1403 ACTIVITIES INVOLVING WATER IN CHILD CARE CENTERS

(a) The requirements in this Rule apply to child care center "aquatic activities," which are defined as activities that take place in or around a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) Aquatic activities involving the following are prohibited:

- (1) hot tubs;
- (2) spas;
- (3) saunas or steam rooms;
- (4) portable wading pools; and
- (5) natural bodies of water and other unfiltered, nondisinfected containments of water.

(c) For every 25 children in care participating in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activity. These lifeguards shall not be counted in the required staff/child ratios referenced in Paragraph (e) of this Rule.

(d) Children under the age of three shall not participate in aquatic activities except to the extent necessary to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

(e) The following staff/child ratios shall be maintained whenever children participate in aquatic activities:

Age of Children	Ratio Staff/Children
3 to 4 Years	1/8
4 to 5 Years	1/10
5 Years and Older	1/13

Notwithstanding the staff/child ratios, at no time shall there be fewer than two staff members supervising the aquatic activity.

(f) Children shall be adequately supervised by center staff at all times while participating in aquatic activities. For purposes of this Rule, "Adequate supervision" means that half of the center staff needed to meet the staff/child ratios in Paragraph (e) of this Rule is in the water and the other half is out of the water. If an uneven number of staff are needed to meet the required staff/child ratios, the majority shall be in the water. Staff shall be stationed in pre-assigned areas that will enable them at all times to hear, see, and respond to the children whether in or out of the water. Children shall not enter the water before center staff are stationed in their pre-assigned areas. Center staff shall devote their full attention to supervising the children in their pre-assigned areas of coverage and shall communicate with one another about children moving from one area to another area.

(g) Prior to children participating in aquatic activities, the center shall develop policies that address the following:

- (1) aquatic safety hazards;
- (2) pool and aquatic activity area supervision including restroom or changing room use;

- (3) how discipline will be handled during aquatic activities;
- (4) the facility's ~~field trip~~ off-premises and transportation policies and procedures; and
- (5) that children shall be directed to exit the water during an emergency.
- (h) Before staff first supervise children on an aquatic activity, and annually thereafter, staff shall sign and date statements that they have reviewed:
- (1) the center policies as specified in Paragraph (g) of this Rule;
- (2) any guidelines provided by the pool operator or other off-site aquatic facility; and
- (3) the requirements of this Rule.
- The statement shall be maintained in the staff person's personnel file for one year or until it is superseded by a new statement.
- (i) Centers shall obtain written permission from parents for participation in aquatic activities. The written permission shall include a statement that parents are aware of the center's aquatic policies specified in Paragraph (g) of this Rule. The center shall maintain copies of written parental permission in each child's file.
- (j) Any outdoor swimming pool located on the child care center premises shall be enclosed by a fence that is at least four feet high, separated from the remaining outdoor play area by that fence, and locked and inaccessible to children when not in use.
- (k) Swimming pool safety rules shall be posted and visible to children and staff for any swimming pool located on the child care center premises. These rules shall state:
- (1) the location of a First Aid kit;
- (2) that only water toys are permitted;
- (3) that children are not allowed to run or push one another;
- (4) that swimming is allowed only when at least two adults are present; and
- (5) that glass objects are not allowed.
- (l) All swimming pools used by children shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.
- (m) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation shall be permitted.
- (n) Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal floatation device approved by the United States Coast Guard. This personal floatation device shall be worn for the duration of the activity.

History Note: Authority G.S. 110-85; 110-88(5); 110-91(1),(6); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 2010; November 1, 2007; January 1, 1996; January 1, 1992; January 1, 1987;
Readopted Eff. October 1, 2017; 2017;
Amended Eff. February 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1702

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (f)(2), should it be "hours semester hours"? Should the first "hours" be deleted? I note that it is only "semester hours" in .1103.

In Paragraph (c)(5), what is your authority to allow a temporary license to remain in effect for longer than six months? G.S. 110-88(10) says that a temporary license "shall expire in six months." As such, I don't see where the authority is to say "a minimum." Also, I don't understand how this language goes with (c)(1) through (4). (c)(1) specifically says "a six month temporary license shall be issued." (c)(2) and (c)(3) say "at the end of the six month period." The remainder of this Paragraph does not appear to allow for an extension of a temporary license beyond six months.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 **10A NCAC 09 .1702 is amended as published in 35:04 NCR 402-404 as follows:**

2
3 **10A NCAC 09 .1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME**

4 (a) Any person who plans to operate a family child care home (FCCH) shall apply for a license using a form provided
5 by the Division. Only one licensed family child care home shall operate at the location address of any home. The form
6 can be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/FacilityProfileApp.pdf.
7 https://ncchildcare.nc.gov/PDF_forms/Family_Child_Care_Home_Application_Packet.pdf. The application for a
8 family child care home license shall include the following information:

- 9 (1) owner name;
- 10 (2) facility name, address, phone number, email address, and location address;
- 11 (3) facility contact information;
- 12 (4) requested age range of children in the child care center;
- 13 (5) hours of operation;
- 14 (6) type of care to be provided;
- 15 (7) type of building;
- 16 (8) type of family child care home;
- 17 (9) proposed opening date;
- 18 (10) proposed number of children to be served;
- 19 (11) type of business operation;
- 20 (12) history of operation or licensing of child care facilities; and
- 21 (13) signature of applicant of either:
- 22 (A) the individual who will be responsible for the operation of the family child care home and
- 23 for assuring compliance with G.S. 110, Article 7 and this Chapter; or
- 24 (B) an officer of an entity who will be responsible for the operation of the family child care
- 25 home and for ensuring compliance with G.S. 110, Article 7 and this Chapter.

26 Upon receipt of the application, the Division shall assess the information provided to determine if the prospective
27 licensee may be denied a license for one or more of the reasons set forth in 10A NCAC 09 .2215.

28 (b) The applicant for a family child care home license shall also submit supporting documentation with the application
29 for a license to the Division. The supporting documentation shall include:

- 30 (1) a copy of a non-expired qualification letter in accordance with 10A NCAC 09 .2702;
- 31 (2) a copy of documentation of completion of a First Aid and cardiopulmonary resuscitation (CPR)
32 course within 12 months prior to applying for a license;
- 33 (3) a copy of documentation of completion of ITS-SIDS training within 12 months prior to applying for
34 a license, if requesting a license to care for infants ages 12 months and younger;
- 35 (4) proof of negative results of the applicant's tuberculosis test or screening completed within the past
36 12 months;

- (5) a completed health questionnaire; a copy of the health questions can be found on the Division's website, http://ncchildcare.nc.gov/pdf_forms/emergency_information_health_questionnaire_i.pdf and includes a statement signed by the staff member that indicates that the person is emotionally and physically fit to care for children;
- (6) a copy of non-expired pet vaccinations for any pet in the home;
- (7) if a home has a private well, a negative well water bacteriological analysis;
- (8) copies of any inspections required by local ordinances; and
- (9) any other documentation required by the Division according to the rules in this Section to support the issuance of a license.

(c) Upon receipt of a complete application for a family child care home and supporting documentation, a Division representative shall make an announced visit to each home. An announced visit shall not be required by a Division representative if the applicant is subject to the circumstances in 10A NCAC 09 .2214. The issuance of a license applies as follows:

- (1) if all applicable requirements of G.S. 110, Article 7 and this Section are met, a six month temporary license shall be issued;
- (2) a one- star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91 at the end of the six month temporary time period;
- (3) a two- through five- star rated license shall be issued to a family child care home operator who complies with minimum and voluntary standards for a license contained in this Section, Section .2800 of this Chapter and G.S. 110-91, at the end of the six month temporary time period;
- (4) if the applicable requirements of G.S. 110, Article 7 and this Section are not met, the Division representative shall establish with the applicant a time period for the home to achieve compliance. If the Division representative determines that all applicable requirements of G.S. 110, Article 7 and this Section are met within the established time period, a license shall be issued; or
- (5) ~~if all applicable requirements of G.S. 110, Article 7 and this Section are not met or cannot be met within the established time, the Division shall deny the application. The temporary license shall remain in effect for a minimum of six months or until the issuance of a star-rated license, a special provisional license, provisional license, summary suspension, suspension, probationary license, or a denial of a rated license to the operator.~~

(d) A family child care home operator shall notify the Division no later than 30 calendar days prior to relocation of a family child care home. The operator must apply for a license for the new physical location as described in Paragraph (a) of this Rule. An operator requesting relocation of the family child care home shall not operate until he or she has received a license from the Division for the new location.

(e) When a family child care home operator wants to change ownership of the program, the prospective new operator shall apply for a new license in accordance with Paragraph (a) of this Rule, at least 30 days before the change occurs.
The family child care home license shall not be bought, sold, or transferred from one individual to another.

- (f) The family child care home license shall be valid only for the location address listed on it.
- (g) The family child care home license shall be returned to the Division in the event of termination, revocation, suspension, or summary suspension.
- (h) A family child care home licensee shall notify the Division in writing if a change occurs that affects the information shown on the license. The Division shall issue a new license upon verification of the operator's compliance with all applicable requirements in this Section for the change. This includes the following:
- (1) decreasing the capacity of the family child care home;
 - (2) increasing the capacity of the family child care home;
 - (3) changes to shifts of care;
 - (4) requests to change the age range of the family child care home;
 - (5) requests to remove a restriction from the license, including documentation of steps taken by the operator to comply with requirements which resulted in the licensure restriction; and
 - (6) changes to the operator's legal name.
- (i) The family child care home license shall be posted in a place in the home that parents are able to view daily.

History Note: Authority G.S. 110-88(5); 110-86; 110-91; 110-93; 110-99; 143B-168.3;

Eff. January 1, 1986;

Amended Eff. March 1, 2014; December 1, 2012; August 1, 2011; July 1, 2010; April 1, 2003; April 1, 2001; July 1, 1998; January 1, 1991; November 1, 1989; January 1, 1987;

Temporary Amendment Eff. September 23, 2016;

Readopted Eff. October 1, ~~2017~~ 2017;

Amended Eff. February 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1703

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (f)(2), should it be "hours semester hours"? Should the first "hours" be deleted? I note that it is only "semester hours" in .1103.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 **10A NCAC 09 .1703 is amended with changes as published in 35:04 NCR 404-406 as follows:**

2
3 **10A NCAC 09 .1703 ON-GOING REQUIREMENTS FOR FAMILY CHILD CARE HOME**
4 **OPERATORS**

5 (a) After receiving a license, family child care home operator shall:

- 6 (1) Update the health questionnaire annually. The Division may request an evaluation of the operator's
7 emotional and physical fitness to care for children when there is reason to believe that there has
8 been a deterioration in the operator's emotional or physical fitness to care for children. This request
9 may be based upon factors such as observations by the director or center staff, reports of concern
10 from family, reports from law enforcement or reports from medical personnel. The Division may
11 require the operator to obtain written proof that he or she is free of active tuberculosis when the
12 Division determines that the operator was exposed to a person with active tuberculosis;
- 13 (2) Renew First Aid training on or before expiration of the certification appropriate for the ages of
14 children in care;
- 15 (3) Renew CPR course on or before the expiration of the certification appropriate for the ages of
16 children in care;
- 17 (4) Renew ITS-SIDS training every three years from the completion of previous ITS-SIDS training;
18 and
- 19 (5) Complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days
20 of licensure. This training shall count toward requirements set forth in Paragraph (d) of this Rule.
21 Recognizing and Responding to Suspicions of Child Maltreatment training is available at
22 <https://www.preventchildabusenc.org/>.

23 (b) Family child care home operators and staff members shall complete health and safety training within one year of
24 employment, unless the operator or staff member has completed the training within the year prior to beginning
25 employment or within the year prior to receiving a license. Health and safety training shall be in addition to the pre-
26 licensing visit and new staff orientation requirements set forth in Rules .1702(d) and .1729(c) of this Section. The
27 following persons shall be exempt from this requirement:

- 28 (1) service providers such as speech therapists, occupational therapists, and physical therapists; and
- 29 (2) substitutes who provide services for less than 10 days in a 12-month period.

30 (c) The health and safety training shall include the following topic areas:

- 31 (1) Prevention and control of infectious diseases, including immunization;
- 32 (2) Administration of medication, with standards for parental consent;
- 33 (3) Prevention of and response to emergencies due to food and allergic reactions;
- 34 (4) Building and physical premises safety, including identification of and protection from hazards that
35 can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- 36 (5) Emergency preparedness and response planning for emergencies resulting from a natural disaster,
37 or a man-caused event;

- (6) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;
 - (7) Precautions in transporting children, if applicable;
 - (8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
 - (9) CPR and First Aid training as required in Rule .1102(c) and (d) of this Chapter;
 - (10) Recognizing and reporting child abuse, child neglect, and child maltreatment; and
 - (11) Prevention of sudden infant death syndrome and use of safe sleeping practices.
- (d) After the first year of employment, the family child care home operator, and staff who work with children shall complete on-going training activities as follows:

Education and Experience	Required Training
Four-year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university	5 clock hours
Two-year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential	8 clock hours
Certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential	10 clock hours
10 years documented experience as a teacher, director, or caregiver in a licensed child care arrangement	15 clock hours
If none of the other criteria in this chart apply	20 clock hours

- (2) complete health and safety training as part of on-going training so that every five years, all the topic areas set forth in Paragraph (c) of this Rule will have been covered;
- (3) cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training activities in Subparagraph (d)(1) of this Rule;
- ~~(4) a combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete the requirements in Subparagraph (d)(1) of this Rule; and~~
- ~~(5)~~(4) any staff working less than 40 hours per week may choose to complete on-going training requirements as outlined in Paragraph (d)(1) of this Rule or the training requirement may be prorated as follows:

WORKING HOURS PER WEEK	CLOCK HOURS REQUIRED
---------------------------	----------------------

0-10	5
11-20	10
21-30	15
31-40	20

(e) For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:

- (1) Middle States Association of Colleges and Schools;
- (2) New England Association of School and Colleges;
- (3) North Central Association of Colleges and Schools;
- (4) Northwest Accreditation Commission;
- (5) Southern Association of Colleges and Schools; or
- (6) Western Association of Schools and Colleges.

(f) For every three hours of countable technical assistance provided, one hour may be counted toward annual training requirements set forth in Subparagraph(d)(1) of this Rule, not to exceed 50 percent of the total required so long as:

- (1) the family child care home has a 3-5 star rated license; and
- (2) the participating operator or staff member has earned at least 18 hours semester hours in early childhood education.

(g) For purposes of this Rule, "countable technical assistance" means technical assistance provided to operator or caregiving staff members at a family child care home by a person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider and shall include:

- (1) a cycle of observation;
- (2) identified goals based on the observation;
- (3) a timeline for completion of identified goals;
- (4) evaluation and feedback for each participant;
- (5) technical assistance time in the family child care home; and
- (6) one-on-one consultation with each participant at a time when they are not responsible for a child or group of children.

(h) A combination of college coursework, Continuing Education Units (CEU's), clock hours, or countable technical assistance shall be used to complete the requirements in Subparagraph (d)(1) of this Rule.

~~(f)~~(i) The family child care home operator and staff members shall complete a professional development plan within one year of employment and at least thereafter. The plan shall:

- (1) document the individual's professional development goals;
- (2) be appropriate for the ages of children in their care;
- (3) include the continuing education, coursework or training needed to meet the individual's planned goals;
- (4) be completed by the operator and staff member in a collaborative manner; and

(5) be maintained in their personnel file.

Sample professional development plan templates may be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_provideforms.asp. Another form may be used other than the sample templates provided by the Division as long as the form includes the information set forth in this Rule.

~~(g)(j)~~ Each family child care home operator shall have a record of training activities in which each staff member participates, including copies of training certificates or official documentation provided by the trainer. That record shall include the subject matter, topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.

(k) Each family child care home operator shall have a record of countable technical assistance in which the operator and each staff member participates, including copies of documentation, observations and evaluations provided by the person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider. That record shall include the dates and times of technical assistance with the operator or staff, names of all participating staff members and the name of the technical assistance provider. This documentation shall be on file and current.

~~(h)(l)~~ The family child care home operator and staff members may meet on-going training requirements by attending child-care workshops, conferences, seminars, or courses, provided each training activity satisfies the following criteria:

(1) Prior approval from the Division shall not be required for training offered by a college or university with nationally recognized regional accreditation, a government agency, or a state, or international professional organization or its affiliates, provided the content complies with G.S. 110-91(11). Government agencies or state or national professional organizations who provide training shall submit an annual training plan for review by the Division. The plan is not required for any state, national, or international conferences sponsored by a professional child care organization.

(2) Prior approval from the Division shall be required for any agencies, organizations, or individuals not specified in Subparagraph (1) of this Paragraph who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual shall:

(A) complete and submit on-going training approval forms provided by the Division 15 business days prior to the training event that includes the name and qualifications of the trainer, name of training, target audience and content of the training;

(B) submit a training roster, to the Division, listing the attendees' name, the county of employment, and day time phone number no later than 15 days after the training event;

(C) provide training evaluations to be completed by attendees; and

(D) keep the training rosters and evaluations on file for two years.

(3) Distance learning shall be permitted from trainers approved by the Division or offered by an accredited post-secondary institution, as listed on the United States Department of Education's Database of Accredited Post-Secondary Institutions and Programs at

1 <http://ope.ed.gov/accreditation/>. Distance learning shall not be permitted for Cardiopulmonary
2 Resuscitation (CPR) and First Aid.

3 ~~(i)~~(m) The Division shall approve training based upon the following factors:

- 4 (1) the trainer's education, training, and experience relevant to the training topic;
- 5 (2) content that is in compliance with G.S. 110-91(11); and
- 6 (3) contact hours for the proposed content and scope of the training session.

7 ~~(j)~~(n) The Division shall deny approval of training to:

- 8 (1) Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-
9 91(11); and
- 10 (2) Agencies, organizations, or individuals who intentionally falsify any information submitted to the
11 Division.

12 ~~(k)~~(o) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division
13 pursuant to this Rule shall be permanently ineligible to apply for approval of training.

14 ~~(h)~~(p) Denial of approval of training or a determination of falsification is appealable pursuant to G.S. 110-94 and the
15 North Carolina Administrative Procedure Act, G.S. 150B-23.

16
17 *History Note:* *Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;*

18 *Eff. January 1, 1986;*

19 *Amended Eff. July 1, 2015; July 1, 2008; May 1, 2004; July 1, 1998; November 1, 1989; January*
20 *1, 1987;*

21 *Temporary Amendment Eff. September 23, 2016;*

22 *Readopted Eff. October 1, 2017 (Transferred from 10A NCAC 09 ~~.1705~~, .1705;*

23 *Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1706

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (a), please add a comma after "number"

In (a), please add "at no cost" after the website.

Begin (c)(4) with a lower case letter.

In (l), add a comma after "formula"

In (m), add a comma after "thawed for use"

In (n), change "which" to "that"

In (o), add a comma after "snack items"

In (p), add a comma after "formula"

In (r), add a comma after "breast milk"

In (t), change "which" to "that" in "which have undergone"

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .1706 is amended as published in 35:04 NCR 406-407 as follows:

10A NCAC 09 .1706 NUTRITION STANDARDS

(a) Meals and snacks served to children in a Family Child Care Home shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available online at <https://www.fns.usda.gov/cacfp/meals-and-snacks>.

(b) When children bring their own food for meals and snacks to the program, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the operator must provide additional food necessary to meet those requirements.

(c) A child's parent may opt out of the supplemental food provided by the operator as set forth in G.S. 110-91(2) h.1. When a child's parent opts out of the supplemental food provided by the ~~center~~, family child care home, the operator shall obtain the parents signature acknowledging the parental decision and shall maintain the acknowledgment in the child's file at the home and provide a copy to the parent. A child's parent may opt out of the supplemental food provided by the ~~center~~, family child care home, subject to the following:

- (1) the operator shall not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the program's designated times;
- (2) the opt out ability is not available for specific meals or days based on menu options;
- (3) if a child requests specific foods being served to other children, but the parent has opted out, the operator shall not serve supplemental food; and
- (4) If the child's parent has opted out, but does not provide all meals and snacks for the child, the operator shall replace the missing meal or snack as if the child's parent or guardian had not opted out of the supplemental food program.

(d) The food required by special diets for medical, religious or cultural reasons, or parental preferences, may be provided by the operator or may be brought to the program by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the program and written instructions must be provided by the child's parent, health care professional or a licensed dietitian/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the program.

(e) Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.

(f) Food that does not meet the nutritional requirements specified in Paragraph (a) of this Rule, such as cupcakes, cakes, and donuts shall only be offered for special occasions such as holidays and birthdays.

(g) The operator, additional caregivers, and substitute providers shall role model appropriate eating behaviors by consuming only food or beverages that meet the nutritional requirements specified in Paragraph (a) of this Rule in the presence of children in care.

(h) Meals and snacks shall be planned according to the number of hours a child is in care. For children ages 15 months and older a meal or snack must be provided at least every four hours. These Rules shall apply in all situations except during sleeping hours and nighttime care:

Hours Child Is in Care	Age of Child	Snack and Meal Requirement
At least 2 hours but less than 4 hours	Preschool-age children	1 snack, unless child is present during the time a meal is being served
Any hours in care	School-age children	1 snack, unless child is present during the time a meal is being served
At least 4 hours but less than 6 hours	All Children	1 meal equal to 1/3 of the child's daily food needs
At least 6 hours but less than 12 hours	All Children	2 meals and 1 snack OR 2 snacks and 1 meal equal to ½ of the child's daily food needs
More than 12 hours	All Children	2 snacks and 2 meals equal to 2/3 of the child's daily food needs
Second Shift (approximately 3:00 p.m. to 11:00 p.m.)	All Children	1 meal

(i) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding plan for the child. This plan shall be followed at the home. This plan shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's plan shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops. The feeding plans for each infant shall include the type and amount of milk, formula and food, the frequency of feedings and be available for reference by the operator.

(j) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers shall be provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.

(k) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed. The feeding chair or other seating apparatus shall be disassembled for cleaning purposes.

(l) Breast milk, formula and other bottled beverages sent from home shall be fully prepared, dated, and labeled with individual child names. All beverages shall be returned to the child's parent or discarded at the end of each day.

1 (m) Frozen breast milk that is sent from home may be stored frozen for up to seven days. Frozen breast milk shall be
2 labeled with the date received, date thawed for use and individual child name. Once thawed, the breast milk shall be
3 refrigerated for no more than 24 hours. Thawed breast milk shall not be refrozen. The thawed breast milk shall be
4 returned to the child's parent or discarded at the end of each day.

5 (n) Any formula which is prepared by the operator shall be prepared according to the instructions on the formula
6 package or label, or according to written instructions from the child's health care professional.

7 (o) Baby food, snack items and meal items sent from home shall be dated and labeled with individual child names.

8 (p) Microwaves shall not be used to thaw or warm breast milk, baby food, formula or other bottled beverages. Bottle
9 warming equipment and power cords shall be inaccessible to children when in use. Bottle warming equipment shall
10 be emptied and cleaned daily.

11 (q) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care
12 professional or licensed dietitian/nutritionist.

13 (r) Each infant shall be served only formula, breast milk and bottles labeled with their individual name.

14 (s) Drinking water shall be freely available and offered to children on a frequent basis. Individual drinking utensils
15 shall be provided by the parent or operator.

16 (t) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which
17 have undergone an equivalent process to pasteurization shall be used.

18 (u) The operator shall serve only the following beverages:

- 19 (1) breast milk, as specified in Paragraph (k) of this Rule;
- 20 (2) formula;
- 21 (3) water;
- 22 (4) unflavored whole milk, for children ages 12-23 months;
- 23 (5) unflavored skim or lowfat milk for children 24 months through five years;
- 24 (6) unflavored skim milk, unflavored low-fat milk, or flavored skim milk for children six years and
25 older; or
- 26 (7) 100 percent fruit juice, limited to 6 ounces per day, for all ages.

27
28 *History Note: Authority G.S. 110-85; 110-91(2); 143B-168.3;*
29 *Eff. December 1, 2012;*
30 *Temporary Amendment Eff. September 23, 2016;*
31 *Readopted Eff. October 1, ~~2017~~, 2017;*
32 *Amended Eff. February 1, 2021.*
33

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1707

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

Do you still need the dates in Item (8)? I understand why they were needed in 2017 when this Rule was adopted, but they appear to be unnecessary at this point since all child care homes licensed prior to October 1, 2017 must have already submitted this floor plan. Please review and revise as necessary.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10 NCAC 09 .1707 is amended as published in 35:04 NCR 408 as follows:

10A NCAC 09 .1707 BUILDING REQUIREMENTS

The applicant shall ensure that the family child care home complies with the following requirements:

- (1) all children are kept on the ground level with an exit at grade;
- (2) all family child care homes must be free of lead poisoning hazards as defined in G.S. 130A-131.7(7);
- ~~(3)(2)~~ all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other;
- ~~(4)(3)~~ all homes are provided with at least one five pound 2-A: 10-B: C type extinguisher for every 2,500 square feet of floor area;
- ~~(5)(4)~~ heating appliances shall be installed and maintained according to the NC Building Code;
- ~~(6)(5)~~ all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees;
- ~~(7)(6)~~ pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated; and
- ~~(8)(7)~~ children are cared for in space designated as the caregiving area on a floor plan provided by the operator to the Division as specified in 10A NCAC 09 .1709. Changes to the designated caregiving space shall be submitted to the Division 30 days prior to the new space being used by children. For family child care homes licensed prior to October 1, 2017, the floor plan showing designated caregiving space shall be submitted to the Division by November 30, 2017 or the next annual inspection, whichever is sooner. For family child care homes licensed after October 1, 2017, the floor plan showing designated caregiving space shall be submitted to the Division prior to licensure.

*History Note: Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3;
Eff. October 1, ~~2017~~ 2017;
Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1714

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In Paragraph (c), please check the link provided on line 19. It does not work for me, but I recognize that could be because I don't have access to the portal. Please confirm.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .1714 is amended as published in 35:04 NCR 408-409 as follows:

10A NCAC 09 .1714 EMERGENCY PREPAREDNESS AND RESPONSE

(a) For purposes of this Rule, the Emergency Preparedness and Response in Child Care is a training developed by the ~~Division of Public Health~~ North Carolina Child Care Health and Safety Resource Center for child care operators and providers on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities.

(b) Existing family child care home operators (operator or operators) shall complete the Emergency Preparedness and Response in Child Care training. Within one year of the effective date of a new license, the operator of a new family child care home shall have completed the Emergency Preparedness and Response in Child Care training. When the trained staff member leaves employment, the ~~center~~ family child care home shall ensure that another staff member completes the required training within four months of the vacancy. Documentation of completion of the training shall be maintained in the operator's personnel file.

(c) Upon completion of the Emergency Preparedness and Response in Child Care training, the operator shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disaster, or a dangerous person in the vicinity, to ensure the safety and protection of the children and additional caregivers. This Plan shall be on a template provided by the Division available at <https://rmp.nc.gov/portal/#>, completed within four months of completion of the Emergency Preparedness and Response in Child Care training, and available for review.

(d) The Emergency Preparedness and Response Plan shall include the following:

- (1) written procedures for accounting for all in attendance, including:
 - (A) the location of the children, staff, volunteer and visitor attendance lists; and
 - (B) the name of the person(s) responsible for bringing the children, staff, volunteer and visitor attendance lists in the event of an emergency.
- (2) a description for how and when children shall be transported;
- (3) methods for communicating with parents and emergency personnel or law enforcement;
- (4) a description of how children's nutritional and health needs will be met;
- (5) the relocation and reunification process;
- (6) emergency telephone numbers;
- (7) evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency;
- (8) the date of the last revision of the plan;
- (9) specific considerations for non-mobile children and children with special needs; and
- (10) the location of the Ready to Go File. A Ready to Go File means a collection of information on children, additional caregivers and the facility, to utilize, if an evacuation occurs. The file shall include a copy of the Emergency Preparedness and Response Plan, contact information for

1 individuals to pick-up children, each child's Application for Child Care, medication authorizations
2 and instructions, any action plans for children with special health care needs, a list of any known
3 food allergies of children and additional caregiver, additional caregiver contact information,
4 Incident Report forms, an area map, and emergency telephone numbers.

5 (e) The operator shall review the Emergency Preparedness and Response Plan annually, or when information in the
6 plan changes, to ensure all information is current.

7 (f) The operator shall review the Family Child Care Home's Emergency Preparedness and Response Plan with
8 additional caregivers prior to the individual caring for children and on an annual basis.

9 (g) All substitute providers and volunteers who provide care to children shall be informed of the Emergency
10 Preparedness and Response Plan and its location. Documentation of this notice shall be maintained in the individual
11 personnel files.

12
13 *History Note: Authority 110-85; 110-88; 110-91; 143B-168.3;*

14 *Eff. October 1, ~~2017~~ 2017;*

15 *Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1718

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

The new language in (a)(2) appears to be missing a word. Perhaps something like "shall be provided" before "each pre-school age child"

In (b)(4), by "may" do you mean "shall"? If you mean "may", who holds this discretion? Is this "if necessary for school assigned homework"?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .1718 is amended as published in 35:04 NCR 409-410 as follows:

10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS

(a) The family child care home operator (operator or operators) shall provide the following on a daily basis for all children in care:

- (1) Developmentally appropriate equipment and materials for a variety of outdoor activities that allow for vigorous play, large and small muscle development, and social, emotional, and intellectual development. For purposes of this Rule "vigorous" means done with force and energy. Each child shall have the opportunity for a minimum of one hour of outdoor play each day that weather conditions permit. The operator shall provide space and time for vigorous indoor activities when children cannot play outdoors;
- (2) Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A NCAC 09 .1724(a)(2). A supply of clean linens must be on hand so that linens can be changed whenever they become soiled or wet. Linens shall be changed weekly or whenever they become soiled or ~~wet; wet.~~ An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens for each pre-school age child in care for four hours or more, or for all children if overnight care is provided, to rest;
- (3) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other objects shall not be placed in a manner that covers the child's face;
- (4) A separate area that can be supervised pursuant to 10A NCAC 09 .1720(a) for children who become ill to the extent that they can no longer participate in group activities. Parents shall be notified if their child becomes too sick to remain in care;
- (5) The opportunity each day for each child under the age of 12 months for supervised play while awake and alert while positioned on his or her stomach;
- (6) Developmentally appropriate activities as planned on a written schedule and activity plan. The schedule and activity plan may be combined as one document. Materials or equipment shall be available indoors and outdoors to support the activities listed on the written schedule and activity plan;
- (7) A written schedule that shall:
 - (A) Show blocks of time assigned to types of activities and include periods of time for both active play and quiet play or rest;
 - (B) Show times and activities that are developmentally appropriate for the ages of children in care;
 - (C) Reflect daily opportunities for both free choice and guided activities;
 - (D) Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit;
 - (E) Include a daily gross motor activity that may occur indoors or outdoors; and

- (F) For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, napping, and toileting;
- (8) A written activity plan that shall:
- (A) Include activities intended to stimulate the following developmental domains, in accordance with North Carolina Foundations for Early Learning and Development, available on the Division's website at https://www.ncchildcare.ncdhhs.gov/pdf_forms/nc_foundations.pdf:
- (i) emotional and social development;
 - (ii) health and physical development;
 - (iii) approaches to play and learning;
 - (iv) language development and communication; and
 - (iv) cognitive development.
- (B) Identify activities that allow children to choose to participate with the whole group, part of the group, or independent of the group;
- (C) Reflect that children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit, as specified in G.S. 110-91(12) as follows:
- (i) art and other creative play;
 - (ii) children's books;
 - (iii) blocks and block building;
 - (iv) manipulatives; and
 - (v) family living and dramatic play.
- (D) Provide materials and opportunities at least weekly, indoors or outdoors, for the following:
- (i) music and rhythm;
 - (ii) science and nature; and
 - (iii) sand and water play.
- (9) A clean and open area that allows freedom of movement shall be available, both indoors and outdoors; and
- (10) Operators who provide care to school-age children shall provide a balance of activities appropriate to the age, needs and interests of the school-age children.
- (b) When screen time is provided on any electronic media device with a visual display, it shall be:
- (1) offered to stimulate a developmental domain in accordance with the North Carolina Foundations for Early Learning and Development as referenced in this Section;
 - (2) limited to a maximum of 30 minutes per day and no more than a total of two and a half hours per week per child; ~~and~~
 - (3) documented on a cumulative log or activity plan, and shall be available for review by the ~~Division.~~ Division; and
 - (4) usage time periods may be extended for school assigned homework for school-age children.

(c) Screen time is prohibited for children under the age of three years. The operator shall offer alternate activities for children under the age of three years.

History Note: Authority G.S. 110-85; 110-88; 110-91(12); 143B-168.3;
Eff. July 1, 1998;
Amended Eff. May 1, 2016; December 1, 2012; July 1, 2010; March 1, 2006; May 1, 2004;
Readopted October 1, 2017;
Amended Eff. February 1, 2021; September 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1721

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (a) and (e)(6), just to be clear, if the operator has a child that is younger than preschool, then he or she is not required to maintain these records?

Please add an "and" at the end of (a)(4)(D).

In (e)(3), is this medical treatment by a medical professional?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 **10A NCAC 09 .1721 is amended as published in 35:04 NCR 410-412 as follows:**

2
3 **10A NCAC 09 .1721 REQUIREMENTS FOR RECORDS**

4 (a) The family child care home operator shall maintain the following health records for each enrolled child, including
5 his or her own preschool child(ren):

- 6 (1) a copy of the child's health assessment as required by G.S. 110-91(1);
 - 7 (2) a copy of the child's immunization record;
 - 8 (3) an application for enrollment that includes information set forth in this Subparagraph provided by
9 the Division that is completed and signed by a child's parent, as defined in 10A NCAC 09 .0102. A
10 copy of the form may be found on the Division's website at
11 https://ncchildcare.ncdhhs.gov/pdf_forms/DCD-0377.pdf. The completed form shall be on file the
12 first day the child attends. An operator may use another form other than the one provided by the
13 Division, as long as the form includes the following information:
 - 14 (A) the child's full name and the name the child is to be called;
 - 15 (B) the child's date of birth;
 - 16 (C) any allergies and the symptoms and type of response required for allergic reactions;
 - 17 (D) any health care needs or concerns, symptoms of and the type of response required for these
18 health care needs or concerns;
 - 19 (E) fears or behavior characteristics that the child has;
 - 20 (F) the names of individuals to whom the operator may release the child as authorized by the
21 person who signs the application;
 - 22 (G) the names and phone numbers of persons to be contacted in an emergency situation;
 - 23 (H) the name and phone number of the child's physician; and
 - 24 (I) authorization for the operator to seek emergency medical care in the parent's absence.
 - 25 (4) For any child with health care needs such as allergies, asthma, or other chronic conditions that
26 require specialized health services, a medical action plan shall be attached to the application. The
27 medical action plan shall be completed by the child's parent or a health care professional and may
28 include the following:
 - 29 (A) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity
30 considerations that are applicable;
 - 31 (B) contact information for the health care professional(s);
 - 32 (C) medications to be administered on a scheduled basis; and
 - 33 (D) medications to be administered on an emergency basis with symptoms, and instructions.
- 34 The medical action plan shall be updated on an annual ~~basis~~. basis and when changes to the plan are
35 made by the child's parent or health care professional. Sample medical action plans may be found
36 on the Division's website at https://ncchildcare.ncdhhs.gov/providers/pv_provideforms.asp;

(5) when medication is administered, authorization for the operator to administer the specific medication according to the parent's or physician's instructions.

(b) The family child care home operator and staff shall release a child only to an individual listed on the application.

(c) The information contained in Parts (a)(3)(A) through (a)(3)(J) and Subparagraph (a)(4) of this Rule, shall be accessible to caregiving staff during the time the child is in care at the family child care home.

(d) The family child care home operator and staff shall use the information provided on the application to ensure that individual child's needs are met during the time the child is in care.

(e) The family child care home operator shall complete and maintain other records that include:

(1) documentation of the operator's Emergency Preparedness and Response Plan on a template provided by the Division of Emergency Management at <http://rmp.nc.gov/portal/#>;

(2) documentation that monthly fire drills are practiced. The documentation shall include the date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature;

(3) incident reports that are completed each time a child is injured or when a child receives medical treatment by a health care professional, community clinic, or local health department as a result of an incident occurring while the child is in care. The incident report shall include: form shall contain the following information:

(A) facility identifying information;

(B) the child's name;

~~(B)(C)~~ date and time of the incident;

~~(C)(D)~~ witness to the incident;

~~(D)(E)~~ time the parent is notified of the incident and by ~~who~~; whom;

~~(E)(F)~~ piece of equipment ~~involved~~; involved, if applicable;

~~(F)(G)~~ cause of ~~injury~~; injury, if applicable;

~~(G)(H)~~ ~~type of injury~~; description of injury or incident;

~~(H)(I)~~ body part ~~injured~~; injured, if applicable;

~~(I)(J)~~ where the child received medical ~~treatment~~; treatment, if applicable;

~~(J)(K)~~ description of how and where the incident occurred and ~~pediatric~~ First Aid received; and

~~(K)(L)~~ steps taken to prevent ~~reoccurrence~~; reoccurrence.

~~(L)~~ ~~signature of staff member and date form completed~~; and

~~(M)~~ ~~signature of parent and date~~.

This report shall be signed by the person completing it and by the parent, a copy given to the parent, and the report maintained in the child's file. When medical treatment is required, a copy of the incident report shall be mailed to a representative of the Division within seven calendar days after the incident. A copy of the form can be found on the Division's website at https://ncchildcare.ncdhhs.gov/pdf_forms/DCDEE-0058.pdf;

- (4) an incident log that is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by the Division. This log shall be completed on a form supplied by the Division. A copy of the form can be found on the Division's website at https://ncchildcare.ncdhhs.gov/pdf_forms/incident_log_i.pdf;
 - (5) documentation that a monthly check for hazards on the outdoor play area is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by the Division. The form shall include the following information:
 - (A) Name of facility, time and date the form was completed;
 - (B) Signature of individual completing form;
 - (C) General inspection items;
 - (D) Surfacing;
 - (E) General hazard items; and
 - (F) Deterioration of equipment.For items on the checklist the operator has to check if pass or fail, if fail identify the problem and solution. A copy of the form can be found of the Division's website at https://ncchildcare.ncdhhs.gov/pdf_forms/fcch_outdoor_inspection_checklist.pdf;
 - (6) daily attendance records for all children in care, including the operator's own preschool children. The attendance record shall indicate the date and time of arrival and departure for each ~~child;~~ child and shall be maintained as children arrive and depart; and
 - (7) documentation of lockdown or shelter-in-place drills giving the date each drill is held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.
- (f) Written records shall be maintained as follows in a family child care home:
- (1) All children's records as required in this Section, except medication permission slips as required in Rule .1720(b)(13) of this Section, shall be kept on file as long as the child is enrolled and for one year from the date the child is no longer enrolled.
 - (2) Records regarding administration of medications required by Rule .1720(b)(13) of this Section shall be maintained during the time period the medication is being administered and for six months after the medication is administered.
 - (3) Additional caregiver and substitute provider records as required in this Section shall be maintained on file for as long as the individual is employed and for one year from the employee's last date of employment.
 - (4) All program records, including documentation of operator qualifications, as required in this Section shall be maintained on file for as long as the license remains valid except as follows:
 - (A) A minimum of 30 days from the revision or replacement date:

Record	Rule
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Daily Schedule	.1718(a)(6)
Activity Plan	.1718(a)(6)
Infant Feeding Plan	.1706(i)
Menu	.1706(b)
Allergy Posting	.1706(e)
SIDS Sleep Chart/Visual Check	.1724(a)(8)

(B) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	.1721(e)(6)
Emergency Numbers	.1719(a)(12)
Safe Sleep Policy	.1724(c) and (d)
Written Plan of Care	.1712
Emergency Medical Care Plan	.1713
Emergency Preparedness and Response Plan	.1721(e)(1)
Field Trip/Transportation <u>Off-Premises and routine Transportation</u> Permission	.1723(5) <u>.1723(5), .1723(15)(a) and .1723(b)</u>
List and Identifying Information for Children being Transported	.1723(13) and .1723(15)(c)
Fire Drill Log	.1721(e)(2)
Lockdown or Shelter-in-Place Drill Log	.1721(e)(7)
Incident Log	.1721(e)(4)
Playground <u>Outdoor Play Area</u> Inspection	.1721(e)(5)
Pet Vaccinations	.1719(b)(1)
Medication Error Log	.1720(b)(14)

- (5) Well-water analysis, pool inspection and inspections for local ordinances as referenced in Rules .1702(b)(7), .1730(i), and .1725(a)(1), of this Section and G.S. 110-91 shall remain on file at the family child care home for as long as the license remains valid.
- (6) Records may be maintained in a paper format or an electronic format, provided that all required signatures are preserved in a paper format, PDF, or other graphic format.
- (7) All records required in this Chapter shall be available at the family child care home for review by the Division during the hours of operation listed on the child care license.

1 *History Note:* *Authority G.S. 110-88; 110-91(1),(9);*
2 *Eff. July 1, 1998;*
3 *Amended Eff. July 1, 2015; July 1, 2010; July 1, 2008; April 1, 2003; April 1, 2001;*
4 *Temporary Amendment Eff. September 23, 2016;*
5 *Readopted Eff. October 1, 2017;*
6 *Amended Eff. February 1, 2021; September 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1724

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (b), delete or define "easily"

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .1724 is amended as published in 35:04 NCR 412-413 as follows:

10A NCAC 09 .1724 SAFE SLEEP PRACTICES

(a) Each operator licensed to care for infants aged 12 months or younger shall develop, adopt, and comply with a written safe sleep policy that:

- (1) specifies that the operator shall place infants aged 12 months or younger on their backs for sleeping, unless:
 - (A) for an infant aged six months or less, the operator receives a written waiver of this requirement from a health care professional; or
 - (B) for an infant older than six months, the operator receives a written waiver of this requirement from a health care professional, or a parent or a legal guardian;
- (2) specifies that infants aged 12 months or younger shall be placed in a crib, bassinet or play ~~pen~~ pen, mat, or cot with a firm padded surface when sleeping;
- (3) specifies no pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths, or other objects may be placed in a crib with a sleeping infant aged 12 months or younger;
- (4) specifies that children shall not be swaddled;
- (5) specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
- (6) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75°F;
- (7) specifies the operator shall visually check sleeping infants aged 12 months or younger at least every 15 minutes;
- (8) specifies how the operator shall document compliance with visually checking on sleeping infants aged 12 months or younger;
- (9) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
- (10) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, play pen, mat, or cot;
- (11) specifies that infants aged 12 months or younger shall be prohibited from sleeping in sitting devices, including car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to a crib, bassinet, play pen, mat, or cot; and
- (12) specifies any other steps the operator shall take to provide a safe sleep environment for infants aged 12 months or younger.

(b) The operator shall post a copy of the safe sleep policy and poster about safe sleep practices in the infant room where it can be easily seen by parents and caregivers.

(c) A copy of the operator's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:

- (1) the infant's name;
- (2) the date the infant first attended the home;
- (3) the date the operator's safe sleep policy was given and explained to the parent; and
- (4) the date the parent signed the acknowledgement.

The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(d) If an operator amends a home's safe sleep policy, the operator shall give written notice of the amendment to the parents of all enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(e) The operator shall place a child aged 12 months or younger on the child's back for sleeping, unless for a child aged 6 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6 months, the operator obtains a written waiver from a health care professional or parent. Waivers shall include the following:

- (1) the infant's name and birth date;
- (2) be signed and dated by the infant's health care professional or parent;
- (3) if a wedge is needed, specify why it is needed and how it should be used; and
- (4) the infant's authorized sleep positions.

The operator shall retain the waiver in the child's record as long as the child is enrolled at the home.

(f) Documents that verify staff member's compliance with visual checks on infants shall be maintained for a minimum of one month.

(g) For each infant with a waiver on file at the home as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, play pen, or mat that shall include:

- (1) the infant's name;
- (2) the infant's authorized sleep position; and
- (3) the location of the signed waiver.

No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

History Note: Authority G.S. 110-85; 110-91(15); 143B-168.3;

Eff. May 1, 2004;

Amended Eff. July 1, 2010;

Readopted Eff. October 1, ~~2017~~, 2017;

Amended Eff. February 1, 2021.

10A NCAC 09 .1729 is amended as published in 35:04 NCR 413-414 as follows:

**10A NCAC 09 .1729 ADDITIONAL CAREGIVER AND SUBSTITUTE PROVIDER
QUALIFICATIONS**

(a) An individual who provides care for five hours or more in a week during planned absences of the family child care home operator shall:

- (1) be 21 years old;
- (2) have a high school diploma or GED;
- (3) have completed a First Aid and cardiopulmonary resuscitation (CPR) course within 12 months prior to caring for children;
- (4) have completed a health questionnaire;
- (5) have proof of negative results of a tuberculosis test or screening completed within 12 months prior to the first day of providing care;
- (6) have submitted criminal background check forms as required in Rule .2703 of this Chapter;
- (7) have documentation of annual on-going training as described in Rule .1703(d) of this Section after the first year of employment;
- (8) have completed ITS-SIDS training, if licensed to care for infants;
- (9) have completed Recognizing and Responding to Suspicions of Child Maltreatment training; and
- (10) have documentation that the operator has reviewed the requirements found in this Chapter, including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7.

While the individual provides care at a family child care home, copies of information required by Subparagraphs (1) through (10) of this Paragraph shall be on file in the home and available for review by the Division.

(b) An individual who provides care for less than five hours in a week during planned absences of the operator shall be literate and meet all requirements listed in Paragraph (a) of this Rule except the requirements for annual training and a high school diploma or GED.

(c) The operator shall conduct 16 hours of orientation with all caregivers, prior to the individual caring for children, including substitute providers, volunteers, and uncompensated providers, who are providing care. The orientation shall include an overview of the following topics, specifically focusing on the operation of the facility:

- (1) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
- (2) review of the home's operational policies, including the written plan of care, safe sleep policy, the transportation policy, identification of building and premises safety issues, the emergency medical care plan, and the Emergency Preparedness and Response Plan;
- (3) adequate supervision of children in accordance with Rule .1711(a) of this Section;
- (4) information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (5) prevention and control of infectious diseases, including immunization;

- (6) firsthand observation of the home's daily operations;
- (7) instruction regarding assigned duties;
- (8) instruction in the maintenance of a safe and healthy environment;
- (9) instruction in the administration of medication to children in accordance with Rule .1720(b) of this Section;
- (10) review of the home's purposes and goals;
- (11) review of G.S. 110, Article 7 and 10A NCAC 09;
- (12) review of Section .2800 of this Chapter if the operator has a two- through five- star license at the time of employment;
- (13) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
- (14) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations;
- (15) prevention of and response to emergencies due to food and allergic reactions; and
- (16) review of the home's handling and storage of hazardous materials and the appropriate disposal of biocontaminants.

The operator and individual providing care shall sign and date a statement that attests that this review was completed. This statement shall be kept on file in the home and available for review by the Division.

(d) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be 18 years old and submit criminal records check forms as required in Rule .2703(j) of this Chapter. The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

History Note: Authority G.S. 110-85; 110-88; 110-91; 143B-168.3; Eff. October 1, 2017; Amended Eff. February 1, 2021; March 1, 2019.

10A NCAC 09 .1730 is amended as published in 35:04 NCR 414-415 as follows:

10A NCAC 09 .1730 ACTIVITIES INVOLVING WATER

(a) The requirements in this Rule apply to "aquatic activities," which are defined as activities that take place in a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) Aquatic activities involving the following are prohibited:

- (1) hot tubs;
- (2) spas;
- (3) saunas or steam rooms;
- (4) portable wading pools; and
- (5) natural bodies of water and other unfiltered, nondisinfected containments of water.

(c) When children enrolled in a family child care home participate in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activity. Verification of the operator's completion of this course from an approved training organization shall be maintained in their personnel file in the family child care home. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.
http://ncchildcare.ncdhhs.gov/providers/pv_sn2_ov_pd.asp.

(d) The family child care home operator shall be responsible for adequately supervising the aquatic activity for the duration of the activity. For purposes of this Rule, "Adequate supervision" means that the operator shall be able to hear, see, and respond to the children whether in or out of the water.

(e) Prior to children participating in aquatic activities, the operator shall develop policies that address the following:

- (1) aquatic safety hazards;
- (2) pool and aquatic activity area supervision, including restroom or changing room use;
- (3) how discipline will be handled during aquatic activities;
- (4) the operator's ~~field trip off premise~~ and transportation policies; and
- (5) that children shall be directed to exit the water during an emergency.

The policies shall be reviewed with additional caregivers and substitute providers prior to caring for children participating in aquatic activities.

(f) Family child care home operators shall obtain written permission from parents for participation in aquatic activities. The written permission shall include a statement that parents are aware of the operator's aquatic policies specified in Paragraph (f) of this Rule. The operator shall maintain copies of written parental permission in each child's file.

(g) Any outdoor swimming pool located on the family child care home premises shall be enclosed by a fence that is at least four feet high, separated from the remaining outdoor play area by that fence, and locked and inaccessible to children when not in use.

(h) Swimming pool safety rules shall be posted and visible to children and staff for any swimming pool located on the child care facility premises. These rules shall state:

- (1) the location of a First Aid kit;
- (2) that only water toys are permitted;
- (3) that children are not allowed to run or push one another;
- (4) that swimming is allowed only when the operator is present; and
- (5) that glass objects are not allowed.

(i) All swimming pools used by children in care shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.

(j) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation shall be permitted.

(k) Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal floatation device approved by the United States Coast Guard. This personal floatation device shall be worn for the duration of the activity.

*History Note: Authority G.S. 110-88; 110-91(1),(3),(6); 143B-168.3;
Temporary Adoption Eff. September 23, 2016;
Eff. October 1, ~~2017~~ 2017;
Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2204

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

On line 5, by "may", do you mean "shall"? If "may" is correct, how will it be determined whether a provisional license is issued for these things? Also, how will it be determined how much time will be given? IS this based upon the reason and the amount of time need to correct the issue?

On line 6, what is meant by "among other things"?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

1 10A NCAC 09 .2204 is amended as published in 35:04 NCR 415 as follows:

2
3 10A NCAC 09 .2204 PROVISIONAL CHILD CARE FACILITY LICENSE OR PROVISIONAL
4 NOTICE OF COMPLIANCE

5 A provisional child care facility license or provisional notice of compliance may be issued to an operator for any
6 period of time not to exceed 12 months for, among other things, the following reasons:

- 7 (1) a substantiation of one or more violations as a result of a complaint that do not meet the criteria for
8 a maltreatment finding pursuant to G.S. 110-105.3(b)(3) but for which more than three months is
9 needed to monitor for corrective action implementation;
- 10 (2) to allow a time period for correcting a violation of the building, fire, or sanitation requirements;
11 ~~requirements, provided that the inspector documents that the violation is not hazardous to the health~~
12 ~~or safety of the children, including lead hazard remediation;~~
- 13 (3) to allow a time period for remediation of an identified lead poisoning hazard as defined in G.S.
14 130A-131.7(7), regardless of whether a provisional sanitation classification has been issued;
- 15 ~~(3)(4)~~ (4) to allow a time period for correction of an administratively dissolved corporation status from the
16 North Carolina Secretary of State;
- 17 ~~(4)(5)~~ (5) when the compliance history of the facility drops below the minimum requirement set forth in G.S.
18 110-90;
- 19 ~~(5)(6)~~ (6) change of location of a child care facility without proper notification to the Division as specified in
20 Rules 10A NCAC 09 .0204(b), .0403(a), and .1702(d); or
- 21 ~~(6)(7)~~ (7) pattern of noncompliance.

22
23 *History Note:* Authority G.S. 110-88(6); 110-90; 110-99; 143B-168.3;
24 Eff. February 1, ~~2019~~, 2019;
25 Amended Eff. February 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2206

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

On line 4, by "may", do you mean "shall"? I think that you mean "may" here, but how will it be determined whether there will be a suspension? What factors will be used?

Also, how will the amount of time of the suspension be determined? What factors will be used? I note that G.S. 110-102.2 says "for a specified amount of time not to exceed one year", as opposed to 12 consecutive months. Please be consistent with the statute.

Is the last sentence of Item (3) intended to be a separate Item (4)? If so, please delete the "or" at the end of Item (2) and change the comma to a semi-colon after "during correction"

What is your authority to say that "the suspension of a child care facility license or suspension of a notice of compliance shall not be stayed during the pendency of an appeal"? Would this not be for a court to determine?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .2206 is amended as published in 35:04 NCR 415 as follows:

10A NCAC 09 .2206 SUSPENSION

A suspension of a license or suspension of a notice of compliance may be issued to an operator for a time period not to exceed 12 consecutive months for the following reasons:

- (1) the operator of the child care facility is a corporate entity that has been placed under revenue suspension by the North Carolina Secretary of State;
- (2) when the Division has issued a provisional child care facility license or notice of compliance related to building, fire, or sanitation requirements and the operator has failed to comply; or
- (3) to allow a specific time period for correcting a violation of building, fire, or sanitation requirements, provided that the appropriate inspector documents that closure of the child care facility is necessary to protect health or safety of children during ~~correction, correction, or when a disapproved sanitation~~ classification is issued to a child care facility.

The suspension of a child care facility license or suspension of a notice of compliance shall not be stayed during the pendency of an appeal.

*History Note: Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3;
Eff. July 1, 1988;
Amended Eff. April 1, 2001; November 1989;
Readopted Eff. February 1, 2019 (Transferred from 10A NCAC 09 .2205). .2205;
Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2209

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

On line 5, by "may", do you mean "shall"? Based upon the rule in its entirety, I believe that you mean "shall." If you mean "may", how will it be determined whether a revocation or an order to cease operation will occur? What factors will be used?

On line 5, what is an "order to cease operation" and what is your authority for it?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .2209 is amended as published in 35:04 NCR 415 as follows:

**10A NCAC 09 .2209 REVOCATION OF A CHILD CARE FACILITY LICENSE OR AN ORDER TO
CEASE OPERATION**

Revocation of a child care facility license or an order to cease operation may be issued to an operator for the following reasons:

- (1) child maltreatment has occurred in a child care facility and harm occurred as set forth in Rule .2201(c)(2) of this Section;
- (2) more than two determinations of child maltreatment have occurred at a child care facility within three years;
- (3) violation of any section of G.S. 110, Article 7 or the Rules of this Chapter or 10A NCAC 10 has been willful or continual as evidenced by:
 - (a) a pattern of noncompliance, and the operator has not made efforts to correct repeated violations or is unable to comply; or
 - (b) the operator has failed to comply with the terms of a corrective action plan issued with a special provisional or probationary license or notice of compliance;
- (4) violation of any section of G.S. 110, Article 7 or the Rules of this Chapter or 10A NCAC 10 is hazardous to health or safety of children;
- (5) the operator fails to comply with an implemented protection plan as set forth in G.S. 110-105.3(e);
- (6) the operator falsifies information in violation of G.S. 110-91(14);
- (7) the compliance history of the facility drops below the minimum requirement set forth in G.S. 110-90 and the conditions at the facility are hazardous to the health and safety of the children or staff;
- (8) receipt of a disapproved sanitation classification that is not corrected with a ~~provisional~~ superior or approved sanitation ~~classification~~; classification within 12 months of issuance of a Suspension as set forth in Rule .2206 of this Section; or
- (9) the operator of the child care facility is a corporate entity that has been placed under revenue suspension from the North Carolina Secretary of State that has not been corrected within one year of issuance of a Suspension as set forth in Rule .2206 of this Section.

*History Note: Authority G.S. 110-88; 110-90; 110-102.2; 143B-168.3; 150B-3;
Eff. July 1, 1988;
Amended Eff. April 1, 2001; August 1, 1990; November 1, 1989;
Readopted Eff. February 1, 2019 (Transferred from 10A NCAC 09 ~~.2206~~, .2206);
Amended Eff. February 1, 2021.*

1 **10A NCAC 09 .2318 is amended as published in 35:04 NCR 416-419 as follows:**

2
3 **10A NCAC 09 .2318 CHILD CARE CENTER RECORD RETENTION**

4 All records required in this Chapter shall be maintained for review by representatives of the Division as specified in
5 G.S. 110-91(9), Rule .0304(g) of this Chapter, and as follows:

- 6 (1) The records shall be available at the center during the hours of operation listed on the child care
7 license.
- 8 (2) Records may be maintained in a paper format or an electronic format, provided that all required
9 signatures are preserved in a paper format, PDF or other used graphic format.
- 10 (3) Records regarding administration of medications required by Rules .0302(d)(7) and .0803(13) of
11 this Chapter shall be maintained during the time period the medication is being administered and
12 for six months after the medication is administered.
- 13 (4) All building inspections as referenced in G.S. 110-91, and in Rule .0302 of this Chapter shall remain
14 on file at the center for as long as the license remains valid.
- 15 (5) All fire, sanitation, and pool, inspections as referenced in G.S. 110-91, and Rules .0302 and .1403
16 of this Chapter shall remain on file at the center for a minimum of three years.
- 17 (6) Each child care center shall retain records for children as follows:
- 18

Type of Child Record	In each child's file, for as long as the child is enrolled	For 1 year after the child is no longer enrolled
Child Medical Report Rule .0302(d)(2)	X	X
Immunization Record Rule .0302(d)(2)	X	X
Child Application Rules .0302(d)(2) and .0801(a)	X	X
Child Emergency Medical Care Information Rules .0302(d)(2), .0801(a)(1) and .0802(c) through (d)	X	X
Safe Sleep Policy Rule .0606(c)	X	X
Notice of Amendment to Safe Sleep Policy Rule .0606(d)	X	X
Safe Sleep Waiver Rule .0606(e)	X	X

Type of Child Record	In each child's file, for as long as the child is enrolled	For 1 year after the child is no longer enrolled
Child Medical Action Plan Rule .0801(b)	X	X
Incident Report Rule .0802(e)	X	X
Parental Permission for Administration of Medication Rules .0803(3), (4), (6) through (9) and (11)	X	X
Supplemental Food "Opt Out" Statement Rule .0901(d)	X	X
Parental Permission for Transportation and Off-Premises Activities Rules .1003(i) and (j), .1005(b)(3) and (4)	X	X
Parental Permission for Aquatic Activities Rule .1403(i)	X	X
Discipline Policies Rule .1804(a)	X	X
Notice of Change to Discipline Policies Rule .1804(b)	X	X
<u>Shaken Baby Syndrome and Abusive Head Trauma Policy</u> Rule .0608	X	X

(7) Each child care center shall retain records for personnel as follows:

Type of Personnel Record	For at least 1 year after employee is no longer employed	For 1 Year After Record Created	Until the record is superseded by a new statement	In each personnel file or designated emergency preparedness file
Application for Employment Rule .0302(d)(1)(A)	X			

Type of Personnel Record	For at least 1 year after employee is no longer employed	For 1 Year After Record Created	Until the record is superseded by a new statement	In each personnel file or designated emergency preparedness file
Staff Medical Report Rules .0302(d)(1)(C) and .0701(a)	X			
Health Questionnaire Rules .0302(d)(1)(C) and .0701(a)	X			
Proof of Tuberculosis Test or Screening Rules .0302(d)(1)(C) and .0701(a)	X			
Staff Emergency Medical Care Information Rules .0302(d)(1)(C) and .0701(a)	X			
Evaluation of Emotional and Physical Fitness (as applicable) Rule .0701(b)	X			
Verification of Age Rules .0302(d)(1)(A), .0703, and .0704	X			
Criminal Record Check Information Rules .0302(d)(1)(E);	X			
Education and Equivalency Forms Rules .0302(d)(1)(B), .0703, .0704 and .2510	X			
Record of On-going Training Rules .0302(d)(1)(D), and .1103(a)	X			

Type of Personnel Record	For at least 1 year after employee is no longer employed	For 1 Year After Record Created	Until the record is superseded by a new statement	In each personnel file or designated emergency preparedness file
Documentation of Staff Orientation Rules .0302(d)(1)(D), and .1101(a)	X			
Documentation of Emergency Preparedness and Response in Child Care Training Rule .0607(b)				X
Documentation of Review of Emergency Preparedness and Response Plan Rules .0607(e), (f) and (g)				X
Documentation of First Aid training Rule .1102(c)	X			
Documentation of CPR training Rule .1102(d)	X			
Documentation of Playground Safety Training if applicable Rule .1102(e)	X			
Documentation of ITS-SIDS Safe Sleep Training if applicable Rule .1102(f)	X			
Documentation of Aquatic Activities Policy Receipt Rule .1403(h)		X	X	
Documentation of BSAC training if applicable Rule .2510	X			

(8) Each child care center shall retain records for the program as follows:

Type of Program Record	As long as the license remains valid	A minimum of 30 days after record revised or replaced	A minimum of 1 year after record created, revised or replaced
Attendance Rule .0302(d)(3)			X
Daily record of arrival and departure times for children Rule .0302(d)(4)			X
Fire Drill Log .0604(t) Rule .0302(d)(5)			X
Playground Inspection Rules .0302(d)(6) and .0605(q)			X
Lockdown or Shelter-In-Place Drill Record Rules .0302(d)(8) and .0604(u)			X
Daily Schedule Rule .0508(a)			X
Activity Plan Rule .0508(a)		X	
Manufacturer's Instructions for equipment and furnishings Rules .0601(b) and .0605(b)	X		
Fire Evacuation Procedures Rule .0604(r)	X		
Written plan for evacuation in centers that do not meet institutional building code Rule .0604(r)			X
Safe Pick-Up and Delivery Procedures Rule .1003			X
Safe Sleep Policy Rule .0606(a)	X		
SIDS Sleep Chart/Visual Check Rule .0606(a)(7)		X	
Emergency Preparedness and Response Plan			X

Type of Program Record	As long as the license remains valid	A minimum of 30 days after record revised or replaced	A minimum of 1 year after record created, revised or replaced
Rules .0607(c) and (d)			
<u>Shaken Baby Syndrome and Abusive Head Trauma Policy</u> <u>Rule .0608</u>	X		
Emergency Medical Care Plan Rule .0802(a)			X
Incident Log Rule .0802(f)			X
Menu Rule .0901(b)		X	
Allergy Postings Rule .0901(g)		X	
Infant Feeding Plan Rule .0902(a)		X	
Identifying Information for Children being Transported Rule .1003(d)			X
List of children being transported Rules .1003(l) and .1005(b)(6)			X
Schedule of Off-Premise <u>Off-Premises</u> Activities Rule .1005(b)(5)			X
Aquatic Activity Policies Rule .1403(g)	X		
Documentation of emergency situation that necessitated a lack of direct supervision Rule .1801(a)	X		
Discipline Practices Rules .1803 and .1804	X		

History Note: Authority G.S. 110-85; 110-91(9); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 2015; July 1, 2010; July 1, 2008;

- 1 *Readopted Eff. October 1, 2017;*
- 2 *Amended Eff. February 1, 2021; September 1, 2019.*

10A NCAC 09 .2408 is amended as published in 35:04 NCR 419-420 as follows:

10A NCAC 09 .2408 STAFF QUALIFICATIONS

(a) All staff working with the mildly sick children shall complete all requirements in this Chapter pertaining to preservice training in 10A NCAC 09 .0704, .0710 and .0711, orientation in 10A NCAC 09 .1101, health and safety training requirements in 10A NCAC 09 .1102, on-going training in 10A NCAC 09 .1103, and staff records in 10A NCAC 09 .0701. In addition, the requirements for staff who care for children with Level One symptoms as described in Rule .2404, Paragraphs (a)(1)(A) and (B) of this Section shall be as follows:

(1) Each group of children shall have a lead teacher present who has the North Carolina Early Childhood Credential or its equivalent prior to assuming care giving responsibilities.

~~(2) Each group of children shall have a staff person present who meets the requirements in 10A NCAC 09 .0705(a), (b), and (d). This may be the same individual referenced in Subparagraph (a)(1) of this Rule.~~

~~(3)(2)~~ In addition to staff orientation requirements in 10A NCAC 09 .1101 of this Chapter prior to assuming care giving duties all caregivers shall complete 10 hours of training on the following:

(A) storage and administration of medication;

(B) infection control procedures;

(C) aspiration of nasal secretions;

(D) positioning for sleeping and eating;

(E) temperature and respiratory rate taking;

(F) documentation of signs, symptoms, physical appearance, intake and output, and communication with family and physicians;

(G) recognizing when to stop, increase, or decrease oral intake of fluids;

(H) recognizing signs and symptoms associated with the increased severity of illness including behavioral changes, changes in bowel movements, increased sluggishness, etc.;

(I) developing individualized plans of care;

(J) special dietary requirements and maintaining hydration; and

(K) emergency procedures, including notification of a parent, should a child's condition worsen.

~~(4)(3)~~ Any caregiver caring for a child whose illness requires special knowledge, skills, or equipment shall have training and equipment prior to caring for the child.

~~(5)(4)~~ Completion of the training required by Subparagraph (a)(2) of this Rule shall count toward meeting one year's annual on-going training requirements in 10A NCAC 09 .1103.

~~(6)(5)~~ When a center cares for mildly sick children as a component of a child care center, the administrator shall meet the education requirements for administrators as required by G.S. 110-91(8).

(b) In addition to the staffing requirements listed in Subparagraphs (a)(1) through (a)(4) of this Rule, if children with Level Two symptoms as described in Parts (a)(2)(A) through (a)(2)(E) of Rule .2404 of this Section are in care, the following number of medical staff shall be on site based upon the total number of children in care:

<u>No. of Children</u>	<u>Type of Medical Staff</u>
1 to 10	an RN, or a LPN with a health care professional in the immediate vicinity
10 to 20	an RN
20 to 40	an RN and an additional LPN

Each medical staff shall have one year of full-time pediatric nursing experience, and may count in staff/child ratio. Medical staff may also act as lead teachers if they have the North Carolina Early Childhood Credential or equivalent.

History Note: Authority G.S. 110-88(11); 143B-168.3;
Eff. April 1, 2003;
Readopted Eff. October 1, 2017;
Amended Eff. February 1, 2021; September 1, 2019.

10A NCAC 09 .2410 is amended as published in 35:04 NCR 420 as follows:

10A NCAC 09 .2410 CHILDREN'S ACTIVITIES

(a) Daily activities shall be provided in accordance with Section .0500 of these Rules and in accordance with each child's individualized plan of care. Activity areas shall not be required, but developmentally appropriate equipment and materials must be available daily for mildly sick children in care.

(b) Eating, toileting, sleeping, resting, and playing shall be individually determined and flexible to allow each child to decide when and whether to participate in available activities, and to nap or rest at any time.

(c) Daily outdoor time shall be available for children with Level One ~~symptoms~~ symptoms, as set forth in Rule .0508(c) of this Chapter, who are present more than three consecutive days unless deemed inappropriate by the child's attending health care professional.

*History Note: Authority G.S. 110-88(11); 143B-168.3;
Eff. April 1, 2003;
Readopted Eff. October 1, ~~2017~~ 2017;
Amended Eff. February 1, 2021.*

1 10A NCAC 09 .2509 is amended as published in 35:04 NCR 420 as follows:

2
3 10A NCAC 09 .2509 ACTIVITIES: ~~OFF-PREMISES~~ OFF-PREMISES

4 (a) The requirements of this Rule and Section .1000 of this Chapter shall apply when activities for school-age children
5 are conducted outdoors or off the premises for 75 percent of each day.

6 (b) The facility shall develop a plan of activities which is posted in a place in the home base or given to the parents.
7 The plan shall include the location, purpose, time and date, person in charge, and telephone number or method for
8 contacting the person in charge.

9 (c) Activities shall be planned to accommodate a variety of individual interests and shall provide opportunities for
10 choice.

11 (d) Written permission from parents shall be obtained before transporting children on ~~field trips or leaving the~~
12 ~~premises.~~ off-premises activities.

13 (e) Blanket permissions from parents for ~~field trips or leaving the premises~~ off-premises activities shall be acceptable
14 only when a plan of activities to be conducted off the premises is posted in a place for review by parents and staff in
15 advance on a weekly basis.

16
17 *History Note: Authority G.S. 110-91(6),(12); 143B-168.3;*

18 *Eff. July 1, 1988;*

19 *Amended Eff. September 1, 1990;*

20 *Readopted Eff. October 1, 2017. 2017.*

21 *Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2703

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (m), what are considered to be "minor traffic offenses"?

In the History Note, please remove "S.L. 2012-160, s.1" This Session Law appears to have been fully incorporated into G.S. 110-90.2. Also, do you don't need both G.S. 110-90.2 and 110-90.2(a). Please delete one or the other.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .2703 is amended as published in 35:04 NCR 420 as follows:

10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS

(a) In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to the Division prior to the issuance of a license or prior to beginning employment:

- (1) a signed and completed Authority for Release of Information form; and
- (2) fingerprint impressions submitted on the forms required by the Division and State Bureau of Investigation;
- (3) if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

All required forms can be found on the Division's website at http://ncchildcare.dhhs.state.nc.us/general/dhhsrcc_childcare.asp.

(b) If the child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. The Division shall also consider the following in making its decision:

- (1) the length of time since conviction;
- (2) whether the child care provider is currently on probation;
- (3) the nature of the offense;
- (4) the circumstances surrounding the commission of the offense or offenses;
- (5) the evidence of rehabilitation;
- (6) the number and type of prior offenses; and
- (7) the age of the child care provider at the time of occurrence.

(c) If the child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(d) If a Letter of Intent to Operate pursuant to G.S. 110-106 is submitted to the Division, the person signing the Letter of Intent shall submit all forms as required in Paragraph (a) of this Rule.

(e) Child care providers shall have a valid qualification letter prior to employment or living in the family child care home, and the qualification letter shall be kept on file at the facility for review by representatives of the Division.

(f) Provisional child care providers may be employed at a child care facility or reside in a family child care home, nonlicensed home, or child care center in a residence and shall be counted in staff/child ratio. Provisional child care providers shall be supervised at all times by an individual who received a qualifying result on a criminal background check within the past three years and may not be left alone with children. Owners found to be in violation of this Paragraph may be issued an administrative action up to and including revocation of their child care license or notice of compliance in accordance with Section .2200 of this Chapter.

1 (g) Within five days of applying for provisional status through the Division's online portal, the applicant shall
2 complete and submit any documents specific to their former state(s) of residence that are necessary to complete the
3 out-of-state portion of their background check. The applicant shall also certify in writing within five days to the
4 Division that they have made the required requests. When requested by the Division, the applicant shall submit a copy
5 and proof of submission of the documents necessary to complete the out-of-state portion of their background check.
6 The Division shall provide to the applicant the necessary information to make these requests, if applicable.

7 ~~(h)(g)~~ After six months, the Division shall issue a qualification letter to a provisional child care provider if the Division
8 does not receive a response to its request for the state sex offender registry check, the state abuse and neglect registry,
9 or the state criminal history check from the state or states in which the provisional provider currently resides or has
10 resided at any time during the five years prior to submitting documents for a criminal history check. However, nothing
11 in this Rule shall prevent the Division from disqualifying a provisional child care provider at a later date based upon
12 failure to comply with the requirements of Paragraph (g) of this Rule or if information is received from any other state
13 after six months have elapsed.

14 ~~(i)(h)~~ Child care providers found to be disqualified shall not be eligible for employment in child care until a
15 qualification letter has been issued by the Division.

16 ~~(j)(i)~~ Child care providers determined by the Division to be disqualified shall be terminated by the center or family
17 child care home immediately upon receipt of the disqualification notice.

18 ~~(k)(j)~~ Disqualification of a child care provider living in a family child care home or a center located in a residence
19 shall be grounds for issuance of a summary suspension of the license in accordance with 10A NCAC 09 .2213.

20 ~~(l)(k)~~ Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall
21 be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty
22 permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed
23 during the appeal process.

24 ~~(m)(l)~~ Operators, as defined by G.S. 110-86(7), shall include the criminal history mandatory reporting requirement in
25 all new employee orientation information. All child care providers and household members who have incurred any
26 pending charges, indictments, or convictions (other than minor traffic offenses) since the last qualification letter was
27 issued by the Division shall notify the operator of such charges within five business days or before returning to work,
28 whichever comes first. The operator shall notify the Division of any such pending charges, indictments, or convictions
29 within one business day of being notified.

30 ~~(n)(m)~~ The qualification letter shall be valid for a maximum of three years from the date of issuance.

31 ~~(o)(n)~~ Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the
32 forms listed in Paragraph (a) of this Rule.

33 ~~(p)(o)~~ After a child care provider has been qualified, the Division shall complete a new criminal history record check
34 if the Division of Child Development and Early Education conducts an investigation involving alleged criminal
35 activity by the child care provider.

1 ~~(q)(p)~~ Individuals who live in the household who have had their 16th birthday after the initial licensing of a family
2 child care home shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five
3 business days of their 16th birthday.

4 ~~(r)(q)~~ Child care operators shall notify the Division of all new child care providers who are hired or have moved into
5 the home or center located with a residence within five business days by submitting the form provided by the Division.

6
7 *History Note: Authority G.S. 110-85; 110-86(7); 110-90.2; 110-90.2(a); 110-106; 114-19.5; 143B-168.3; S.L.*
8 *2012-160, s.1;*

9 *Temporary Adoption Eff. January 1, 1996;*

10 *Eff. April 1, 1997;*

11 *Amended Eff. March 1, 2014; November 1, 2007;*

12 *Readopted Eff. January 1, ~~2019~~ 2019;*

13 *Amended Eff. February 1, 2021.*

10A NCAC 09 .2809 is amended as published in 35:04 NCR 422 as follows:

10A NCAC 09 .2809 ENHANCED SPACE REQUIREMENTS

(a) There shall be at least 30 square feet inside space per child per the total licensed capacity and 75 square feet outside space for one-third of the total number of the capacity for which the center is licensed. ~~each child using the outdoor learning environment at any one time.~~ In the alternative there shall be at least 35 square feet inside space per child per the total licensed capacity and 75 square feet outside space per child for ~~at least 50 percent of the total~~ licensed capacity.

(b) There shall be an area that can be arranged for administrative and private conference activities.

History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;

Eff. April 1, 1999;

Prior to amendment of May 1, 2006 this language was located in Rule .1604;

Amended Eff. May 1, 2006;

Readopted Eff. March 1, ~~2019~~, 2019;

Amended Eff February 1, 2021.

10A NCAC 09 .2817 is amended as published in 35:04 NCR 422 as follows:

10A NCAC 09 .2817 ENHANCED PROGRAM STANDARDS FOR CHILD CARE CENTERS

(a) To achieve one point for program standards, the center shall be in compliance with all applicable requirements in Rules .0513-.0516 of this Chapter.

(b) To achieve two through seven points for program standards, the center shall meet all the applicable requirements in Rule .2806 of this Section and the criteria listed in the following chart:

Program Standards (.2817) Point Level	Staff/Child Ratio Requirement	Space Requirement	Environment Rating Scale (ERS) Requirements (as referenced in Rule .2802(f) of this Section)
2 Points	Meets enhance Staff/Child Ratio in Rule .2818(b), OR	Meets Enhanced Space in Rule .2809	N/A
3 Points	Meets enhance Staff/Child Ratio in Rule .2818(b), OR	Meets Enhanced Space in Rule .2809; AND	Each classroom has at least a score of 4.0 or higher
4 Points	Meets enhanced Staff/Child Ratio in Rule .2818(b), AND	Meets ——— Enhanced Staff/Child Ratio in Rule .2809 AND <u>N/A</u>	Have an average combined score of 4.5, with no one classroom score lower than 4.0 in each classroom evaluated
5 Points	Meets enhanced Staff/Child Ratio in Rule .2818(b), AND	Meets ——— Enhanced Staff/Child Ratio in Rule .2809 AND <u>N/A</u>	Have an average combined score of 4.75, with no one classroom score lower than 4.0 in each classroom evaluated
6 Points	Meets enhanced Staff/Child Ratio in Rule .2818(b), AND	Meets Enhanced Space in Rule .2809; AND	Have an average combined score of 5.0, with no one classroom score lower than 4.0 in each classroom evaluated
7 Points	Meets enhanced Staff/Child Ratio in Rule .2818(b), and (c) AND	Meets Enhanced Space in Rule .2809; AND	Have a score of 5.0 in each classroom evaluated

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;
Eff. May 1, 2006;*

1 *Readopted Eff. March 1, ~~2019~~ 2019;*
2 *Amended Eff. February 1, 2021.*
3

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2903

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

In (b), why is "185 day" in brackets? Is this language necessary? Could you delete this language and take "as defined by the State Board of Education" out of parenthesis?

In (d), are the enrollment procedures exempted from rulemaking requirements? Are these not set by the Commission?

In (f), please take "as defined by the State Board of Education" out of parenthesis.

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .2903 is amended as published in 35:04 NCR 422-423 as follows:

10A NCAC 09 .2903 STAFF QUALIFICATIONS

(a) Each center serving children ages birth to three years shall have:

- (1) one staff who holds a NC Birth-through-Kindergarten (B-K) Continuing or Initial License issued by the North Carolina Department of Public Instruction;
- (2) a NC Provisional B-K or Pre-K/K ~~Preschool~~ Add-on License issued by the North Carolina Department of Public Instruction; ~~or~~
- (3) a NC Lateral Entry B-K License issued by the North Carolina Department of Public ~~Instruction.~~
Instruction;
- (4) a NC Residency B-K License issued by the North Carolina Public Instruction; or
- (5) a NC Emergency B-K License issued by the North Carolina Department of Public Instruction as determined by the Early Educator Support, Licensure and Professional Development (EESLPD) Unit.

This staff shall provide program oversight and supervision for any caregivers in classrooms with children ages birth to three years.

(b) In accordance with G.S. 115C-84.2(a)(1), during the [185 day] school year (as defined by the State Board of Education), each child aged three-years-old and older on or before the initial school entry date specified in G.S. 115C-364 (school entry date) shall be served in a classroom with at least one lead teacher who holds ~~a B-K Standard Professional Licensure or provisional licensure in B-K, or Preschool~~ an Initial B-K License or another NC Educator's License and a Provisional B-K or Pre-K/K Add-on Licensure license issued from the Department of Public Instruction.

(c) Children who turn three-years-old after the school entry date who are identified as a child with a disability as evidenced by an Individualized Education Program (IEP), shall be served in a classroom by a teacher who holds a NC ~~B-K~~ Continuing B-K or Initial B-K License; or ~~a another NC Educator's License and a Provisional B-K or Pre-K/K Preschool Add-on License or License; or a NC Lateral Entry B-K License.~~ License or a Residency B-K License.

(d) Teachers who are required to hold a NC ~~B-K~~ Continuing B-K ~~or Initial~~ License issued by the North Carolina Department of Public Instruction as specified in Paragraph (a) of this Rule shall be enrolled with the Early Educator Support, Licensure & Professional Development Unit of the Division of Child Development and Early Education. Enrollment procedures may be found online at <http://ncchildcare.dhhs.state.nc.us/general/mbeeslpd.asp>.
https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/N/NCPre-K_EESLPD_Enrollment_Application_REV_JUL2019.pdf?ver=2019-08-16-135555-313.

(e) For centers operating for 12 months as specified by Rule .2902(a) of this Section, during the two additional months of operation each group of preschool children shall have at least one lead teacher with a minimum of an A.A.S. degree in early childhood education or child development, or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development.

(f) For centers operating for 10 months as specified by Rule .2902(a) of this Section, during the 10-month school year, (as defined by the State Board of Education), each group of school-age children shall have at least one teacher

1 who holds State certification as a Special Education Teacher. For centers operating for 12 months as specified by Rule
2 .2902(a) of this Section, during the two additional months of operation each group of school-age children shall have
3 at least one teacher who has completed at least two semester hours of school-age care related coursework and has
4 completed or is enrolled in at least two additional semester hours of school-age related coursework.

5 (g) Center administrators shall have a Level III North Carolina Early Childhood Administration Credential and two
6 years of work experience with children with developmental delays or disabilities.

7
8 *History Note: Authority G.S. 110-85; 110-88(5); 110-88(14);*

9 *Eff. July 1, 2010;*

10 *Amended Eff. August 1, 2016; March 1, 2014;*

11 *Readopted Eff. October 1, ~~2017~~, 2017;*

12 *Amended Eff. February 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .3012

DEADLINE FOR RECEIPT: Friday, January 15, 2021

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 call our office to inquire concerning the staff recommendation.

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

(b) and (c) specifically cross-reference a subparagraph of (a); however, (d) and (e) do not. Was this intentional?

In (h) and (i), please double check that these "policies" have not been made rule.

In (k), are these enrollment requirements exempted from rulemaking requirements? Are they not set by the Commission?

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

Amber May
Commission Counsel
Date submitted to agency: January 6, 2021

10A NCAC 09 .3012 is amended as published in 35:04 NCR 423-424 as follows:

10A NCAC 09 .3012 NC PRE-K TEACHER EDUCATION, LICENSURE AND CREDENTIALS

(a) All teachers shall hold, or be working toward a North Carolina (NC) Birth through Kindergarten (B-K) Continuing License or B-K or ~~Preschool~~ Pre-K/K Add-on License issued by the North Carolina Department of Public Instruction.

Teachers working toward the required education and license shall meet one of the following requirements:

- (1) a ~~North Carolina~~ NC B-K Initial License; ~~or~~
- (2) a NC Lateral Entry B-K License; ~~North Carolina K-6 license and a Provisional Preschool Add-on license;~~
- (3) ~~another North Carolina or another state's license and a NC Provisional B-K license; or a NC~~ Residency B-K License;
- (4) a NC Emergency B-K License as determined by the Early Educator Support, Licensure and Professional Development (EESLPD) Unit;
- (5) another NC Educator's License and a Provisional B-K or Pre-K/K license;
- (6) another state's license; or
- (7)(4) a BA/BS degree in ~~B-K, child development, early childhood education, or an early childhood education-related field~~, and be eligible for a NC ~~Lateral Entry~~ Residency B-K License.

(b) Pre-K teachers with a NC Lateral Entry B-K License as specified in Subparagraph ~~(a)(4)~~(a)(2) of this Rule shall make progress toward the B-K Continuing License by:

- (1) obtaining ~~a~~ and following an official Lateral Entry B-K Plan of Study issued by an accredited college or university with a North Carolina Department of Public Instruction approved ~~teacher education program~~; B-K Teacher Education Program;
- (2) submitting to the ~~Division~~ Division, college or university transcripts verifying the completion of a minimum of six semester credit hours per school year in accordance with Subparagraph (1) of this Paragraph;
- (3) completing the three-year North Carolina State Board of Education Beginning Teacher Support Program in accordance with G.S. ~~415C-296(e)~~ 115C-300.1 and North Carolina State Board of Education Policy LICN-004; ~~LICN-004~~; TCED-0016; and
- (4) achieving the NC B-K Initial or Continuing License issued by the North Carolina Department of Public Instruction within three years.

(c) Pre-K teachers with a NC Residency B-K License as specified in Subparagraph (a)(3) of this Rule shall make progress toward the B-K Continuing License by:

- (1) obtaining and following an official Residency B-K Plan of Study issued by an approved North Carolina Department of Public Instruction (NCDPI) Educator Preparation Program (EPP) based on:
 - (A) submission of all college transcripts to the EPP;
 - (B) overall GPA of 2.7 or higher on the undergraduate degree or as determined by the EPP;
- and

- (C) employment as a Lead Teacher in a non-public NC Pre-K or Developmental Day Preschool classroom;
- (2) submitting to the Division, college or university transcripts verifying the completion of a minimum of six semester credit hours per school year in accordance with Subparagraph (1) of this Paragraph;
- (3) meet the Division's and EPP's requirements to renew the Residency License no more than two times within a three-year period; and
- (4) achieving the NC B-K Initial or Continuing License issued by the North Carolina Department of Public Instruction within three years.
- (d) Pre-K teachers with a NC Emergency License shall make progress toward the B-K Continuing License by:
- (1) obtaining and following an official Plan of Study prepared by an EPP. This official Plan of Study must specify how to qualify for a Residency B-K License during the upcoming school year.
- (2) submitting to the Division, college or university transcripts verifying the completion of a minimum of six semester credit hours or less per school year in accordance with Subparagraph (1) of this Paragraph; and
- (3) holding an Emergency License does not guarantee conversion to a Residency B-K License the following school year.
- ~~(e)(c)~~ Pre-K teachers with a NC Provisional B-K or ~~Preschool~~ Pre-K/K Add-on License shall make progress toward the B-K Continuing License by:
- (1) obtaining and following a Plan of Study issued by an accredited college or university with a North Carolina Department of Public Instruction approved ~~teacher education program;~~ B-K Teacher Education Program;
- (2) submitting to the Division college or university transcripts verifying the completion of a minimum of six semester credit hours per year in accordance with Subparagraph (1) of this Paragraph;
- (3) completing the three-year North Carolina State Board of Education Beginning Teacher Support Program in accordance with G.S. ~~445C-296(e)~~ 115C-300.1 and North Carolina State Board of Education Policy ~~LICN-004;~~ TCED-0016; and
- (4) achieving the NC B-K Initial or Continuing License issued by the North Carolina Department of Public Instruction within five years.
- ~~(d)(f)~~ Teachers not meeting the annual minimum semester hours as set forth in Subparagraphs ~~(b)(2) and (b)(3)~~ (b)(1), (c)(1) and (d)(1) of this Rule shall submit a written request to the Division of Child Development and Early Education Early Educator Support, Licensure and Professional Development Unit requesting an extension to complete the requirement. Teachers shall submit a written request to the Division of Child Development and Early Education Early Educator Support, Licensure and Professional Development Unit. The written request shall include the reason for not meeting the provisions of this Rule, a list of the required coursework and semesters hours to be completed as prescribed by the Plan of Study, a timeline for completing the required semester hours, and documentation supporting course enrollment and expected completion dates.

(e)(g) In determining whether to approve less than the annual minimum required semester hours, the Division shall consider reasons, including:

- (1) ~~maternity~~ parental or family leave;
- (2) death, disability, or illness; and
- (3) natural or man-made disasters.

~~(f)(h)~~ Teachers shall maintain the B-K or ~~Preschool~~ Pre-K/K Add-on Continuing License in accordance with G.S. ~~115C-296(b)(1)b.4.~~ 115C-296 (II). and NC State Board of Education Policy LICN-005. These policies can be found at http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-296.html <https://simbli.eboardsolutions.com/ePolicy/policy.aspx?PC=LICN-005&Sch=10399&S=10399&C=LICN&RevNo=1.03&T=A&Z=P&St=ADOPTED&PG=6&SN=true>.

~~(g)(i)~~ Teachers with expired B-K Continuing licenses shall meet the provisions set forth in G.S. ~~115C-296(b)(1)b.4.~~ 115C-296(II). which can be found at http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-296.html <https://simbli.eboardsolutions.com/ePolicy/policy.aspx?PC=LICN-005&Sch=10399&S=10399&C=LICN&RevNo=1.03&T=A&Z=P&St=ADOPTED&PG=6&SN=true> and North Carolina State Board of Education Policy LICN-005. These policies can be found at https://stateboard.ncpublicschools.gov/policy-manual/licensure/copy2_of_licensure-renewal-requirements. <https://simbli.eboardsolutions.com/ePolicy/policy.aspx?PC=LICN-005&Sch=10399&S=10399&C=LICN&RevNo=1.03&T=A&Z=P&St=ADOPTED&PG=6&SN=true>.

~~(h)(j)~~ The site-level administrator shall maintain documentation available for review by the Division, of the progress toward the ~~required standard~~ requirements as specified in this Rule.

~~(i)(k)~~ All NC Pre-K lead teachers employed by nonpublic schools must be enrolled with the Early Educator Support, Licensure & Professional Development Unit of the Division of Child Development and Early Education. Enrollment requirements may be found on the Division of Child Development and Early Education website at http://ncchildcare.dhhs.state.nc.us/general/mb_eeslpd.asp. https://ncchildcare.ncdhhs.gov/Portals/0/documents/pdf/N/NCPre-K_EESLPD_Enrollment_Application_REV_JUL2019.pdf?ver=2019-08-16-135555-313.

History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);

Eff. November 1, 2012;

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