

10A NCAC 09 .3102 is adopted with changes under temporary procedures as follows:

10A NCAC 09 .3102 DEFINITIONS

The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a different meaning.

(1) "Public schools" means:

(a) any building that is approved for school occupancy and which houses school-age children as part of the public school system during the school year; or

(b) a ~~[Remote Learning Facility;]~~ remote learning facility.

(2) "Remote ~~[Learning Facility;]~~ learning facility" means any building that is used by a public school system, pursuant to a ~~Contractual Arrangement,~~ contractual arrangement, to house school-age children enrolled in that public school system during the school year for the purpose of facilitating online or remote learning programs, and ~~[which]~~ that follows any and all guidance or considerations offered by the Centers for Disease Control and Prevention related to mitigation strategies, the protection of students, teachers, and staff, or slowing the spread of COVID-19 in K-12 schools. The information and documents are hereby incorporated by reference, including subsequent amendments and editions, and may be accessed at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html> at no cost. [the "Strong Schools NC: Public Health Toolkit (K-12) Interim Guidance" established by the North Carolina Department of Health and Human Services.]

(3) "Contractual ~~[Arrangement;]~~ arrangement" means a written agreement wherein the ~~[local school administrative unit]~~ public school unit, as defined in G.S. 115C-5(7A), agrees as follows:

(a) to be responsible for the enrollment and attendance of school-age children at a ~~[Remote Learning Facility;]~~ remote learning facility; and

(b) that it shall be liable for any incidents or occurrences at the ~~[Remote Learning Facility]~~ remote learning facility in the same way it would be liable if the school-age child(ren) were in a building that is approved for school occupancy and which houses any part of the public school system. Notwithstanding the foregoing, this provision shall not prohibit the ~~[local school administrative]~~ public school unit from obtaining liability insurance or from contracting with the ~~[Remote Learning Facility]~~ remote learning facility regarding indemnification or other terms regarding the apportionment of liability between themselves for incidents or occurrences.

History Note: Authority G.S. 110-85, 110-86; 110-88; 110-91;
Emergency Adoption Eff. August 13, 2020;
Temporary Adoption Eff. October 23, 2020.

1 **10A NCAC 09 .3103 is adopted with changes under temporary procedures as follows:**

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3 **10A NCAC 09 .3103 PUBLIC SCHOOLS**

4 Pursuant to G.S. 110-86(2)(e), [~~Public~~] public schools are not child care and are, therefore, exempt from licensure.
5 Notwithstanding any other provision of this Section, all NC Pre-K programs, as defined in Section .3000 of this
6 Chapter, and Developmental Day Services, as defined in Section .2900 of this Chapter, and any program or
7 arrangement housed in a [~~Public~~] public school that is not operated by the [~~local school administrative~~] public school
8 unit and provides care to three or more infants, toddlers, or preschoolers on a regular basis of at least once per week
9 for more than four hours from persons other than their guardians or full time custodians or from persons not related to
10 them by birth, marriage, or adoption are child care as defined in G.S. 110-86(2) and requires a child care license.

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12 *History Note: Authority G.S. 110-85, 110-86; 110-88; 110-91;*

13 *Emergency Adoption Eff. August 13, 2020;*

14 *Temporary Adoption Eff. October 23, 2020.*

1 10A NCAC 09 .3104 is adopted with changes under temporary procedures as follows:

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3 10A NCAC 09 .3104 ADDING SPACE AT LICENSED CENTERS FOR CARE OF SCHOOL-AGE
4 CHILDREN

5 If an operator of a licensed child care center wishes to use additional space not previously approved for child care,
6 ~~[space,]~~ regardless of location, ~~[not previously approved for child care ("additional space")]~~ to care for school-age
7 children during the Declaration of a State of Emergency, the operator shall notify the Division of the desired change
8 pursuant to 10A NCAC 09 .0204, but shall have six months to obtain any required inspections of the additional space
9 by the local health, building, and fire inspections in accordance with G.S. 110-91(1), (4), and (5). If all other standards
10 set forth in G.S. 110-91 and this Chapter are met, the operator may provide care to school-age children in the additional
11 space and the Division shall document the same in a manner that will notify parents and the public of the change.
12 Once the operator provides documentation that the additional space conforms to all applicable sanitation, building,
13 and fire standards, and if all applicable requirements of G.S. 110, Article 7 and this Chapter are met, the Division shall
14 issue a new license pursuant to 10A NCAC 09 .0204. If a health, building, ~~[and/or]~~ or fire inspection reveals that the
15 additional space does not conform to the required standards, the Division may issue a provisional license ~~[under the~~
16 ~~polices of the Commission,]~~ as set forth in 10A NCAC 09 .2204. Any ~~[additional]~~ space that the operator desires to
17 use as additional space for care of school-age children, which is not located within the currently licensed facility, shall
18 not be required to meet the outdoor space and fencing requirements of G.S. 110-91(6). If there is no ~~[safe]~~ outdoor
19 space at the additional space to be used for care of school-age children, ~~[which]~~ that is not located within the currently
20 licensed facility, operators shall not be required to meet the requirements of 10A NCAC 09 .0508(c). Notwithstanding
21 any other provision in this Section, operators shall provide ~~[adequate]~~ indoor space for daily gross motor activities
22 when ~~[safe]~~ outdoor space is not available.

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24 *History Note: Authority G.S. 110-85, 110-86; 110-88; 110-91;*
25 *Emergency Adoption Eff. August 13, 2020;*
26 *Temporary Adoption Eff. October 23, 2020.*