

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1718

DEADLINE FOR RECEIPT: Thursday April 7, 2016

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In Item (1), what is "developmentally appropriate equipment and materials"? Are you relying upon G.S. 110-91(12)?

In Item (1), line 6, replace "which" with "that"

On lines 6 and 9, define "vigorous"

On lines 6 and 7, does your regulated public know what "social, emotional, and intellectual development" means?

In Item (2), line 12, define "comfortably" Also, wouldn't Items (6) and (7) be better placed near this Item, since they all relate to sleeping?

In Item (3), define "quiet" and "easily" Also, what is a "separate area"? How separate does it need to be? And is "too sick to remain with other children/ in care" a known standard?

On line 15, replace "which" with "that"

On line 16, define "immediately"

In Item (4), line 19, it appears you are defining "Adequate Supervision" for the purpose of the Item. If so, please put the language in quotation marks and consider stating "For the purposes of this Item, "adequate supervision" shall mean:"

In Sub-Items (4)(a) and (b), lines 20 and 23, you refer to the "operator" (a singular noun), but on the next lines (21 and 24), you state "their" Please change "their" to "his or her"

On lines 22 and 25, please define "immediate"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 23, 2016

On lines 20, 23, 26, 29, and 31, please replace “must” with “shall”

So that I understand – the operator is subject to (4)(a) OR (4)(b), and always (4)(c) and (d)? If so, consider either combining (4)(a) and (b) to create this:

(4)(a) The operator shall be position in the indoor and outdoor environment to maximize his or her ability:

- (i) For pre-school age children, to see and hear the children at all times ...;*
- or*
- (ii) For school-age children,...*

If you do not want to do that, please insert an “and” at the end of the sentence on line 25.

In Sub-Item (4)(d)(i), how will the operator know where each child is located if they can only hear them? Or is this to ensure a general knowledge of where the child is located?

In Sub-Item (4)(d)(ii), how is this appropriate supervision determined?

On line 32, please insert a comma after “needs”

In Sub-Item (4)(d)(iii), line 33, replace “Paragraph” with “Item” assuming that is what you mean.

On line 34, what is “direct supervision”? You define “adequate supervision” on line 19. Is this the same thing?

On line 35, what is this “documentation”?

Why do you need Item (5) on Page 2? What is the reason for this?

Also in Item (5), line 10, the term defined in the USC is “qualified individual” so please remove the rest of the language in the term here.

You end Items (5) and (6) with periods, but every other Item ends with a semicolon. Please end all of the Items in the Rule the same way. I think periods would be appropriate for all of them, but that is simply a suggestion.

In Item (6), line 14, define “quickly”

In Item (8), will this count as “vigorous indoor activities” in Item (1)? Or is it part of Item (9)?

In Item (9), what is “developmentally appropriate”? Are you relying upon G.S. 110-91(12)?

In Sub-Item (9)(a), line 24, define “usually”

In Sub-Item (9)(b), I suggest inserting a “it” after “view” on line 26.

Sub-item (9)(d) partially restates Item (1). Do you need it both places? (I realize that this is referring to a written schedule, but the schedule is reciting what is needed in Item (1))

In Sub-Item (9)(e), line 30, replace “which” with “that”

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In Item (10), end Sub-Items (a) and (b) with semicolons, not commas.

On Page 3, line 1, is there a limit for the extension? And is it approved somehow?

Also on line 1, what are "Specific special events"? Does your regulated public know?

On line 2, replace the semicolon after "holiday" with a comma.

In the History Note, please separate the serial citations to G.S. 110-91 as "110-91(2); 110-92(12);"

Also in the History Note, is the reference to G.S. 110-92(2) there because it addresses rest?

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

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1 10A NCAC 09 .1718 has been amended with changes as published in 30 NCR 06 604-606 as follows:

2
3 10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS

4 (a) The operator shall provide the following on a daily basis for all children in care:

5 (1) Developmentally appropriate equipment and materials for a variety of outdoor activities
6 which allow for vigorous play, large and small muscle development, and social,
7 emotional, and intellectual development. Each child shall have the opportunity for
8 outdoor play each day that weather conditions permit. The operator shall provide space
9 and time for vigorous indoor activities when children cannot play outdoors;

10 (2) An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with
11 individual linens for each pre-school aged child in care for four hours or more, or for all
12 children if overnight care is provided, to rest comfortably. Individual sleep requirements
13 for infants aged 12 months or younger shall be provided for as specified in 10A NCAC
14 09 .1724(a)(2). Linens shall be changed weekly or whenever they become soiled or wet;

15 (3) A quiet, separate area which can be easily supervised for children too sick to remain with
16 other children. Parents shall be notified immediately if their child becomes too sick to
17 remain in care;

18 (4) ~~Adequate supervision as described below:~~ Children shall be adequately supervised at all
19 times. Adequate supervision shall mean that:

20 (a) For pre-school age children, the operator must be positioned in the indoor and outdoor
21 environment to maximize their ability to hear and see the children at all times and render
22 immediate assistance; or

23 (b) For school-age children, the operator must be positioned in the indoor and outdoor
24 environment to maximize their ability to hear or see the children at all times and render
25 immediate [assistance.] assistance;

26 (c) The operator must interact with the children while moving about the indoor or outdoor
27 area; and

28 (d) ~~(e)~~ For children of all ages:

29 (i) the operator must know where each child is located and be aware of children's
30 activities at all times;

31 (ii) the operator must provide supervision appropriate to the individual age,
32 needs and capabilities of each child; and

33 (iii) all of the conditions in this Paragraph shall apply except when emergencies
34 necessitate that direct supervision is impossible for brief periods of time.
35 Documentation of emergencies shall be maintained and available for review by
36 Division representatives upon request.

- 1 (A) ~~For children who are awake, staff shall interact with the children while moving about the~~
2 ~~indoor or outdoor area, and shall be able to hear and see the children at all times, except~~
3 ~~when emergencies necessitate that direct supervision is impossible for brief periods of~~
4 ~~time; and~~
- 5 (B) ~~For children who are sleeping or napping, the staff are not required to visually~~
6 ~~supervise them, but shall be able to hear and respond quickly to them. Children shall not~~
7 ~~sleep or nap in a room with a closed door between the children and the supervising staff.~~
8 ~~The staff shall be on the same level of the home where children are sleeping or napping.~~
- 9 (5) Nothing contained in this Rule shall be construed to preclude a "qualified person with a
10 disability," as defined by G.S. 168A-3(9), or a "qualified individual with a disability," as
11 defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a
12 licensed child care facility.
- 13 (6) For children who are sleeping or napping, the operator is not required to visually supervise
14 them, but shall be able to hear and respond quickly to them. Children shall not sleep or nap
15 in a room with a closed door between the children and the operator. The operator shall
16 be on the same level of the home where children are sleeping or napping.
- 17 ~~(5)~~(7) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding
18 or other objects shall not be placed in a manner that covers the child's face;
- 19 ~~(6)~~(8) The opportunity each day for each child under the age of 12 months to play while awake
20 while positioned on his or her stomach;
- 21 ~~(7)~~(9) Developmentally appropriate activities as planned on a written schedule. Materials or
22 equipment shall be available indoors and outdoors to support the activities listed on the
23 written schedule. The written schedule shall:
- 24 ~~(A)~~ (a) Show blocks of time usually assigned to types of activities and include periods of
25 time for both active play and quiet play or rest;
- 26 ~~(B)~~ (b) Be displayed in a place where parents are able to view;
- 27 ~~(C)~~ (c) Reflect daily opportunities for both free choice and guided activities;
- 28 ~~(D)~~ (d) Include a minimum of one hour of outdoor play throughout the day, if weather
29 conditions permit; and
- 30 ~~(E)~~ (e) Include a daily gross motor activity which may occur indoors or outdoors; and
- 31 ~~(8)~~(10) When screen time, including videos, video games, and computer usage, is provided, it
32 shall be:
- 33 ~~(A)~~ (a) Offered only as a free choice activity,
- 34 ~~(B)~~ (b) Used to meet a developmental goal, and
- 35 ~~(C)~~ (c) Limited to no more than two and a half hours per week for each child two years
36 of age and older.

1 Usage time periods may be extended for specific special events, projects, occasions such as a current
2 event, homework, on-site computer classes, holiday; and birthday celebration. Screen time is prohibited
3 for children under the age of two years. The operator shall offer alternate activities for children under the age
4 of two years.

5

6 *History Note: Authority G.S. 110-85; 110-88; 110-91(2),(12);*
7 *Eff. July 1, 1998;*
8 *Amended Eff. May 1, 2016; December 1, 2012; July 1, 2010; March 1, 2006;*
9 *May 1, 2004.*