



Richard O. Brajer
Secretary

Wayne E. Black
Director

Larry W. Potts
Chairman

October 20, 2016

TO: Amber May, J.D., Rules Review Commission

FROM: Larry W. Potts, Chair, North Carolina Social Services Commission
Dedra Alston, Rule-Making Coordinator, DHHS/DCDEE *DA*
Carlotta Dixon, Rule-making Coordinator, DHHS/DSS *CD*



SUBJECT: Administrative Rules Waiver Request

In accordance with N.C.G.S. § 150B-21.1(a2), the North Carolina Social Services Commission and the North Carolina Division of Child Development and Early Education hereby request a waiver of the 210 day limitation found in N.C.G.S. § 150B-21.1(a1). The waiver request covers the following temporary rules:

10A NCAC 10 .0602 and .0702

The following sections address the statutory requirements for requesting a waiver.

Degree of Public Benefit

- The State of North Carolina receives approximately \$191 million annually from the Child Care Development Fund (CCDF) pursuant to The Child Care Block Development Grant Act of 1990 (CCDBG). CCDF funds a portion of the Subsidized Child Care Assistance Program, which permits more than 120,000 children from disadvantaged families to attend quality child care facilities and little or no cost to parents.
- CCDF monies will also be used to assist the State of North Carolina in promoting family engagement, better serve homeless families, and ensure that unemployed
- Parents do not lose their child care subsidy monies when transitioning into full-time employment.



- CCDF monies provide support to child care recourse and referral services for families.
- CCDF monies provide support for technical assistance training for child care providers.
- CCDF monies provide support for monitoring of child care programs.
- CCDF monies provide support for North Carolina's Star Rated License system for child care facilities.

Agency Control over Circumstances

- The Child Care Block Development Grant Act of 1990 (CCDBG) was amended and reauthorized in November of 2014. Since that time, DCDEE has been working closely with the federal government, specifically the Administration for Child and Families (ACF) in the U.S. Department of Health and Human Services to ensure proper implementation of the broad changes enacted as part of CCDBG reauthorization.
- The federal government has adopted regulations for implementation of the CCDBG effective November 29, 2016. Prior to adoption, DCDEE use policies provided by ACF to move forward with necessary statutory and rule changes, as well as changes to procedures mandated by the new law.
- In December of 2015, ACF sent a "Program Instruction" to states which, for the first time, set out the timeline for implementation of those statutory mandates for which the CCDBG did not provide a deadline to implement new requirements. The Program Instruction indicated that the deadline for these requirements was September 30, 2016. The document does not indicate where in the CCDBG Act that date appears, nor has DCDEE been able to find that date in the statutory language. Although this deadline may have been in the proposed regulations, staff have been unable to find this deadline in the final regulations. Nevertheless, the Program Instruction document described above includes this deadline and no new instructions have included a later deadline.
- DCDEE staff coordinating CCDBG implementation did not receive a copy of that Program Instruction, although other DCDEE staff did. As a result, however, no action was taken in December of 2015 to begin the rulemaking process needed to ensure compliance with the new law. That Program Instruction is attached hereto as **Exhibit A.**
- In May of 2016, ACF held a webinar, during which it discussed the September 30, 2016 deadline. North Carolina, as well as several other states, had been unaware of the deadline until that time.
- In August of 2016, DCDEE staff drafted proposed emergency rule language to satisfy CCDBG requirements.
- In August of 2016, DCDEE staff drafted proposed temporary rule language to replace the emergency rules in accordance with G.S. §150B-21.1A.

Notice to and Opposition by the Public

- The public was given notice and an opportunity to be heard at a public hearing or submit written comments. No one spoke during the public hearing nor were any comments received.

Need for Waiver

- Waiver is necessary in order to ensure that the State of North Carolina receives this large and important grant. Without waiver, North Carolina will not be in compliance with federal directives given in conjunction with the CCDBG Act and this \$191 million a year funding source will be at risk.
- The children of North Carolina, and especially children whose families cannot afford to send them to quality child care, will be at greater risk without the health, safety, and training requirements contained in these temporary rules.

Previous Waiver Requests Submitted by the Agency

- These rules fall under the same circumstances for the waiver request submitted in September 2016 for rules in 10A NCAC 09. The request is to waive the 210 day requirement so that the September 30, 2016, deadline set by the CCDGB is met.

<h1>ACF</h1>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
Administration for Children and Families	1. Log No: CCDF-ACF-PI-2015-09	2. Issuance Date: December 17, 2015
	3. Originating Office: Office of Child Care (OCC)	
	4. Key Words: Child Care and Development Fund (CCDF) FY 2016-2018 Plan Extension, Child Care and Development Block Grant (CCDBG) Act	

PROGRAM INSTRUCTION

To: State and Territorial Lead Agencies administering the Child Care and Development Fund (CCDF) program, as amended, and other interested parties.

Subject: This Program Instruction (PI) transmits the Final State/Territory Plan Preprint (ACF-118) for the Child Care and Development Fund (CCDF) program for Fiscal Year 2016-2018 triennium, and provides guidance for submitting the Plan. This Plan is required by section 658E of the CCDBG Act.

References: The Child Care and Development Block Grant (CCDBG) Act (42 U.S.C. § 9858 *et seq.*), as amended by the CCDBG Act of 2014 (Pub. L. 113-186); section 418 of the Social Security Act (42 U.S.C. § 618); 45 CFR Parts 98 and 99; 63 FR 39936-39998.

Purpose: The CCDF Plan Preprint serves as the Lead Agency’s application for CCDF funds by providing a description of how the program will be administered in accordance with CCDF rules and regulation to provide high-quality child care services to eligible families. Plans will be effective from June 1, 2016, through September 30, 2018. The State and Territory deadline for the submission of the Plan was extended from July 1, 2015, to March 1, 2016; however, the extension did not extend the 3-year period of the Plan, nor did it change the effective dates for statutory reauthorization provisions, published in Program Instruction CCDF-ACF-PI-2015-02, dated January 9, 2015.

Background: The Plan has been revised to incorporate the changes made in the CCDBG Act of 2014 (the Act), which was signed into law by President Obama on November 19, 2014. The Act made expansive changes to protect the health and safety of children in child care, promote continuity of access to subsidy for low-income families, better inform parents and the general public about the child care choices available to them, and improve the overall quality of early learning and afterschool programs.

The Office of Child Care (OCC) will determine compliance with requirements in the Act through submission and approval of the FY 2016-2018 CCDF Plans, onsite monitoring visits, audit reviews, and other appropriate means.

Since enactment of the Act, ACF has convened a number of listening sessions with States and local and national organizations across the country; responded to questions regarding the Act, including requests for clarification and additional guidance, and also received public comments on the Plan Preprint through three separate Federal Register public comment periods published on January 30, May 27, and September 24, 2015. Careful consideration was given to all comments and the final Plan Preprint has been revised to reflect the comments as appropriate.

Guidance: **Lead Agencies' Responsibilities:** Section 658D(b)(1)(A) of the reauthorized CCDBG Act requires the Lead Agency to “administer, directly or through other State governmental or non-governmental agencies...” the funds received. The regulations at 45 CFR 98.11 provide that, in addition to retaining overall responsibility for the administration of the program, the Lead Agency must also (among other things) promulgate all rules and regulations of the CCDF program; ensure compliance with the approved Plan and all Federal requirements; oversee the expenditure of funds by subgrantees and contractors; and ensure that any local or non-governmental entities through which the State administers the program operate according to the rules established for the CCDF.

Plan Submission: States and Territories must submit their FY 2016-2018 Plans to the Administration for Children and Families (ACF) by the March 1, 2016, deadline. The State and Territory CCDF Plan Preprint (ACF-118) is included as Attachment A for reference purposes only. Lead Agencies will continue to use the online submission tool via the web to submit the Plan to ACF. While this Program Instruction provides brief guidance and clarification in a few areas, the electronic submission (“e-submission”) process has allowed ACF to embed more guidance and definitions directly into the Plan Preprint document and in the e-submission site.

Lead Agencies should consult Program Instruction [CCDF-ACF-PI-2015-04](#), dated April 10, 2015, for specific requirements related to the Market Rate Survey or Alternative Methodology; Public Hearing; and the new statutory consultation and coordination requirements.

Effective Dates: The Act specifies particular dates when certain provisions are effective. Below are provisions where specific effective dates are specified:

- Monitoring requirements, including requirements for annual inspections of CCDF providers (under section 658E(c)(2)(K) of the Act) must be in place by November 19, 2016. All child care providers eligible to provide CCDF services as of November 19, 2016, must receive their annual inspection no later than November 19, 2017 (and at least annually thereafter).
- Requirements for posting results of monitoring and inspection reports must be in place, and the results must actually be posted, no later than November 19, 2017, or one year after monitoring requirements are in place, whichever is earlier.
- Criminal background check requirements (658H) must be in place and implemented by September 30, 2017. The Act specifies that all new and existing child care staff must receive background checks by this date.

Where the Act does not specify a date, the new requirements became effective upon the date of enactment and States/Territories have until September 30, 2016, to implement the new statutory requirement(s). For example:

- States and Territories must have eligibility requirements in place consistent with the Act, including minimum 12-month eligibility, that apply to all new eligibility determinations and re-determinations occurring after this date.
- States and Territories must have health and safety training requirements (658(c)(2)(I)) and training and professional development requirements (658(c)(2)(G)) in place by September 30, 2016. This means that all new and existing caregivers and teachers must meet these training requirements by this date.

Implementation Plans and Plan Amendments: ACF has determined when a State or Territory cannot certify compliance with a specific requirement at the time of CCDF plan submission (March 1, 2016), the Lead Agency must provide a specific implementation plan for achieving compliance with the provision of the Act. If a State or Territory is not going to be in compliance with one or more provisions by the deadline required in the Act, then the State/Territory must request a temporary extension/waiver as well as complete an implementation plan (see guidance below for temporary extension/waiver requests).

The implementation plan must provide sufficient information to support approval of the Plan for funding and include the following as outlined in the State/Territory Plan:

- overall target completion date (no later than the appropriate effective date deadline);
- current status for any requirement;
- specific steps (activities) that will be taken to complete the implementation of the unmet requirement;
- timeline for implementation, including start date and end date; and
- agency and partners responsible for completing implementation of the activities.

ACF will work with States and Territories to monitor progress towards achievement of the new requirements and will conduct ongoing reviews of implementation of plans until fulfillment of the requirement. Once the requirement(s) has been met, the Lead Agency must submit a Plan amendment to ACF for approval through the e-submission site. Lead Agencies are reminded that any “substantial” change to their approved Plan requires ACF approval via a Plan amendment. Plan amendments must be submitted to ACF for approval within 60 days of the effective date.

- **Written Extension/Waiver Request:** The Act requires that State and Territories submit waiver requests to ACF in writing. The written request will:
 - detail each sanction or provision that the State seeks relief from;

- describe how a waiver from that sanction or provision will, by itself, improve the delivery of child care services for children in the State/Territory;
- certify that the health, safety, and well-being of children served through assistance received through CCDF will not be compromised as a result of the waiver; and
- describe one or more conflicting or duplicative requirement(s) preventing the effective delivery of child care services to justify the waiver; extraordinary circumstances, such as a natural disaster or financial crisis; or an extended period of time for a State legislature to enact legislation to implement the provision of the Act.

Failure to include the required information could result in the disapproval of the request. Waiver requests to ACF must be submitted by the designated official authorized to act on behalf of the Lead Agency. ACF must respond to the State/Territory within 90 days after the receipt of the request.

- **Consideration for Extension/Waiver Approval:** Section 658I(c) of the reauthorized CCDBG Act allows ACF to waive provisions or penalties up to 3 years (with an option of a 1-year extension) under certain limited circumstances. The Act only allows for temporary extensions to give States additional time to come into compliance with Federal CCDF requirements. The Act does not give authority for permanent waivers. The consideration for approval will be based on whether:
 - such circumstances included in the request prevent the State/Territory from complying with any statutory requirements;
 - the waiver will, by itself, contribute to or enhance the State's ability to carry out the purposes of CCDF; and
 - the waiver will not contribute to inconsistency with the objectives of the Act.

- **Timeline for Submission of Extension/Waiver:** Waiver requests should be addressed to the Director, Office of Child Care, Administration for Children and Families, and uploaded electronically through the ACF-118 electronic submission site. All requests should include a copy to the respective OCC Regional Program Manager. Waiver requests for requirements that must be met in calendar year 2016 must be included as part of the Plan review and approval process and therefore must be submitted by March 1, 2016. Waiver requests for requirements due in 2017 may be submitted at a later date, but no later than 90 days before the effective date of the requirement. However, States and Territories must still submit complete implementation plans in the Preprint for any requirements due in 2017. The timelines and activities in the implementation plans for the later date requirements should reflect as much accuracy as possible based on the availability or knowledge of information at the time of submission.

Technical Assistance:

ACF will continue to provide technical assistance through various approaches at the national level and through the ACF Regional Offices to support States and Territories in meeting and implementing the requirements of the Act. ACF will engage the technical assistance centers and specialists to support the ongoing delivery of technical assistance to meet specific needs and requests. ACF has compiled resources on reauthorization topics and cross-walked those topics with major CCDF Plan sections. The collection of resources can be found at <https://childcareta.acf.hhs.gov/ccdf-reauthorization>. As additional resources are developed, they will be added to the site and will be flagged as new. Also, Better Kid Care, administered by Pennsylvania State University, offers on-line training courses, including topics for training required or recommended by the Act. These training courses are located at <http://extension.psu.edu/youth/betterkidcare/early-care/ccdbg>.

Questions:

Please direct inquiries to the Child Care Program Manager in the appropriate ACF Regional Office or e-mail inquiries to ccdf.reauthorization@acf.hhs.gov.

Attachment:

FY 2016 – 2018 Plan Preprint
Program Instruction (Key Statutory Required Implementation Dates) [CCDF-ACF-PI-2015-02](#)

Rachel Schumacher
Director
Office of Child Care



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC SOCIAL SERVICES COMMISSION
2. Rule citation & name: 10A NCAC 10 .0602 APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM
3. Action: <input type="checkbox"/> Adoption X Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: X Yes Effective date: August 22, 2016 <input type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: August 10, 2016 b. Proposed Temporary Rule published on the OAH website: August 16, 2016 c. Public Hearing date: September 14, 2016 d. Comment Period: August 17-September 14, 2016 e. Notice pursuant to G.S. 150B-21.1(a3)(2): August 10, 2016 f. Adoption by agency on: October 12, 2016 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: October 28, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: The Child Care and Development Block Grant Act 42 U.S.C. §9858 Effective date: November 19, 2014 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:
Explain: Amendments to this rule are necessary to bring North Carolina into compliance with the training requirements of the Child Care and Development Block Grant (CCDBG) Act of 2014. This temporary rule would require facilities not currently subject to the training requirements to comply in order to be eligible to participate in the state's subsidized child care assistance program. The CCDBG, 42 U.S.C. 9857, Section 658E(c)(2)(G) requires all child care providers "that provide services for which assistance is provided in accordance" with the Act to comply with training requirements under the Act. Presently, facilities operating under N.C.G.S. § 110-106, centers operating in other states, and centers certified by the United States Department of Defense are not required to comply with current regulatory requirements under G.S. 110, Article 7 and 10A NCAC 09 governing training. Participation in the program is voluntary for all child care providers. Facilities that are currently "only" subject to basic health and safety standards under NC law and rules would be required to meet these training requirements if they choose to participate and receive subsidy funds. The Child Care and Development Fund (CCDF) that is authorized by the CCDBG provides federal funding for low-income families with children in child care who are working or continuing their education and training. These funds help families pay for child care services.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Although the CCDBG Act was enacted in 2014, the final regulations were just published in the Federal Register on September 23, 2016. If NC cannot certify that it is compliant with the requirements of the CCDBG Act by the September 30 deadline, NC risks forfeiting millions of federal dollars it desperately needs to maintain funding for low-income families with children in child care.

The Social Services Commission adopted this rule under the temporary rules process to help protect the health and safety of children in child care so that providers would have access to the required training by the September 30, 2016 deadline. The training includes the following 11 topic areas:

- 1) prevention and control of infectious diseases, including immunization;
- 2) administration of medication, consistent with standards for parental consent;
- 3) prevention of and response to emergencies due to food and allergic reactions;
- 4) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- 5) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
- 6) handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
- 7) precautions in transporting children, if applicable;
- 8) prevention of shaken baby syndrome and abusive head trauma;
- 9) CPR and First Aid training;
- 10) recognizing and responding to Suspicions of Child Maltreatment; and
- 11) prevention of sudden infant death syndrome and use of safe sleeping practices.

The federal register may be found at <https://www.gpo.gov/fdsys/pkg/CFR-2003-title45-vol1/pdf/CFR-2003-title45-vol1-part98.pdf>

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

9. Rule-making Coordinator: Carlotta Dixon

Phone: 919-527-6421

E-Mail: Carlotta.Dixon@dhhs.nc.gov

12. Signature of Agency Head*:



*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Larry W. Potts

Title: Social Services Commission Chairman

E-Mail: Carlotta.Dixon@dhhs.nc.gov

Agency contact, if any: Dedra Alston

Phone: 919-527-6502

E-Mail: Dedra.Alston@dhhs.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

REQUEST FOR TECHNICAL CHANGE FOR TEMPORARY RULE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 09 .0602

DEADLINE FOR RECEIPT: Tuesday, October 18, 2016 – 12:00 p.m.

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), please capitalize "state's"

In (c), please consider deleting "of the Child Care and Development Block Grant Act, 42 U.S.C. 9858. et seq. as..." so that the paragraph reads as follows:

(c) To be eligible to participate in the Subsidized Child Care Assistance Program, centers that are exempt from licensure pursuant to N.C.G.S. § 110-106, centers operating in other states, and centers certified by the United States Department of Defense must comply with all staff orientation and training requirements [of the Child Care and Development Block Grant Act, 42 U.S.C. 9858, et seq. as] set forth in 10A NCAC 09 .0705, .0706, and .0707.

Also in (c), what do you mean by "centers operating in other states"? Do you mean centers licensed in NC that are operating in other states? Just for my understanding, when does this occur?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: October 17, 2016

1 **10A NCAC 10 .0602 is adopted under temporary procedures as follows:**

2

3 **10A NCAC 10 .0602 APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD**
4 **CARE ASSISTANCE PROGRAM**

5 (a) Application for approval to participate in the state's Subsidized Child Care Assistance Program shall be made to the
6 local purchasing agency.

7 (b) Any center approved for participation in the Subsidized Child Care Assistance Program shall continue to be eligible
8 for as long as the center maintains compliance with all of the requirements set forth in this ~~Subchapter.~~ Chapter.

9 (c) To be eligible to participate in the Subsidized Child Care Assistance Program, centers that are exempt from licensure
10 pursuant to N.C.G.S. § 110-106, centers operating in other states, and centers certified by the United States Department
11 of Defense must comply with all staff orientation and training requirements of the Child Care and Development Block
12 Grant Act, 42 U.S.C. 9858, et seq. as set forth in 10A NCAC 09 .0705, .0706, and .0707.

13 ~~(d)~~ (d) When a center is found to be out of compliance with any requirement for participation, the Division shall set a
14 time limit for compliance. The Division shall base the time limit on the length of time projected to be needed for the
15 center to comply with the requirement. If the center fails to comply within the set time limit, approval may be
16 terminated.

17 ~~(e)~~ (e) Upon request for review by a local, state, or federal agency representative, the operator of a center shall provide
18 records pertaining to his or her participation in the state's Subsidized Child Care Assistance Program.

19

20 *History Note: Authority G.S. 143B-153(2a);*
21 *Eff. February 1, 1986;*
22 *Amended Eff. April 1, 2001; February 1, 1996;*
23 *Emergency Amendment Eff. August 22, 2016;*
24 *Temporary Amendment Eff. October 28, 2016.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NC SOCIAL SERVICES COMMISSION
2. Rule citation & name: 10A NCAC 10 .0702 APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM
3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input checked="" type="checkbox"/> Yes Effective date: August 22, 2016 <input type="checkbox"/> No
5. Provide dates for the following actions as applicable: <ul style="list-style-type: none"> a. Proposed Temporary Rule submitted to OAH: August 10, 2016 b. Proposed Temporary Rule published on the OAH website: August 16, 2016 c. Public Hearing date: September 14, 2016 d. Comment Period: August 17-September 14, 2016 e. Notice pursuant to G.S. 150B-21.1(a3)(2): August 10, 2016 f. Adoption by agency on: October 12, 2016 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: October 28, 2016 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <ul style="list-style-type: none"> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: The Child Care and Development Block Grant Act 42 U.S.C. §9858 Effective date: November 19, 2014 <input type="checkbox"/> A recent change in federal or state budgetary policy. <input type="checkbox"/> Effective date of change: <ul style="list-style-type: none"> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other: <p>Explain: Amendments to this rule are necessary to bring North Carolina into compliance with the training requirements of the Child Care and Development Block Grant (CCDBG) Act of 2014. This temporary rule would require facilities not currently subject to the training requirements to comply in order to be eligible to participate in the state's subsidized child care assistance program. The CCDBG, 42 U.S.C. 9857, Section 658E(c)(2)(G) requires all child care providers "that provide services for which assistance is provided in accordance" with the Act to comply with training requirements under the Act. Presently, facilities operating under N.C.G.S. § 110-106, centers operating in other states, and centers certified by the United States Department of Defense are not required to comply with current regulatory requirements under G.S. 110, Article 7 and 10A NCAC 09 governing training.</p> <p>Participation in the program is voluntary for all child care providers. Facilities that are currently "only" subject to basic health and safety standards under NC law and rules would be required to meet these training requirements if they choose to participate and receive subsidy funds. The Child Care and Development Fund (CCDF) that is authorized by the CCDBG provides federal funding for low-income families with children in child care who are working or continuing their education and training. These funds help families pay for child care services.</p>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Although the CCDBG Act was enacted in 2014, the final regulations were just published in the Federal Register on September 23, 2016. If NC cannot certify that it is compliant with the requirements of the CCDBG Act by the September 30 deadline, NC risks forfeiting millions of federal dollars it desperately needs to maintain funding for low-income families with children in child care.

The Social Services Commission adopted this rule under the temporary rules process to help protect the health and safety of children in child care so that providers would have access to the required training by the September 30, 2016 deadline. The training includes the following 11 topic areas:

- 1) prevention and control of infectious diseases, including immunization;
- 2) administration of medication, consistent with standards for parental consent;
- 3) prevention of and response to emergencies due to food and allergic reactions;
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The federal register may be found at <https://www.gpo.gov/fdsys/pkg/CFR-2003-title45-vol1/pdf/CFR-2003-title45-vol1-part98.pdf>

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

9. Rule-making Coordinator: Carlotta Dixon

Phone: 919-527-6421

E-Mail: Carlotta.Dixon@dhhs.nc.gov

12. Signature of Agency Head*:



*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Larry W. Potts

Title: Social Services Commission Chairman

E-Mail: Carlotta.Dixon@dhhs.nc.gov

Agency contact, if any: Dedra Alston

Phone: 919-527-6502

E-Mail: Dedra.Alston@dhhs.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

REQUEST FOR TECHNICAL CHANGE FOR TEMPORARY RULE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 09 .0702

DEADLINE FOR RECEIPT: Wednesday, September 14, 2016 – 12:00 p.m.

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please consider revising (c) as follows:

(c) To be eligible to participate in the Subsidized Child Care Assistance Program, family child care homes that are exempt from licensure pursuant to N.C.G.S. § ~~110-106 and~~ 110-106, family child care homes operating in other states, and family child care homes certified by the United States Department of Defense ~~must shall~~ comply with all staff orientation and training requirements ~~[of the Child Care and Development Block Grant Act, 42 U.S.C. 9858, et seq. as]~~ set forth in 10A NCAC 09 .1701, .1705 and .1731.

Also in (c), what do you mean by “centers operating in other states”? Do you mean centers licensed in NC that are operating in other states?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: October 17, 2016

1 **10A NCAC 10 .0702 is adopted under temporary procedures as follows:**

2

3 **10A NCAC 10 .0702 APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED**
4 **CHILD CARE ASSISTANCE PROGRAM**

5 (a) Any family child care home approved for participation in the ~~subsidized child care program~~ Subsidized Child
6 Care Assistance Program shall continue to be eligible for as long as the home maintains compliance with all of the
7 requirements set forth in this ~~Subchapter~~ Chapter.

8 (b) To be eligible to participate in the Subsidized Child Care Assistance Program, family child care homes that are
9 exempt from licensure pursuant to N.C.G.S. § 110-106 and family child care homes operating in other states, and
10 family child care homes certified by the United States Department of Defense must comply with all staff orientation
11 and training requirements of the Child Care and Development Block Grant Act, 42 U.S.C. 9858, et seq. as set forth in
12 10A NCAC 09 .1701, .1705 and .1731.

13 (c) When a home is found to be out of compliance with any requirement for participation, the Division shall set a
14 time limit for compliance. The Division shall base the time limit on the length of time projected to be needed for the
15 home to comply with the requirement. If the home fails to comply within the set time limit, approval shall be
16 terminated.

17 (d) Upon request for review by a local, state or federal agency representative, the operator of a family child care
18 home shall provide records pertaining to his or her participation in the state's ~~subsidized child care program~~.
19 Subsidized Child Care Assistance Program.

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21 *History Note: Authority G.S. 143B-153(2a);*
22 *Eff. January 1, 1988;*
23 *Amended Eff. April 1, 2001; February 1, 1996;*
24 *Emergency Amendment Eff. August 22, 2016;*
25 *Temporary Amendment Eff. October 28, 2016.*