

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Several Rules rely on their titles to say what the Rule is addressing. As titles of rules can be changed without going through the rule-making process, rules are read without titles; therefore, please be sure that it is clear within the body of the rule what the rule is addressing.

Wherever you have said "or equivalent", please be sure it is clear how the Department will determine what is "equivalent"

Throughout these Rules there are a lot of references to "a minimum" or "at least." Many of these are unnecessary as rules set for minimum requirements already. Please keep this in mind and delete these phrases where you can. I have also noted this in individual rules.

Overall, what is the difference in administrator and operator? They appear to be used synonymously throughout your Rules – if they are not intended to be the same thing, please consider adding a definition for "administrator"

As you are going through any rules requiring that records be kept, please ensure that it is consistent with Rule .2318.

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: August 1, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0102

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 4, what is meant by "except when the context of the rule requires a different meaning"? Is it specifically said in the Rule or are you requiring that your people infer a different meaning? Please consider deleting this phrase.

In (1), please delete or define "identifiable," "related," and "orderly fashion."

In (2), is "agency" not used anywhere other than in Section .2200?

In (8), is "child care provider" not used anywhere other than Section .2700?

In (26), please delete "currently"

In (32), please delete or define "primary"

In (33), please change "are not subject" to "shall not be subject"

In (35), what is considered full-time? Please consider adding a definition of full time as the definition for part time is unclear without a definition for full time.

In (38), please delete "but not limited to"

In (40), please delete "but, are not limited to"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

*In (44), rather than “trying to evacuate”, please consider saying “evacuating”
Also, when add an “and” in between “few windows,” and “used when
emergency...”*

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: August 1, 2017

10A NCAC 09 .0102 is readopted with changes as published in 31:20 NCR 1937-1942 as follows:

10A NCAC 09 .0102 DEFINITIONS

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

(1) "Activity area" means an identifiable space that is accessible to children and where related equipment and materials are kept in an orderly fashion.

~~(1)(2)~~ "Agency" as used in Section .2200 of this Chapter means Division of Child Development and Early Education, Department of Health and Human Services located at 820 South Boylan Avenue, Raleigh, North Carolina 27603.

~~(2)(3)~~ "Appellant" means the person or persons who request a contested case hearing.

~~(3)(4)~~ "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project.

(5) ~~"Bio-contaminant"]~~ "Biocontaminant" means blood, bodily fluids, or excretions that may spread infectious disease.

(6) "Child Care Center" means an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.

~~(4)(7)~~ "Child Care Program Facility" means a single center or home, or a group of centers or homes, or both, that are operated by one owner or supervised by a common entity, child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

~~(5)(8)~~ "Child care provider" as defined by G.S. ~~110-90.2(a)(2)a~~, 110-90.2(a)(2) and used in Section .2700 of this Chapter includes the following employees who have contact with the children in a child care program:

(a) facility directors;

(b) administrative staff;

(c) teachers;

(d) teachers' aides;

(e) substitute providers;

(f) uncompensated providers;

~~(e)(g)~~ cooks;

~~(f)(h)~~ maintenance personnel; and

~~(g)(i)~~ drivers.

- ~~(6)~~(9) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- ~~(7)~~(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.
- ~~(8)~~(11) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- ~~(9)~~(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.
- ~~(10)~~(14) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- ~~(11)~~(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 ~~includes~~ 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 in ~~February 2015~~ August is ~~twenty-two~~ twenty-four dollars and ninety-five cents (~~\$22.95~~). (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (1) 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.
- ~~(12)~~(16) "Experience working with ~~school-aged~~ school-age children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- ~~(13)~~(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 ~~includes~~ 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 in ~~February 2015~~ August is ~~twenty-two~~ twenty-four dollars and ninety-five cents ~~(\$22.95).~~
(\$24.95). A copy of this instrument is on file at the Division at the address given in Item (1) 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.

~~(14)~~(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.

~~(15)~~(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.

~~(16)~~(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.

~~(17)~~(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.

~~(18)~~(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://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf>,
<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.

- ~~(19)~~(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 thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and ~~includes~~ 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 in ~~February 2015~~ August is ~~twenty-two~~ twenty-four dollars and ninety-five cents (~~\$22.95~~). (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- ~~(20)~~(26) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation and currently administered by the North Carolina Child Care Health and Safety Resource Center for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_itssidsproject.asp.
- (27) "Lead Teacher" means an individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility. A lead teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- ~~(21)~~(28) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.
- ~~(22)~~(29) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain in a locked indoor space and is used when emergency personnel or law enforcement determine a dangerous person is in the vicinity.
- ~~(23)~~(30) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:
- (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010;
or
 - (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/>.

~~(24)~~(31) "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 (1) 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.nc.gov/providers/credent.asp>.

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

~~(25)~~(33) "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 are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 unless they are a child care provider.

~~(26)~~(34) "Parent" means a child's parent, legal guardian, or full-time custodian.

~~(27)~~(35) "Part-time care" means a child care arrangement where children attend on a regular schedule but on less than a full-time basis.

~~(28)~~(36) "Passageway" means a hall or corridor.

~~(29)~~(37) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.

(38) "Premises" means the entire child care building and grounds including but not limited to natural areas, outbuildings, dwellings, vehicles, parking lots, driveways and other structures located on the property.

~~(30)~~(39) "Preschooler" or "preschool-age child" means any child who is at least three years of age and who does not fit the definition of school-age child in this Rule.

(40) "Reside" refers to any person that lives at a child care facility location. Factors for determining residence include, but are not limited to:

(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.

~~(31)~~(41) "School-Age Care Environment Rating ~~Scale~~ Scale, Updated Edition" (Harms, Jacobs, and White, 1996, 2014, published by Teachers College Press) 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 the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and ~~includes~~ does not include subsequent editions. A copy of the scale is available for purchase on the Teacher College Press website at http://www.teacherscollegepress.com/assessment_materials.html. The cost of this scale in ~~February~~ 2015 August is ~~twenty-two~~ twenty-four dollars and ninety-five cents (~~\$22.95~~). (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

~~(32)~~(42) "School-age child" means any child who is attending or who has attended a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.

~~(33)~~(43) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).

~~(34)~~ "Section" ~~means Division of Child Development and Early Education.~~

~~(35)~~(44) "Shelter-in-Place drill" means staying in place to take shelter rather than trying to evacuate. It involves selecting a small interior room, with no or few windows, used when emergency personnel or law enforcement determine there is an environmental or weather related threat.

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

~~(36)~~(46) ~~"Substitute"~~ "Substitute provider" means any person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive ~~months.~~ months and may or may not be monetarily compensated by the facility. Any substitute provider shall be 18 years of age and literate.

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

(48) "Teacher's aide" or "Aide" means a person who assists the lead teacher or the teacher in planning and implementing the daily program, is monetarily compensated, shall be at least 16 years old and less than 18 years old, shall be literate, and shall not be counted in staff/child ratio or have unsupervised contact with children.

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

~~(37)~~(50) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.

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

~~(38)~~(52) "Volunteer" means a person who works in a child care facility and is not counted in staff/child ratio, does not have unsupervised contact with children, and is not monetarily compensated by the facility.
A person who is at least 13 years of age, but less than 16 years of age, may work on a volunteer

1 basis, as long as he or she is supervised by and works with a staff person who is at least 21 years of
2 age and meets staff qualification requirements.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0201

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

On line 6, please delete "periodically"

In (1), is your regulated public familiar with the "licensure statutes and rules"?

In (2), please delete the comma after "licensure statutes"

In (2), what is considered to be "probable cause"? How is this determined? Also, what is considered to be an emergency? I don't see that defined.

*In (3), should "current license" be included here since this Item appears to be requiring an unannounced visit prior to an **initial** license?*

In (4), what is this written plan? Does this plan fall within the definition of a Rule contained within 150b-2(8a)? If it does not, and this is intended to speak to internal management practices, please delete (4) as being unnecessary.

In (5), please change "does not" to "shall not"

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: August 1, 2017

10A NCAC 09 .0201 is readopted as published in 31:20 NCR 1942 as follows:

SECTION .0200 - GENERAL REQUIREMENTS ~~PROVISIONS RELATED TO LICENSING~~

10A NCAC 09 .0201 INSPECTIONS OF CHILD CARE FACILITIES

The Division shall periodically visit and inspect all child care ~~centers~~ facilities to ~~insure~~ ensure compliance with ~~North Carolina General Statutes and those rules and regulations adopted pursuant thereto. G.S. 110, Article 7 and 10A NCAC~~ 09.

- (1) The Division shall make at least one unannounced visit annually to ensure compliance with the licensure statutes and rules.
- (2) The Division shall make an unannounced visit when the Division receives a complaint alleging a violation of licensure statutes, or rules or if the Division has probable cause to believe an emergency exists at the facility.
- ~~(1) (3) A representative of the~~ (3) The Division shall conduct an announced visit prior to the initial issuance of the a license. The prospective or current licensee shall be notified in advance about the visit. This Rule does not apply to the investigation of centers that are operating without a license in violation of the law.
- ~~(2) (4)~~ (4) At the beginning of each fiscal year, the Division shall prepare a written plan explaining the guidelines for making announced and unannounced visits, visits to licensed child care centers. The plan shall be dated and signed by the Division director and shall be kept in a confidential file.
- ~~(3) A representative of the Division may make unannounced visits to any licensed center whenever the Division receives a complaint alleging violation of the licensing law or the rules in this Subchapter, or if a representative of the Division has reason to believe an emergency exists in the center.~~
- (5) This Rule does not apply to the investigation of child care facilities that are operating without a license in violation of the statute.

History Note: Authority G.S. 110-105; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, ~~1998~~ 1998;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0204

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

Overall, are the process and factors used in determining approval set forth elsewhere in rule or statute?

In (a), line 5, please delete "at least." On line (6), please change "cannot" to "shall not"

In (b), are there any time limits as set forth in (a)?

In (b), line 11, please change "is not transferable" to "shall not be transferable"

In (c), please add "of the following:" after "notify the Division" Please also delete the period at the end of Division.

In (c)(1), please provide the cross-reference to the Rules regarding how the licensed capacity is determined.

In (c)(1), by "shall arrange for inspections", do you mean "shall obtain inspections"?

Just to make sure that I'm clear, the only requirement to get an increase in licensed capacity, is for a center to obtain inspections from local health, building, and fire inspectors. There is nothing additional that the Division needs?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (d), what are the “requirements... referenced to remove a restriction” referenced on line 23? Are these included in the license? If so, how are these determined? Is there a cross-reference available?

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: August 1, 2017

10A NCAC 09 .0204 is readopted as published in 31:20 NCR 1942-1943 as follows:

10A NCAC 09 .0204 CHANGES REQUIRING ISSUANCE OF A NEW LICENSE

(a) When the ownership of a child care center operator, as defined in Rule .0102, of a licensed child care center changes, the ~~new operator must~~ prospective new owner shall apply for a new license at least 30 days ~~prior to assuming~~ before acquiring ownership of the center. A child care center license cannot be bought, sold, or transferred by one ~~operator person or entity~~ to another.

(b) When a licensed child care center is to be moved from one location to another, the licensee ~~must~~ shall apply for ~~and receive a license for the new physical location as prescribed in Section .0300 of this Subchapter. The licensee must obtain the new license prior to occupying the new location.~~ before the licensee provides child care services at the new location. A child care center license is not transferable from one location to another.

(c) When a licensee desires to change the licensed capacity of a center, the licensee ~~must~~ shall notify the Division.

(1) If the licensee wishes to increase the licensed capacity by using space not currently approved for child care, the licensee shall arrange for inspections of the unapproved space by the local health, building, and fire inspectors. the Division shall provide the licensee with appropriate forms to request approval. Once the licensee documents that the unlicensed space conforms to all applicable sanitation, building, and fire standards, the Division shall issue additional space is approved, a new license ~~shall be issued~~ to reflect the increase in licensed capacity.

(2) If a licensee wishes to increase the center's licensed capacity by using space that is already approved for child care, the Division shall, upon request, issue a new license showing the increase.

(3) If a licensee wishes to decrease the center's licensed capacity, the Division shall, upon request, issue a new license reflecting the decrease.

(d) When a licensee decides to conform with requirements in order to remove a restriction on the age or number of children who can be served in the center, the licensee shall arrange for inspections of the center by the local health, building, and fire inspectors. Once the licensee submits documentation that the center conforms to all applicable sanitation, building, and fire standards, the Division shall issue a new license without the restriction. ~~notify the Division. The Division shall supply forms for the licensee to use to obtain approval from the local inspectors, if necessary. When the Division is notified that the center conforms with all applicable requirements, a new license, without the restriction, shall be issued.~~

*History Note: Authority G.S. 110-88(8); 110-93; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1998; July 1, 1988; January 1, 1987-1987;
Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0205

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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

In (a), line 8, please delete "immediately"

In (c), please delete or define "knowingly"

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: August 1, 2017

1 10A NCAC 09 .0205 is readopted with changes as published in 31:20 NCR 1943 as follows:

2
3 10A NCAC 09 .0205 **PARENTAL ACCESS TO CHILD CARE FACILITY** (NWSPI)

4 (a) The ~~parent~~ parent, guardian or full time custodian of a child enrolled in any a child care center subject to regulation
5 under Article 7 of Chapter 110 of the North Carolina General Statutes shall be allowed ~~unlimited~~ access to the center
6 during its operating hours for the purposes of contacting the child or evaluating caregiving space at the center and the
7 care provided by the ~~center~~ center for the child. The ~~parent~~ parent, guardian or custodian shall notify the on-site
8 administrator of his or her presence immediately upon entering the premises.

9 (b) Parents subject to court orders related to custody of a child enrolled in a child care center shall only be allowed
10 access to the center in accordance with the court order.

11 (c) ~~[No person shall be allowed]~~ The child care operator shall not knowingly permit a person on the premises of a
12 child care center who has been convicted of a "reportable conviction" as defined in G.S. 14-208.6(4).

13
14 *History Note: Authority G.S. 110-85; 110-91; 143B-168.3;*
15 *Eff. July 1, 1988;*
16 *Amended Eff. July 1, 1998; November 1, ~~1989-1989~~;*
17 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0301

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (b), are the required contents of the pre-licensing registration form set forth elsewhere in rule or statute? If not, please provide the contents of the form.

In (c), are the required contents of the application set forth elsewhere in rule or statute? If not, please provide the contents of the form.

(d) appears to be skipping a step. I assume that the application is evaluated to ensure that it does not meet the criteria contained within 10A NCAC 09 .2215, and then assuming that it passes that first hurdle, then the consultation is scheduled? Is the consultation scheduled after an approval or is the consultation part of the approval process? I think that this needs to be set forth more clearly.

In (d), what occurs during the consultation? Is this consultation the same as the pre-licensing consultation in (b) and (c)? if so, please be consistent in language.

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: August 1, 2017

10A NCAC 09 .0301 is readopted as published in 31:20 NCR 1943 as follows:

10A NCAC 09 .0301 PRE-LICENSING REQUIREMENTS

(a) ~~Anyone who wishes to obtain a license to operate a child care center shall first request pre licensing consultation from the Division.~~ A prospective licensee who has not previously operated a child care facility in North Carolina shall attend a pre-licensing workshop provided by the Division before the Division schedules a pre-licensing visit. This includes persons seeking to operate a child care facility pursuant to a Notice of Compliance. A schedule of these workshops provided by the Division may be found online at http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf.

~~(e)(b) The Division shall provide regularly scheduled licensing workshops for new and existing child care centers. A schedule of these workshops may be obtained from the Division at the address given in Rule .0102 of this Chapter. The operator of a child care center shall complete the licensing workshop provided by the Division prior to the Division issuing an initial license or an initial Notice of Compliance to the child care center. Prospective licensees shall download, complete, and submit the pre-licensing registration form to the Division. The pre-licensing form may be found online at http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf.~~

~~(c) Upon completion of the pre-licensing workshop and submission of an application to operate a child care facility, the prospective licensee shall request a pre-licensing consultation with the Division. The application can be found online at http://ncchildcare.nc.gov/PDF_forms/FacilityProfileApp.pdf.~~

~~(b)(d) Upon receiving a request a representative of receipt of the request, the Division shall schedule a consultation visit with the person requesting consultation, prospective licensee, unless the person requesting a consultation meets the criteria described may be denied a license for one or more of the reasons set forth in Rule .0302(g) of this Section. 10A NCAC 09 .2215. The Division shall furnish the forms required to be completed and submitted in order to apply for a license.~~

History Note: Authority G.S. 110-88(1); 110-88(5); 143B-168.3;

Eff. January 1, 1986;

Amended Eff. January 1, 2006; July 1, 1998-1998;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0302

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 the title, what is (NWSPI)? Is this intended to be part of the Rule? If so, please update the form.

Please show the changes in the Rule title from that in the Code.

In (a), line 7, what application? An application for a child care facility? Please make it clear within the body of the Rule as rules are read without titles.

Please consider reformatting this Rule to include what is required by the application and also what additional documentation is required.

In (a)(1) and (2), please delete or define "legally" in "legally responsible"

In (a)(2), what is meant by "legal entity"?

In (a)(2), what sort of evidence is acceptable to show that the officer is authorized? I understand that you may not be able to provide an all-inclusive list, but please provide some examples.

In (a)(2), are the "licensing statutes and rules" the same as 110, Article 7 and 10A NCAC 09" as set forth in (a)(1)? If so, please be consistent to make clear that these requirements are in fact the same. This language is also in (h).

In (b), are the substantive requirements of the form set forth elsewhere in rule or statute? If not, please provide the contents of the form.

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

In (d), line 21, what is your authority to say what an inspector may or may not do? Do you simply intend for this to say that if an inspector submits an explanation, that you all will accept it? If so, please say that.

In (d), please consider moving the last sentence (nothing in this Rule... of this Chapter) to the end of the Rule to include it with (h)(2). Since .0400 deals with more than just provisional licenses, please cite the specific Rule (I believe that it is .0401).

In (e), why is it necessary to say “as defined in G.S. 110-86(7)” with regard to the operator? Is this being used in a different way than in other places in this Chapter?

In (e), line 27, how is the applicant to “describe the plans”? Must this occur in writing? Will this occur during the pre-licensing inspection?

In (e), line 28, by “applicable requirements”, do you mean “the Rules of this Chapter?”

In (e)(1) through (e)(5), what sort of “written information” is being required? I assume since the applicant will not actually be operating a child care center at that time that actual plans, reports, and logs are not required – must they be templates?

In (f), how is the applicant to demonstrate that these will be available?

In (f)(9), please delete or define “valid.”

In (g), please delete or define “accurate” lines 32 and 33. Also, is the intent that the Division is responsible for obtaining the measurements and creating a sketch or is the center responsible for obtaining these?

In (g), line 35, what are the “required exits”?

Please introductory language in (h) for (1) and (2). Something like “to assess compliance with all licensure statutes and rules and either.” Then please change the language in (1) and (2) to match the introduction. A suggestion is as follows:

The Division shall make one or more inspections of the center and premises to assess compliance with all applicable requirements as follows: licensure statutes and rules, rules and either:

- (1) ~~If all applicable requirements of G.S. 110, Article 7 and this Section are met, the Division shall issue the a license; or~~ license if all applicable requirements of G.S. 110, Article 7 and this Section are met;

- (2) ~~[If] if all applicable requirements of G.S. 110, Article 7 and this Section are not met, the Division may recommend issuance of [either] issue a provisional license pursuant to Rule .0401 of this Chapter; or~~
- (3) ~~deny the application in accordance with 10A NCAC 09 .2215. Section .0400 of this Chapter or the Division may recommend denial of the application in accordance with Paragraph (g) 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: August 1, 2017

10A NCAC 09 .0302 is readopted with changes as published in 31:20 NCR 1943-1945 as follows:

10A NCAC 09 .0302 APPLICATION FOR A LICENSE FOR A CHILD CARE FACILITY (NWSPI)

(a) ~~The prospective licensee of a child care center, including assuring compliance with the licensing law and standards, shall apply for a license for a child care center using the form provided by the Division. The form can be found on the Division's website at http://ncchildcare.dhhs.state.nc.us/general/mb_customerservice.asp. If the operator will be a group, organization, or other entity, an officer of the entity shall complete and sign the application. The application shall be signed and submitted by:~~

- (1) The individual who will be legally responsible for the operation of the center and for assuring compliance with G.S. 110, Article 7 and 10A NCAC 09; or
- (2) [If the applicant is not an individual, an] An officer of the legal entity that will be legally responsible for the operation of the center and for ensuring [assuring] compliance with the licensing statutes and [rules.] rules if the applicant is not an individual. In this case, the application shall contain evidence that the officer is authorized to bind the applicant.

(b) The application shall be submitted on the form provided by the Division, which may be found online at http://ncchildcare.nc.gov/PDF_forms/FacilityProfileApp.pdf.

(c) The applicant shall submit the required criminal record check qualification letter as described in 10A NCAC 09 .2703.

~~(b)(d)~~ (d) The applicant shall arrange for inspections of the center by the local health, building, and fire inspectors. The applicant shall ~~provide to give~~ the Division copies of inspection reports prepared pursuant to G.S. 110-91(1), (4), and (5). When a center does not conform with a building, fire, or sanitation standard, the inspector may submit a written explanation of how equivalent, alternative protection is provided. The Division shall accept the inspector's determination that equivalent, alternative protection is provided ~~documentation~~ in lieu of documentation of compliance with the standard. Nothing in this Rule precludes ~~or interferes with~~ the issuance of a provisional license pursuant to Section .0400 of this Chapter.

~~(e)(e)~~ (e) The ~~applicant, applicant~~ or the ~~person~~ operator as defined in G.S. 110-86(7) ~~responsible for the day to day operation of the center,~~ 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. The applicant shall make the following written information available to the Division for review to verify compliance with provisions of ~~this Chapter and G.S. 110, Article 7;~~ G.S. 110, Article 7 and 10A NCAC 09.

~~(1)~~ Emergency Preparedness and Response Plan;

~~(1) (2)~~ emergency medical care plan;

~~(2) (3)~~ activity plans;

~~(3) (4)~~ discipline policy;

~~(4) (5)~~ incident reports; and

~~(5) (6)~~ incident logs.

1 ~~(d)(f)~~ The applicant shall demonstrate to the Division that the following ~~is~~ will be available for review pursuant to
2 10A NCAC 09 ~~.0304(f)~~; .0304(g):

3 ~~(1) staff records which include an application for employment and date of birth; documentation of~~
4 ~~education, training, and experience; medical and health records; documentation of participation in~~
5 ~~training and staff development activities; and required criminal history records check~~
6 ~~documentation;~~

7 (1) staff records that include:

8 (A) an application for employment and date of birth;

9 (B) documentation of education, training, and experience;

10 (C) medical and health records;

11 (D) documentation of staff orientation, participation in training, and staff development
12 activities; and

13 (E) required criminal history records check documentation;

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

16 (3) daily attendance records;

17 (4) daily records of arrival and departure times at the center for each child;

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

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

25 (7) records of ~~medications administered; and administered medications;~~

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

31 (9) a valid electronic mail address for the facility.

32 ~~(e)(g)~~ In order to calculate licensed capacity pursuant to G.S 110-91(6), the ~~The~~ Division shall obtain accurate
33 measurements of ~~measure~~ all rooms to be used for child care and shall ~~assure~~ ensure that an accurate sketch of the
34 center's floor plan is part of the application packet. The Division shall enter the dimensions of each room to be used
35 for child care, including ceiling height, and shall show the location of the bathrooms, doors, and required exits on the
36 floor plan.

1 ~~(f)(h)~~ The Division shall make one or more inspections of the center and premises to assess compliance with all
2 applicable ~~requirements as follows:~~ licensure statutes and rules.

3 (1) ~~If~~ if all applicable requirements of G.S. 110, Article 7 and this Section are met, the Division shall
4 issue ~~the~~ a license; ~~or~~

5 (2) ~~If~~ if all applicable requirements of G.S. 110, Article 7 and this Section are not met, the Division may
6 ~~recommend issuance of~~ either issue a provisional license or deny the application in accordance with
7 10A NCAC 09 .2215. Section .0400 of this Chapter ~~or the Division may recommend denial of the~~
8 ~~application in accordance with Paragraph (g) of this Rule.~~

9 ~~(g) The Secretary may deny an application for a license under the following circumstances:~~

10 (1) ~~if any child care facility license previously held by the applicant has been denied, revoked, or~~
11 ~~summarily suspended by the Division;~~

12 (2) ~~if the Division initiated denial, revocation, or summary suspension proceedings against any child~~
13 ~~care facility license previously held by the applicant and the applicant voluntarily relinquished the~~
14 ~~license;~~

15 (3) ~~during the pendency of an appeal of a denial, revocation, or summary suspension of any other child~~
16 ~~care facility license held by the applicant;~~

17 (4) ~~if the Division determines that the applicant has a relationship with an operator or former operator~~
18 ~~who held a license under an administrative action described in Subparagraphs (1), (2), or (3) of this~~
19 ~~Paragraph. As used in this Rule, an applicant has a relationship with a former operator if the former~~
20 ~~operator would be involved with the applicant's child care facility in one or more of the following~~
21 ~~ways:~~

22 (A) ~~would participate in the administration or operation of the facility;~~

23 (B) ~~has a financial interest in the operation of the facility;~~

24 (C) ~~provides care to children at the facility;~~

25 (D) ~~resides in the facility; or~~

26 (E) ~~would be on the facility's board of directors, be a partner of the corporation, or otherwise~~
27 ~~have responsibility for the administration of the business;~~

28 (5) ~~based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110,~~
29 ~~Article 7 or this Chapter;~~

30 (6) ~~if abuse or neglect has been substantiated against the applicant pursuant to G.S. 7B-101 or GS. 110-~~
31 ~~105.2 or~~

32 (7) ~~if the applicant is a disqualified child care provider or has a disqualified household member residing~~
33 ~~in the center pursuant to G.S. 110-90.2.~~

34 ~~(h) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule,~~
35 ~~the Division shall consider:~~

- (1) ~~any documentation provided by the applicant that describes the steps the applicant will take to prevent reoccurrence of noncompliance issues that led to any prior administrative action taken against a license previously held by the applicant;~~
- (2) ~~training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;~~
- (3) ~~proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;~~
- (4) ~~documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; and~~
- (5) ~~documentation explaining relationships with persons meeting the criteria listed in Subparagraph (g)(4) of this Rule.~~

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~~ 1987;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0304

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please consider providing some information within this Rule that says overall what will be required as ongoing requirements. For example, "(a) Each operation shall (1) schedule a fire inspection annually; (2) an environmental health specialist in accordance with 15A NCAC 18A .2800; (3) obtain an annual site visit by the Division(or whatever is accurate). This is only a suggestion, but I think that it may be helpful in providing some clarity to this Rule (particularly as it relates to (d) and (e):

In (b), what is your authority to say what an Environmental Health Specialist will do? (b) appears to fall within the authority of the Commission for Public Health.

In (c), please change "is not" to "shall not be"

In (c), please delete "currently"

In (d), noncompliance of what? Noncompliance with this Rule? With the entire Chapter? When is "a visit" to occur? Is this done at the discretion of the Division? Is this an annual visit required elsewhere by rule or statute?

In (d)(3), please provide a more specific cross-reference regarding administrative actions.

In (e), under what circumstances or when will the Division calculate a visit compliance score? There seems to be a step missing and it is unclear as to when or how this will occur.

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (e), what significance does a “compliance history of a center” have?

Please verify that (e)(1) through (e)(10) will be evaluated in accordance with the pertinent Rules?

In (g), please delete or define “accurate”

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: August 1, 2017

10A NCAC 09 .0304 is readopted as published in 31:20 NCR 1945-1946 as follows:

10A NCAC 09 .0304 ON-GOING REQUIREMENTS FOR A PERMIT LICENSE

(a) Each operator shall schedule a fire inspection within 12 months of the center's previous fire inspection. The operator shall notify the local fire inspector when it is time for the center's annual fire inspection. The operator shall submit the original of the completed annual fire inspection report to the Division ~~Division's representative~~ within one week of the inspection visit on the form provided by the Division.

(b) Each center shall be inspected at least annually by an Environmental Health Specialist for compliance with applicable sanitation requirements adopted by the Commission for Public Health as described in 15A NCAC 18A .2800.

(c) A new building inspection is not required unless the operator plans to begin using space not previously approved for child care, has made renovations to the building, has added new construction, or wants to remove any restriction related to building codes currently on the permit.

(d) When the Division ~~Division's representative~~ documents noncompliance during a visit, the ~~representative shall;~~ Division may do any one or more of the following:

- (1) ~~Advise~~ require the operator to ~~submit written verification~~ notify the Division in writing when that the noncompliance has been corrected;
- (2) ~~Return~~ return to the center for an unannounced visit ~~at a later date~~ to determine if whether the ~~noncompliance~~ noncompliance has been ~~achieved;~~ corrected; or
- (3) ~~Recommend issuance of a provisional license in accordance with Section .0400 of this Chapter or recommend the revocation of the permit or administrative actions in accordance with Section .2200 of this Chapter.~~ take any administrative action permitted by G.S. 110, Article 7 or 10A NCAC 09.

(e) ~~The Division shall assess the compliance history of a center by evaluating the violations of requirements that have occurred. Demerits shall be assigned for each occurrence of violations of these requirements. The Division shall calculate the visit compliance score by taking the total possible points for items monitored at a visit and calculating the percentage of compliance based upon the actual points awarded. The compliance history of a center shall be calculated by averaging each visit compliance score over the previous 18 months. Points shall be awarded for compliance with items monitored as follows:~~

- (1) supervision of children ~~(6 points);~~ (6 points);
- (2) staff/child ratio ~~(6 points);~~ (6 points);
- (3) staff qualifications and training ~~(2 to 5 points);~~ (2 to 5 points);
- (4) health and safety practices ~~(3 to 6 points);~~ (3 to 6 points);
- (5) discipline ~~(6 points);~~ (6 points);
- (6) developmentally appropriate activities ~~(2 to 4 points);~~ (2 to 4 points);
- (7) adequate space ~~(6 points);~~ (6 points);
- (8) nutrition and feeding practices ~~(1 to 3 points);~~ (1 to 3 points);
- (9) program records ~~(1 to 3 points);~~ (1 to 3 points); and

(10) transportation (1 to 3 points), if applicable. ~~The point value of each demerit shall be based on the potential detriment to the health and safety of children. A compliance history percentage shall be calculated each year by subtracting the total number of demerits from the total demerits possible and converting to a percentage. The yearly compliance history percentage shall be averaged over the specified time period as in accordance with G.S. 110-90(4) for the compliance history percentage referenced in this Rule. A copy of the Division compliance history score sheet used to calculate the compliance history percentage is available for review at the address given in Rule .0102 of this Section.~~

(f) A sample of the Division's compliance history score sheet can be viewed online at http://ncchildcare.nc.gov/PDF_forms/Compliance_History_Sample_415.pdf.

~~(f)(g) Each center shall maintain accurate records and documents as described in Rule .0302(e) and (d) of this Section, and these records and documents shall be made available to the Division for review to verify compliance with provisions of this Chapter and the General Statute.~~ Each center shall maintain accurate records as described in 10A NCAC 09 .0302(e) and (f) and shall make them available to the Division for review.

*History Note: Authority G.S. 110-85; 110-88(5); 110-93; 143B-168.3; 150B-3;
Eff. July 1, 1998;
Amended Eff. July 1, 2010; May 1, ~~2006~~, 2006;
Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0403

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

In (a), please delete or define "timely."

In (a), what kind of evidence is being required? Are you looking for some sort of certificate of completion of the pre-licensing workshop required by .0301? How about for .0302? I'm having a more difficult time with .0302 as this Rule addresses application requirements and it is unclear to me exactly what evidence is required.

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: August 1, 2017

10A NCAC 09 .0403 is readopted as published in 31:20 NCR 1946 as follows:

10A NCAC 09 .0403 TEMPORARY LICENSES FOR CENTERS

(a) ~~A temporary license may be issued in accordance with the provisions of G.S. 110-88(10) to the operator opening a new center or to the operator of a previously licensed center when a change in ownership or location occurs provided:~~

(1) ~~the operator applied for a license, pursuant to Section .0300, or Rules .0204(a) or (b) of this Subchapter prior to the change in status; and~~

(2) ~~the center has sufficient equipment and materials to operate for the number of children enrolled.~~

(a) When an operator proposes to open a new center or to change the ownership or location of an existing center, the Division shall issue the operator a temporary license upon the timely receipt of a license application pursuant to 10A NCAC 09 .0204 or .0302 and evidence that the operator has met the requirements of 10A NCAC 09 .0301 and .0302.

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

(c) The temporary license shall expire after six ~~months~~ months, or upon the issuance of a star-rated license, ~~license or provisional license~~ license, or denial of a license to the operator, whichever ~~is~~ occurs earlier.

(d) ~~An operator may obtain an administrative hearing on the denial of a temporary license in accordance with Section .2200 of this Subchapter.~~

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

Eff. July 1, 1988;

Amended Eff. July 1, 1998; April 1, 1992; November 1, ~~1989-1989~~;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0508

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

*Please show changes to the Rule Name – It should be ACTIVITY
SCHEDULES AND PLANS ~~FOR CENTERS~~*

In (a), please delete or define “easy”

In (b), what is the North Carolina Foundations for Early Learning and Development? Is this something that is set forth exclusively by the Division? If so, is this something that goes to the standards for developmentally appropriate activities for child care facilities?

In (d)(1), please delete or define “usually”

Please delete “at least” in (g)(2).

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: August 1, 2017

10A NCAC 09 .0508 is readopted with changes as published in 31:20 NCR 1946-1947 as follows:

10A NCAC 09 .0508 ACTIVITY SCHEDULES AND PLANS

(a) All centers shall have a current schedule and activity plan for each group of children posted for easy reference by parents and by caregivers. The schedule and activity plan may be combined in a single document.

(b) For each group of children in care, the activity plan shall 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 http://ncchildcare.nc.gov/providers/pv_foundations.asp:

- (1) emotional and social development;
- (2) health and physical development;
- (3) approaches to play and learning;
- (4) language development and communication; and
- (5) cognitive development.

(c) When children are in care and weather conditions permit, there shall be outdoor time, either as part of a small group, a whole group, or individual activity, for no less than the following durations:

<u>Program Operating Hours</u>	<u>Ages of Children</u>	<u>Minimum Daily Outdoor Time</u>
<u>All Programs</u>	<u>Under 2 years</u>	<u>30 Minutes</u>
<u>Less than 5 hours</u>	<u>0-12 years</u>	<u>30 Minutes</u>
<u>[5 to 6.5 hours]</u>	<u>[2 years and up]</u>	<u>[45 Minutes]</u>
<u>5 hours or more</u> <u>[More than 6.5 hours]</u>	<u>2-12 years</u>	<u>60 minutes</u>

~~(b)(d)~~ When children ~~two~~ three years old or older are in care, the schedule shall include the following:

- (1) ~~Show blocks of time usually assigned to types of activities and shall include~~ activities, including periods of time for ~~both active play play, and quiet play play, or rest. rest;~~
- (2) ~~Show blocks of time that are scheduled for activities for indoor and outdoor areas.~~
- ~~(3)(2)~~ Reflect times and activities that are developmentally appropriate for the children in ~~care. care; and~~
- ~~(4)(3)~~ Reflect ~~daily opportunities indoors and outdoors for free choice activities, teacher directed activities, and a minimum total of one hour of outdoor time throughout the day, if weather conditions permit. When children are in care for four hours or less per day the center shall provide a minimum total of 30 minutes of outdoor time daily, if weather conditions permit.~~ daily opportunities indoors and outdoors for:

(A) free-choice activities; and

(B) teacher-directed activities.

~~(e)(e) When children under two years old are in care, the schedule shall include regular daily events such as arrival and departure, free choice times, outside time and teacher directed activities. Interspersed~~ For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, ~~napping~~ napping, and toileting. ~~There shall be a minimum of 30 minutes of outdoor time throughout the day either as part of a small group, whole group, or individual activity, if weather conditions permit.~~

~~(d) All centers shall develop a written plan of developmentally appropriate activities designed to stimulate social, emotional, intellectual and physical development for each group of children in care.~~

~~(1) The activity plan shall always be current and accessible for easy reference by parents and caregivers.~~

~~(2) The activity plan shall include at least one daily activity for each developmental goal specified in this Paragraph. Activities which allow children to choose to participate with the whole group, part of the group, or independently shall be identified. The plan shall reflect that the children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit.~~

~~(3) The activity plan shall also include a daily gross motor activity which may occur indoors or outdoors.~~

(f) When children under three years old are in care, the schedule shall include regular daily events such as the arrival and departure of the children, free-choice times, outside time, and teacher-directed activities.

~~(e)(g) The schedule and activity plan may be combined as one document that shall always be current and posted for easy reference by parents and caregivers. The activity plan shall:~~

~~(1) identify activities that allow children to choose to participate with the whole group, part of the group, or independent of the group;~~

~~(2) reflect that the children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit, as listed in G.S. 110-91(12) as follows:~~

~~(A) art and other creative play;~~

~~(B) children's books;~~

~~(C) blocks and block building;~~

~~(D) manipulatives; and~~

~~(E) family living and dramatic play; and~~

~~(3) include a daily gross motor activity that may occur indoors or outdoors.~~

History Note: Authority G.S. 110-85; 110-91(2),(12); 143B-168.3;

Eff. July 1, 1988;

Amended Eff. July 1, 2010; July 1, 1998; 1988;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0509

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please show changes to the Rule Name

What is meant by "safe and functional"?

In Item (4), please delete or define "vigorous"

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: August 1, 2017

10A NCAC 09 .0509 is readopted with changes as published in 31:20 NCR 1947 as follows:

10A NCAC 09 .0509 LEARNING ENVIRONMENT

The learning environment consists of the indoor and outdoor area which encourages child initiated and teacher supported activities as follows:

- (1) ~~Each~~ each center shall have developmentally appropriate equipment and materials accessible on a daily ~~basis~~ basis;
- (2) ~~The~~ the materials and equipment indoors and outdoors shall be sufficient to provide a variety of play experiences ~~which~~ that promote the children's ~~[health; physical, social, and] social-emotional, intellectual and physical development. [emotional approach to play and learning; and cognitive, language, and communication development;]~~ emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development;
- (3) ~~Teacher-made~~ teacher-made and home-made equipment and materials may be used if they are safe and functional. Materials and equipment that are accessible to children shall not be coated or treated with, nor shall they contain, toxic materials such as creosote, pentachlorophenol, tributyl tin oxide, dislodgeable ~~arsenic~~ arsenic, or and any finishes ~~which~~ that contain ~~pesticides~~ pesticides; and
- (4) ~~Developmentally~~ developmentally appropriate equipment and materials shall be provided for a variety of outdoor activities ~~which~~ that allow for vigorous play and large muscle development. ~~Each child shall have the opportunity for outdoor play each day that weather conditions permit.~~ The center shall provide space and time for vigorous indoor activities when children cannot play outdoors.

History Note: Authority G.S. 110-85; 110-91(2),(12); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. July 1, 2010; July 1, 1998; January 1, ~~1996~~ 1996;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0510

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please show changes to the Rule name

Why is (a) necessary? It appears to be reciting 110-91(12), but with less information. If (a) is needed, please delete "at least." Also, what is the difference in (a)(1), (2), and (3) – I read them all to say that you have to have four activity areas. Why are these necessary?

What is the overall intent of (a)? is it to say that while you must do four out of the five on a daily basis, you must also do the fifth once per month? If so, I think that this can be much more clear – perhaps consider combining (a) and (b) to avoid reciting the statute, while adding some information.

What is your authority for (c)? Do these fall into the "other creative play" category in 110-91(12)?

In (c), please delete "at least." Please also add a comma after "outdoors." Also, just so I'm clear, a center has to provide opportunities for all three of these categories on a weekly basis, regardless of the weather (I am specifically making sure I understand the requirement regarding the sand and water play.)

In (d), please change "apply" to "shall apply"

In (d)(1), please delete "at least"

In (d)(2)(A), aren't the domains "emotional and social development; health and physical development; approaches to play and learning; language

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

development and communication; and cognitive development”? If so, would it be appropriate to simply cross-reference .0508?

In (d)(2)(B), please delete “a maximum”

Why is the format and information provided in (d) and (e) different? It seems as though it should be the same kinds of information given that (d) addressed three and over and (e) addresses three and under. For example, (e)(1)(A) through (G) provides what kinds of toys are required, but (d) does not provide the same kind of information. Based upon your regulated public, is this a potential clarity issue.

In (e)(2), please delete or define “identifiable on lines 4 and 5 on page 2 and “related”

In (e)(3), how is it to be determined what is the “most popular toy”?

In (e)(4), what is meant by “shall make provisions for the promotion...” What is the intent of this?

In (e)(4), by clean, please verify that you mean in accordance with the sanitation standards promulgated by the Commission for Public Health. Also, in (e)(4), please delete or define “safe” and “uncluttered.” Are there definitions provided elsewhere in rule or statute?

For my own edification and understanding, in (e)(6), what is a caregiver to do if a child is sitting up on his or her own prior to 12 months?

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

10A NCAC 09 .0510 is readopted with changes as published in 31:20 NCR 1947-1949 as follows:

10A NCAC 09 .0510 ACTIVITY AREAS

(a) For each group of children in care, the center shall provide daily at least four of the five activity areas listed in G.S. 110-91(12) as follows:

- (1) Centers with a licensed capacity of 30 or more children shall have at least four activity areas available in the space occupied by ~~each~~ a group of children.
- (2) Centers with a licensed capacity of less than 30 children shall have at least four activity areas available. Separate groups of children may share use of the same activity areas.
- (3) Centers with a licensed capacity of 3 to 12 children located in a residence shall have at least four types of activities available.

(b) In addition to the activity areas that are available each day, each center shall have materials and equipment in sufficient quantity, as described in Subparagraph (d)(1) of this Rule, to ensure that activities are made available at least once per month in each of the five activity areas listed G.S. 110-91(12) as follows:

- (1) art and other creative play;
- (2) children's books;
- (3) blocks and block building;
- (4) manipulatives; and
- (5) family living and dramatic play.

(c) Each center shall provide materials and opportunities for each group of children at least weekly, indoors or outdoors for the following:

- (1) music and rhythm;
- (2) science and nature; and
- (3) sand and water play.

(d) When preschool children ~~three two~~ years old and older are in care the following apply:

- (1) the materials and equipment in an activity area shall be in sufficient quantity to allow at least three children to use the area regardless of whether the children choose the same or different activities; and
- (2) when screen time is provided on any electronic media device with a visual display, it shall be:
 - (A) offered to stimulate a developmental domain in accordance with the North Carolina Foundations for Early Learning and Development as referenced in this Section;
 - (B) 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
 - (C) documented on a cumulative log or the activity plan that shall be available for review by the Division.

- (1) ~~Each center shall have equipment and materials available in activity areas on a daily basis. Centers with a licensed capacity of 3 to 12 children located in a residence are not required to have activity~~

- 1 areas, but must have equipment and materials available daily both indoors and outdoors for the
2 children in care.
- 3 (2) An activity area is an identifiable space which is accessible to the children and where related
4 equipment and materials are kept in an orderly fashion.
- 5 (3) Each activity area shall contain enough materials to allow three related activities to occur at the
6 same time. The materials and equipment be in sufficient quantity to allow at least three children to
7 use the area regardless of whether the children choose the same or different activities.
- 8 (4) Each center shall make at least four of the activity areas listed in G.S. 110-91(12) available daily to
9 preschool children two years or older as follows:
- 10 (a) Centers with a licensed capacity of 30 or more children shall have at least four activity areas available in the space
11 occupied by each group of children.
- 12 (b) Centers with a licensed capacity of less than 30 children shall have at least four activity areas available daily.
13 Separate groups of children may share use of the same activity areas.
- 14 (c) Centers with a licensed capacity of 3 to 12 children located in a residence shall have at least four types of activities
15 available daily.
- 16 (5) In addition to the activity areas which are available each day, each center shall have materials and
17 equipment in sufficient quantity, as described in Item (3) of this Rule, to ensure that activities are
18 made available at least once per month in each of the five activity areas listed G.S. 110-91(12).
- 19 (6) Each center shall provide materials and opportunities for music and rhythm, science and nature, and
20 sand and water play for each group of children at least weekly, indoors or outdoors.
- 21 (7) When screen time, including television, videos, video games, and computer usage is provided, it
22 shall be:
- 23 (a) Offered only as a free choice activity;
- 24 (b) Used to meet a developmental goal; and
- 25 (c) Limited to no more than a total of two and a half hours per week, per child.
- 26 Usage time periods may be extended for specific special events, projects, on-site computer classes, or occasions such
27 as a current event, holiday, or birthday celebration.
- 28 (e) When children under three years old are in care the following apply:
- 29 (1) each center shall have developmentally appropriate toys and activities for each child to promote the
30 child's health, his or her physical, emotional, and social approach to play and learning, and his or
31 her cognitive, language, and communication development, emotional and social development,
32 health and physical development, approaches to play and learning, language development, and
33 communication and cognitive development, including:
- 34 (A) books;
- 35 (B) blocks;
- 36 (C) dolls;
- 37 (D) pretend play materials;

- 1 (E) musical toys;
2 (F) sensory toys; and
3 (G) fine motor toys;
4 (2) materials shall be kept in an identifiable space where related equipment and materials are kept in
5 identifiable groupings and shall be made available to the children on a daily basis;
6 (3) materials shall be offered in sufficient quantity to allow all children to use them at some time during
7 the day and to allow for a range of choices, including duplicates of the most popular toys;
8 (4) on a daily basis caregivers shall make provisions for the promotion of health and physical
9 development that shall include varied, developmentally appropriate health and physical activities.
10 A safe, clean, uncluttered area that allows freedom of movement shall be available, both indoors
11 and outdoors, for infants and for toddlers;
12 (5) hands-on experiences, including both familiar and new activities, shall be provided to enable the
13 infant or toddler to learn about himself and the world both indoors and outdoors; and
14 (6) each child under the age of 12 months shall be given supervised tummy time positioned on his or
15 her stomach while awake and alert each day.
16 (f) Screen time, including television, videos, video games, and computer usage, shall be prohibited for children under
17 three years of age.

18
19 *History Note: Authority G.S. 110-85; 110-91(6),(12); 143B-168.3;*
20 *Eff. July 1, 1988;*
21 *Amended Eff. July 1, 2010; July 1, 1998; October 1, ~~1991~~-1991;*
22 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0511

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

As the titles of Rules can be changed without going through the rule-making process, please ensure that the subject of the rule is clear within the body of the rule.

What is the intent of (a), how is a center to determine the time and space needed according to each child's needs?

In (b)(1), please delete or define "promptly"

In (b)(2), what is meant by "special difficulties"? What is meant by "as gently as possible"

In (b)(5), please delete or define "frequently"

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: August 1, 2017

10A NCAC 09 .0511 is readopted as published in 31:20 NCR 1949 as follows:

10A NCAC 09 .0511 ACTIVITIES FOR CHILDREN UNDER TWO YEARS OF AGE

(a) For activities for children under two years of age the following apply:

- (1) Each center shall have developmentally appropriate toys and activities for each child to promote the child's physical, emotional, intellectual and social well being including appropriate books, blocks, dolls, pretend play materials, musical toys, sensory toys, and fine motor toys. The following apply:
 - (A) The materials shall be kept in an identifiable space where related equipment and materials are kept in identifiable groupings and must be made available to the children on a daily basis.
 - (B) The materials shall be offered in sufficient quantity to allow all children to use them at some point during the day and to allow for a range of choices with duplicates of the most popular toys;
 - (C) On a daily basis caregivers shall make provisions for the promotion of physical development which shall include varied, developmentally appropriate physical activities. A safe clean, uncluttered area that allows freedom of movement shall be available, both indoors and outdoors, for infants and for toddlers; and
 - (D) Hands on experiences, including both familiar and new activities, shall be provided to enable the infant or toddler to learn about himself and the world both indoors and outdoors.

(b)(a) The center shall provide time and space for sleeping, eating, toileting, diaper changing, and playing according to each child's individual ~~need~~ needs.

(c)(b) The caregivers shall interact in a positive manner with each child every day, ~~including the following ways:~~ as follows:

- (1) ~~Caregivers~~ caregivers shall respond promptly to an infant or toddler's physical and emotional needs, especially when indicated by ~~erying~~ crying, through actions such as feeding, diapering, holding, positive touching, smiling, ~~talking~~ talking, and eye ~~contact~~ contact;
- (2) ~~The~~ the caregiver shall recognize the special difficulties of infant and toddler separations and assist families, infants, and toddlers to make the transition from home to center as gently as possible, such as a phased-in orientation process to allow infants and toddlers to experience limited amounts of time at the center before becoming ~~fully integrated~~ integrated;
- (3) ~~A~~ a caregiver or team of caregivers shall be assigned to each infant or toddler as the primary caregiver(s) who is responsible for care the majority of the ~~time~~ time;
- (4) ~~The~~ the caregiver shall make provision for constructive guidance and ~~the~~ setting of limits that the child can understand ~~which and that~~ foster the infant's or toddler's ability to be self-disciplined, as appropriate to the child's age and ~~development~~ development; and
- (5) ~~In~~ in drop-in centers, effort shall be made to place an infant or ~~toddler~~ toddler who uses the center ~~frequently~~ frequently with the same caregiver.

1 ~~(d) While awake, each child under the age of 12 months shall be given the opportunity each day to play while~~
2 ~~positioned on his or her stomach.~~

3 ~~(e) Screen time, including television, videos, video games, and computer usage, is prohibited.~~

4
5 *History Note: Authority G.S. 110-85; 110-91(2),(12); 143B-168.3;*

6 *Eff. July 1, 1988;*

7 *Amended Eff. August 1, 2010; May 1, 2004; July 1, 1998; October 1, 1991; January 1, ~~1991~~; 1991;*

8 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0601

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), are the standards (and thereby, the meaning) of the word "safe" set forth in this Section? If so, please add "in accordance with the Rules of this Section" at the end of (a). Otherwise, please define "safe"

In (b), please define "good repair" and "useable condition." Are you using "good repair" to track the statutory language?

In (b), is there a difference between "equipment" and "commercially manufactured equipment"? If there is not, please be consistent in your use of terms.

In (b), please add a comma in between "accessible" and "if available"

In (c), are you using the terms "sturdy" and "stable" to track the statutory language?

In (d), what is meant by "furnishings referenced in Paragraph (c) of this Rule"? Do you mean equipment and furnishings that are not sturdy, stable, and free from hazards?

In (e), line 17, please change "which" to "that."

In (e), please define "safe and effective" and "proper."

In your History Note 110-85(2) has been repealed. Please remove 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: August 1, 2017

1 10A NCAC 09 .0601 is readopted with changes as published in 31:20 NCR 1949-1950 as follows:

2
3 SECTION .0600 SAFETY REQUIREMENTS FOR CHILD CARE CENTERS
4

5 10A NCAC 09 .0601 SAFE ENVIRONMENT

6 (a) A safe indoor and outdoor environment shall be provided for the children in care.

7 (b) ~~All hazardous items, materials, and equipment shall be used by children only when adult supervision is provided.~~

8 All equipment and furnishings shall be in good repair and shall be maintained in useable condition. All commercially
9 manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the
10 manufacturer. [The manufacturer's instructions shall be kept on file.] For equipment and furnishings purchased after
11 September 1, 2017, the manufacturer's instructions shall be kept on file or electronically accessible if available.

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

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

17 ~~(e)(e)~~ Each child care center shall provide equipment and furnishings that are child-size or which can be adapted for
18 safe and effective use by children. Chairs and tables shall be of proper height for the children who will be using them.
19 ~~Outdoor play equipment shall be age and developmentally appropriate.~~

20 ~~(d) Separate play areas or time schedules shall be provided for children under two years of age unless fewer than 15~~
21 ~~children are in care. If a facility shares playground space with another facility that serves children, a separate play area~~
22 ~~or time schedule shall be provided for each facility.~~

23
24 *History Note: Authority G.S. 110-85(2); 110-91(3),(6); 143B-168.3;*

25 *Eff. January 1, 1986;*

26 *Amended Eff. January 1, 1996; January 1, 1991, 1991;*

27 *Readopted Eff. September 1, 2017.*

1 **10A NCAC 09 .0602-.0603 are repealed through readoption as published in 31:20 NCR 1949-1950 as follows:**

2
3 **10A NCAC 09 .0602 CONDITION OF INDOOR EQUIPMENT AND FURNISHINGS**

4 **10A NCAC 09 .0603 OVERNIGHT FURNISHINGS**

5
6 *History Note: Authority G.S. 110-91(6); 143B-168.3;*

7 *Eff. January 1, 1986;*

8 *Amended Eff. January 1, 1996; January 1, 1991;*

9 *Temporary Amendment Eff. October 1, 1997;*

10 *Amended Eff. July 1, ~~1988.~~ 1998.*

11 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0604

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 the title, please remove "temporary"

In (h), line 22, please delete "but not limited to"

In (h), line 23, please change "is not" to "shall not be"

In (h), line 23, should "on" be "in"? Please add a comma after "transport children"

In (i), line 29, should "on" be "in"?

In (q), page 2, line 12, please delete the "and" in between "toys" and "toy parts" or delete the comma after "toys."

In (r), what is the approval process of the written plan? How will the determination be made whether to approve the plan?

In (u) please delete "at least"

In (v), pick up and delivery of the children to where? I assume this is routine, day-to-day pick up and drop off versus the pick up and drop off of children to off-premise activities in Section .1000?

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: August 1, 2017

1 **10A NCAC 09 .0604 is readopted with changes as published in 31:20 NCR 1951-1952 as follows:**

2
3 **10A NCAC 09 .0604 SAFETY REQUIREMENTS (Temporary)**

4 (a) In child care centers, potentially hazardous items, ~~such as archery equipment, hand and~~ including power tools,
5 nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene, whether or not intended for use by children,
6 shall be stored in locked areas, ~~or shall be removed from the premises premises,~~ or otherwise inaccessible to children.

7 (b) Firearms and ammunition are prohibited in a licensed child care facility unless carried by a law enforcement
8 officer.

9 (c) ~~Electrical outlets not in use which are~~ When not in use, electrical outlets and power strips located in space used
10 by ~~the~~ children shall have safety outlets or be covered with safety plugs unless located behind furniture or equipment
11 that cannot be moved by a child.

12 (d) Electric fans shall be mounted out of the reach of children or shall be fitted with a mesh guard to prevent access
13 by children.

14 (e) All electrical appliances shall be used only in accordance with the manufacturer's instructions. For appliances with
15 heating elements, such as bottle warmers, crock pots, irons, coffee pots, or curling irons, neither the appliance nor any
16 ~~cord the cord, if applicable,~~ shall be accessible to preschool-age children.

17 (f) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local
18 fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.

19 (g) All materials used for starting fires, such as matches, matches and lighters, and accelerants shall be kept in locked
20 ~~storage. storage or shall be stored out of the reach of children.~~

21 (h) Children shall be in a smoke free and tobacco free environment. Smoking and the use of any product containing,
22 made or derived from tobacco, including but not limited to [e-Cigarettes] e-cigarettes, cigars, little cigars, smokeless
23 tobacco, and hookah, is not permitted on the premises of the child care center, on vehicles used to transport children
24 or during any off premise activities. ~~Smoking is not permitted in space used by children when children are present.~~
25 All smoking materials shall be kept in locked ~~storage. storage or out of the reach of children.~~ For child care centers
26 in an occupied residence that are licensed for 3 to 12 children when any preschool-age children are in care, or for 3 to
27 15 children when only school-age children are in care, the premises shall be smoking and tobacco free during operating
28 hours.

29 (i) Signage regarding the smoking and tobacco restriction shall be posted at each entrance to the facility and on
30 vehicles used to transport children.

31 (j) The operator shall notify the parent of each child enrolled in the facility, in writing, of the smoking and tobacco
32 restriction.

33 ~~(k)~~ (k) Fuel burning heaters, fireplaces, and floor ~~furnaces~~ furnaces, if applicable, shall be ~~provided~~ fitted with a
34 protective screen attached ~~securely~~ to supports to prevent access by children and to prevent objects from being thrown
35 into them.

~~(j)(l)~~ (l) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children. Toxic plants shall be inaccessible to children. A list of toxic plants may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/form16b_bb.pdf.

~~(k)(m)~~ (m) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.

~~(l)(n)~~ (n) Gas tanks and gas or charcoal grills shall be located so they are not accessible ~~inaccessible~~ to the children or shall be in a protective enclosure. ~~enclosure or surrounded by a protective guard.~~

~~(m)(o)~~ (o) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.

~~(n)(p)~~ (p) Once a day, prior to initial use, the indoor and outdoor premises shall be checked for debris, vandalism, and broken equipment. Debris shall be removed and ~~disposed.~~ disposed of.

~~(o)(q)~~ (q) Plastic bags, toys, and toy parts small enough to be swallowed, and materials that can be easily torn apart apart, such as foam rubber and styrofoam, shall not be accessible to children under three years of age, ~~except that age.~~ However, styrofoam plates and larger pieces of foam rubber may be used for supervised art activities and styrofoam plates may be used for food service. ~~Latex and rubber balloons~~ Jump ropes and rubber bands shall not be accessible to children under five years of age. ~~age without adult supervision. Balloons shall be prohibited for children of all ages.~~

~~(p)(r)~~ (r) When non-ambulatory children are in care, a crib or other device shall be available for evacuation in case of fire or other emergency. The crib or other device shall be fitted with wheels in order to be easily moveable, have a reinforced bottom, and shall be able to fit through the designated fire exit. For centers that do not meet NC Building Code for institutional occupancy, ~~building code, and the exit is~~ and have an exit more than eight inches above grade, the center shall develop a written plan to ensure a safe and ~~immediate~~ evacuation of the crib or other device. The North Carolina State Building Code is hereby incorporated by reference, inclusive of subsequent amendments. The current Code can be found online at http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes. The operator shall physically demonstrate this written plan to the Division for review and approval. During the required fire, lockdown, or shelter-in-place drills, an evacuation crib or other device shall be used in the manner described in the Emergency Preparedness and Response Plan as defined in 10A NCAC 09 .0607(c).

~~(q)(s)~~ (s) A First Aid kit shall ~~always~~ be available on ~~site.~~ site and accessible to staff. Each staff member shall be aware of the location of the First Aid kit.

~~(r)(t)~~ (t) Fire drills shall be practiced monthly ~~in accordance with 10A NCAC 09 .0607(a) and records shall be maintained as required by 10A NCAC 09 .0302(d)(5)-.0302(f)(5).~~

~~(s)(u)~~ (u) A "shelter in place drill" or "lockdown drill" as defined in 10A NCAC 09 .0102 shall be conducted at least every three months and records shall be maintained as required by 10A NCAC 09 .~~0302(8).~~ .0302(f)(8).

(v) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where it can be seen by the parents.

(w) In child care centers, [bio-contaminants shall be stored in locked areas, shall be removed from the premises or otherwise inaccessible to children.] biocontaminants shall be:

- (1) stored in locked areas;
- (2) removed from the premises;
- (3) inaccessible to children; or
- (4) shall be disposed of in a covered, plastic lined receptacle.

*History Note: Authority G.S. ~~110-85; 110-91(3),(6); 110-88~~; 143B-168.3;
Eff. January 1, 1991;
Amended Eff. January 1, 1996; November 1, 1991;
Temporary Amendment Eff. October 1, 1997;
Amended Eff. July 1, 2015; February 1, 2012; July 1, 2010; December 1, 2007; April 1, 2001;
July 1, 1998;
Temporary Amendment Eff. September 23, ~~2016~~ 2016;
Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0605

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (b), by "on file" do you mean instructions in paper form? Also, please delete "accessible."

In (c), does the 15 children include all children or just those under two years of age?

In (i), please delete "a minimum"

In (i), what is meant by "other protection"? What "other protection" will be sufficient to meet the requirements of this Rule? Please provide some examples.

In (i), what is meant by "the fence shall be free of protrusions"? Is this referring to decorative features at the top of a fence?

In (i), please consider rewording "The requirement disallowing protrusions on the tops of fences shall not apply to fences six feet high or above" to "protrusions shall be allowed on fences that are six feet high."

In (i), line 24, please delete "or above."

In (i), what is meant by "the fencing shall exclude"? Is the intent that fencing prohibit children from entering these areas?

In (i), line 25, please delete or define "securely"

In (j), line 28, please change "which" to "that"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (j), is loose surfacing material the only option for protective surfacing or are other shock absorbing protective materials also acceptable so long as they have been installed in accordance with the manufacturer's recommendation? The way that this rule is formatting (with regard to surfacing materials) is a bit confusing, particularly because one type of protective surfacing has been pulled out of this Paragraph. Also, in line 33, are these specific to loose surfacing materials? Please consider the requirements regarding the depth of loose surfacing materials it's own Paragraph (The depth of the surfacing required shall be based on the critical height...) Please consider making the following changes:

All stationary outdoor equipment more than 18 inches high shall be installed over protective surfacing. Protective surfacing shall be either:

- (1) loose surfacing material, including wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel, except that pea gravel shall not be used if the area will be used by children under three years of age. Loose surfacing material shall not be installed over concrete; or
- (2) other materials that have been certified by the manufacturer to be shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F 1292, may be used if installed, maintained, and replaced according to the manufacturer's instructions.

Footings which anchor equipment shall not be exposed. Loose surfacing material shall not be installed over concrete. Acceptable materials to be used for surfacing include: wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel. Other materials that have been certified by the manufacturer to be shock absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F1292, may be used only if installed, maintained, and replaced according to the manufacturer's instructions. Pea gravel shall not be used if the area will be used by children under three years of age. The depth of the surfacing that is required shall be based on the critical height of the equipment. The critical height is defined as the maximum height a child may climb, sit, or stand.

- (1) Equipment with a critical height of five feet or less shall have six inches of any of the surfacing materials listed.
- (2) Equipment with a critical height of more than five feet but less than seven feet shall have six inches of any of the surfacing materials listed, except for sand.
- (3) Equipment with a critical height of seven feet to 10 feet shall have nine inches of any of the surfacing materials listed, except for sand.
- (4) When sand is used as a surfacing material for equipment with a critical height of more than five feet, 12 inches is required.

~~[(k) Other materials that have been certified by the manufacturer to be shock absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F1292, may be used only if installed, maintained, and replaced according to the manufacturer's instructions.]~~

(k) The depth of the loose surfacing material shall be based on the critical height of the equipment, which is defined as the maximum height that a child may child, sit, or stand, as follows:

- (1) equipment with a critical height of five feet or less shall have six inches of loose surface materials;

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

- (2) equipment with a critical height of more than five feet, but less than seven feet, shall have six inches of loose surfacing material, except for sand;
- (3) equipment with a critical height of seven feet to 10 feet shall have nine inches of any of the loose surfacing material, except for sand; and
- (4) when sand is used as a surfacing material for equipment with a critical height of more than five feet, 12 inches shall be required.

In (j), line 33, please delete “that is required” in “the depth of the surface that is required shall be based...”

In (j), please provide some sort of introductory language for (j)(1) through (4). Please also begin these with lower-case letters and end (1), (2), and (3) with semi-colons. Please also add an “and” at the end of (3). Please see a suggestion in above.

In (j)(1) through (j)(3), by “any of the surfacing material listed”, do you mean the loose surfacing materials?

In (j)(2), please add commas at the beginning and end of “but less than seven feet”

In (j)(4), please change “is required” to “shall be required”

In (k), have the ASTM standards been incorporated by reference elsewhere? If not, please incorporate by reference in accordance with G.S 150B-21.6.

Please consider revising (l) and (m) as follows (this would entail moving (m) to (l) and deleting the remainder of (m):

~~(l)~~ (1) The area required to have protective surfacing is shall cover the area under and around the equipment where the a child may is likely to fall fall, referred to as and it is called the fall zone. The area for fall zones is zone as follows:

- (1) For for stationary outdoor equipment used by children under two years of age, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of three feet, except that protective surfacing is only shall be required at all points of entrance and exit for any structure that has a protective barrier-barrier;
- (2) For for stationary outdoor equipment used by children two years of age or older, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of six feet-feet;
- (3) fall zones may overlap around spring rockers, and around equipment that is more than 18, but less than 30 inches in height. If there are two adjacent structures and one is more than 18, but less than 30 inches in height, the protective surfacing shall extend a minimum of nine feet between the two structures;
- (4) swings shall have protective surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the swing;
- (5) tot swings shall have protective surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing

shall be to the front and rear of the swing. Tot swings are defined as swings with enclosed seats; and
(6) tire swings shall have protective surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.

Alternatively, please begin (l)(1) and (l)(2) with lower-case letters and change the comma to a semi-colon and add "and" at the end of (l)(1).

In (l)(1), change "is only required" to "shall be required" Also, what is considered to be a "protective barrier"?

In (m)(2), please add a comma after "more than 18" on lines 19 and 20

In (o), please add "a" before "protective barrier"

In (o), please add "in accordance with this Paragraph" after "the age of children that will have access to the piece of equipment."

In (o), rather than "are stated below", please say "are as follows:"

In (o), why is the "critical height" relevant to this Rule? I don't see it referenced in any of the subparagraphs. Is this the same as the maximum height?

In (o)(1)(A), what about protective surfacing? Is that in accordance with this Rule?

Why is the formatting of (o)(1)(A) different than the rest of the subparagraphs? Was this intentional?

In (o)(1)(A), is the requirement that they have protective barriers OR surfacing, or must they have both? Given (h)(1), it appears as though they must always have surfacing.

What is the difference between (o)(2) and (3)? They appear to be addressing the equipment used by the same group of children.

In (q), what is to be included in the checklist?

In (s), please change "are prohibited" to "shall be prohibited"

In (s), what is meant by "qualified staff member"? Please delete or define "qualified"?

In (s), please delete "but not limited to"

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: August 1, 2017

10A NCAC 09 .0605 is readopted with changes as published in 31:20 NCR 1951-1952 as follows:

10A NCAC 09 .0605 OUTDOOR LEARNING ENVIRONMENT

~~(a) All equipment shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment shall be assembled and installed according to procedures specified by the manufacturer.~~

~~(b) Equipment shall be sturdy, stable, and free of hazards that are accessible to children during normal supervised play including sharp edges, lead based paint, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.~~

~~(c) All broken equipment shall be removed from the premises immediately or made inaccessible to the children.~~

(a) Outdoor play equipment shall be age and developmentally appropriate.

(b) For outdoor [Outdoor] play structures purchased or installed on or after September 1, 2017 the provider shall maintain manufacturer's instructions on file or electronically accessible.

(c) Separate play areas or time schedules shall be provided for children under two years of age unless fewer than 15 children are in care.

(d) If a facility shares playground space with another facility that serves children, a separate play area or time schedule shall be provided for each facility.

~~(d)(e)~~ Children shall not be allowed to play on outdoor equipment that is too hot to touch.

(f) Children shall not be allowed to be bare-footed while outdoors if equipment or surfacing is too hot to touch.

~~(e)(g)~~ Any openings in equipment, steps, decks, ~~and handrails~~ handrails, and fencing shall be smaller than 3 ½ inches or greater than 9 inches to prevent entrapment.

~~(f)(h)~~ All upright angles shall be greater than 55 degrees to prevent entrapment and entanglement.

~~(g)(i)~~ The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions. The requirement disallowing protrusions on the tops of fences shall not apply to fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children occupy the area.

~~(h)(j)~~ All stationary outdoor equipment more than 18 inches high shall be installed over protective surfacing. Footings which anchor equipment shall not be exposed. Loose surfacing material shall not be installed over concrete. Acceptable materials to be used for surfacing include: wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel. ~~Other materials that have been certified by the manufacturer to be shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F1292, may be used only if installed, maintained, and replaced according to the manufacturer's instructions.~~ Pea gravel shall not be used if the area will be used by children under three years of age. The depth of the surfacing that is required shall be based on the critical height of the equipment. The critical height is defined as the maximum height a child may climb, sit, or stand.

- (1) Equipment with a critical height of five feet or less shall have six inches of any of the surfacing materials listed.

- (2) Equipment with a critical height of more than five feet but less than seven feet shall have six inches of any of the surfacing materials listed, except for sand.
- (3) Equipment with a critical height of seven feet to 10 feet shall have nine inches of any of the surfacing materials listed, except for sand.
- (4) When sand is used as a surfacing material for equipment with a critical height of more than five feet, 12 inches is required.
- (k) Other materials that have been certified by the manufacturer to be shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F1292, may be used only if installed, maintained, and replaced according to the manufacturer's instructions.
- ~~(i)(l)~~ The area required to have protective surfacing is the area under and around the equipment where the child is likely to fall and it is called the fall zone. The area for fall zones is as follows:
- (1) For stationary outdoor equipment used by children under two years of age, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of three feet, except that protective surfacing is only required at all points of entrance and exit for any structure that has a protective barrier.
- (2) For stationary outdoor equipment used by children two years of age or older, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of six feet.
- ~~(j)(m)~~ Exceptions to Paragraph ~~(i)(l)~~ of this Rule are as follows:
- (1) Fall zones may overlap around spring rockers, and around equipment that is more than 18 but less than 30 inches in height. If there are two adjacent structures and one is more than 18 but less than 30 inches in height, the protective surfacing shall extend a minimum of nine feet between the two structures.
- (2) Swings shall have protective surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the swing.
- (3) Tot swings shall have protective surfacing that extends two times the length of the pivot point to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as swings with enclosed seats.
- (4) Tire swings shall have protective surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.
- ~~(k)(n)~~ Swing seats shall be made of plastic or soft or flexible material.
- ~~(l)(o)~~ Elevated platforms shall have a guardrail or protective barrier, depending upon the height of the platform and the age of children that will have access to the piece of equipment. Guardrails shall prevent inadvertent or unintentional falls off the platform. The critical height for a platform with a guardrail is the top of the guardrail. Protective barriers shall prevent children from climbing over or through the barrier. The critical height for a platform with a protective barrier is the platform surface. All sides of platforms shall be protected except for the area which allows entry or exit. Measurements for the guardrails and protective barriers are stated below:
- (1) Equipment used exclusively by children under two years of age:

- (A) Protective Barriers – an elevated surface that is more than 18 inches above the underlying surface shall have a protective barrier or protective surfacing. The minimum height of the top surface of the protective barrier shall be 24 inches.
- (B) Maximum Height – the maximum height of a platform or elevated play surface shall be no greater than 32 inches.
- (2) Equipment used exclusively by children two years of age up to school age:
- (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 29 inches and the lower edge shall be no more than 23 inches above the platform.
- (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 29 inches.
- (3) Equipment used by children two years of age and older:
- (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 38 inches and the lower edge shall be no more than 23 inches above the platform.
- (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.
- (4) Equipment used exclusively by school-age children:
- (A) Guardrails - an elevated surface that is more than 30 inches and no more than 48 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 38 inches and the lower edge shall be no more than 26 inches above the platform.
- (B) Protective Barriers - an elevated surface that is more than 48 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.
- ~~(m)~~(p) Composite structures that were installed between January 1, 1989 and January 1, 1996 according to manufacturer's instructions that met existing safety standards for playground equipment at the time of installation and received approval from the Division, may continue to be used.
- ~~(n)~~(q) Following completion of playground safety training as required by Rule ~~.0705(e)~~ .1102(e) of this Chapter, a monthly playground inspection shall be conducted by ~~a trained individual~~ an individual trained in playground safety requirements. A trained administrator or staff person shall make a record of each inspection using a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the inspection and shall be maintained for 12 months in the center's files for review by a representative of the Division.

1 (r) Trampolines are ~~prohibited.~~ prohibited, except for supervised use of a mini fitness trampoline for single person
2 use.

3 (s) Inflatables are prohibited except when used during a special event such as a celebration, festival, party, or family
4 engagement event. A qualified staff member shall be able to hear and see all children using inflatables at all times. For
5 purposes of this Rule, an inflatable shall mean an air-filled structure designed to allow users to bounce, slide, or climb
6 in. The inflatable device uses air pressure from one or more blowers to maintain its shape. Examples include but are
7 not limited to bounce houses, moon walkers, giant slides, and bouncers.

8
9 *History Note: Authority G.S. 110-85; 110-91(6); 143B-168.3;*
10 *Temporary Adoption Eff. October 1, 1997;*
11 *Eff. October 29, 1998;*
12 *Amended Eff. November 1, 2007; 2007;*
13 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0606

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

*Please show changes to the Rule Name – It should be **SAFE SLEEP POLIGIES PRACTICES***

Please end (a)(1)(A) with a semi-colon, rather than a comma

In (a)(1)(B), please delete the comma after “a parent”

In (a)(2), please add a comma after “washcloths”

What is the difference in the requirements of (a)(6) and (a)(7)? (a)(7) seems to encompass (a)(6) making (a)(6) unnecessary.

In (a)(8), line 26, please delete “for a minimum”

In (a)(8), would it be appropriate to make “with such documents to be maintained for a minimum of one month” it’s own paragraph and say something like “Any documents created as a result of the safe sleep policy, shall be kept for one month.” The placement of it seems off here as this is a requirement of the Center, not just something to have in their policy.

In (a)(11), please change “specifics” to “specifies”

In (a)(11), line 30, please delete “but not limited to”

In (a)(11), please define “appropriate sleep environment”? I assume you mean crib, bassinet, mat, or cot. Could you say something like “appropriate sleep environment in accordance with the safe sleep policy?”

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (b), please delete or define "prominent"

To align with the introductory statement, in (e)(1), delete "bear"

To align with the introductory statement, in (e)(2), please change "be signed and dated by" to "the signature and date of"

In (e)(3), please change "it should be used to" to "it is to be used"

If (f), should a cot be included as it has been elsewhere?

In (g), please delete or define "safe and comfortable." Please change "will" to "shall"

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: August 1, 2017

10A NCAC 09 .0606 is readopted with changes as published in 31:20 NCR 1952-1954 as follows:

10A NCAC 09 .0606 SAFE SLEEP PRACTICES

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

- (1) specifies that caregivers shall place infants aged 12 months or younger on their backs for sleeping, unless:
 - (A) for an infant aged six months or less, the center receives a written waiver of this requirement from a health care professional, or
 - (B) for an infant older than six months, the center receives a written waiver of this requirement from a health care professional, or a parent, or a legal guardian;
- (2) specifies ~~whether 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 with a sleeping infant aged 12 months or younger; younger, and if so, specifies the number and types of allowable objects;
- ~~(3)~~ specifies that children shall not be swaddled;
- ~~(3)~~ (4) 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;
- ~~(4)~~ (5) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75° F;
- ~~(5)~~ (6) specifies the means by which caregivers shall visually check on sleeping infants aged 12 months or younger;
- ~~(6)~~ (7) specifies ~~the frequency with which that~~ caregivers shall visually ~~check~~ check, in person, sleeping infants aged 12 months or ~~younger;~~ younger at least every 15 minutes;
- ~~(7)~~ (8) specifies how caregivers shall document compliance with visually checking on sleeping infants aged 12 months or younger with such documents to be maintained for a minimum of one month; ~~and~~
- ~~(8)~~ (9) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
- ~~(9)~~ (10) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, mat, or cot;
- ~~(10)~~ (11) specifies that infants aged 12 months or younger are prohibited from sleeping in sitting devices, including but not limited to, car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to an appropriate sleep environment; ~~environments at the earliest time possible;~~ and
- ~~(8)~~ (11) ~~(12)~~ specifies any other steps the center shall take to provide a safe sleep environment for infants aged 12 months or younger.

(b) The center shall post a copy of its safe sleep policy ~~or a~~ and ~~poster~~ about infant safe sleep practices in a prominent place in the infant room.

(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 younger on or before the first day the infant attends the center. 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 center;
- (3) the date the center's safe sleep policy was given and explained to the parent; and
- (4) the date the parent signed the acknowledgement.

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

(d) If a center amends its safe sleep policy, it 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 center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.

(e) ~~A health care professional's or parent's waiver of the requirement that all infants aged 12 months or younger be placed on their backs for sleeping as specified in Subparagraph (a)(1) of this Rule shall:~~ A caregiver shall place a child age 12 months or younger on the child's back for sleeping, unless for a child age 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) bear the infant's name and birth date;
- (2) be signed and dated by the infant's health care professional or parent; ~~and~~
- (3) [specify] if a wedge is needed [specify] why it is needed and how it should be used; and
- ~~(3)(4) [specify] the infant's authorized sleep positions; positions.~~

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

(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 for quick reference near the infant's crib, bassinet, ~~or play pen~~ 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.

(g) A safe and comfortable bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick and a fitted sheet will be provided for each child who remains in the center after midnight. The top of bunk beds shall be used by school-age children only.

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

Eff. May 1, 2004;

Amended Eff. July 1, 2010; 2010;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0607

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), is this training approved by the Division or is it provided by the Division?

Is the timing of (b) still accurate ("two years from the effective date of this Rule")? Given that there will be three effective dates, which one is correct? Please clarify.

In (b), please change "must" to "shall."

What is (d)(1)(A) requiring? Is this requiring that the procedures say where the children, staff, and volunteers are to go? How do lists come into play?

In (d)(10), please delete "but is not limited to"

In (g), is "who are present" necessary?

In (h), is there a cross-reference to a Statute or Rule available for this requirement?

Please update your History Note with all pertinent statutory authority, including 143B-168.3.

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: August 1, 2017

1 **10A NCAC 09 .0607 is readopted with changes as published in 31:20 NCR 153-154 as follows:**

2
3 **10A NCAC 09 .0607 EMERGENCY PREPAREDNESS AND RESPONSE**

4 (a) For the purposes of this Rule, the Emergency Preparedness and Response in Child Care is a session training
5 approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to
6 and recovering from emergencies in child care facilities.

7 (b) Existing child care facilities shall have one person on staff who has completed the Emergency Preparedness and
8 Response in Child Care training within two years from the effective date of this Rule and within four months of a
9 trained person's last day of employment. New facilities must have a person on staff who has completed the Emergency
10 Preparedness and Response in Child Care training within one year of the effective date of the initial license.
11 Documentation of completion of the training shall be maintained in the individual's personnel ~~file~~: file or in a file
12 designated for emergency preparedness and response plan documents.

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

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

- 21 (1) written procedures for accounting for all in attendance including:
- 22 (A) the location of the children, staff, volunteer and visitor attendance lists; and
- 23 (B) the name of the person(s) responsible for bringing the lists in the event of an emergency.
- 24 (2) a description for how and when children shall be transported;
- 25 (3) methods for communicating with parents and emergency personnel or law enforcement;
- 26 (4) a description of how children's nutritional and health needs will be met;
- 27 (5) the relocation and reunification process;
- 28 (6) emergency telephone numbers;
- 29 (7) evacuation diagrams showing how the staff, children, and any other individuals who may be present
30 will evacuate during an emergency;
- 31 (8) the date of the last revision of the plan;
- 32 (9) specific considerations for non-mobile children and children with special needs; and
- 33 (10) the location of a Ready to Go File. A Ready to Go File means a collection of information on children,
34 staff and the facility, to utilize, if an evacuation occurs. The file shall include, but is not limited to,
35 a copy of the Emergency Preparedness and Response Plan, contact information for individuals to
36 pick-up children, each child's Application for Child Care, medication authorizations and
37 instructions, any action plans for children with special health care needs, a list of any known food

allergies of children and staff, staff contact information, Incident Report forms, an area map, and emergency telephone numbers.

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

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

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

(h) Centers operated by a Local Education Agency that have completed critical incident training and a School Risk Management Plan as set forth by the Department of Public Instruction shall be exempt from Paragraphs (a) through (e) of this Rule. When a School Risk Management Plan has been completed, the requirements of Paragraphs (f) and (g) of this Rule shall be applicable. The School Risk Management Plan shall be available for review by the Division.

History Note: Authority G.S. 110-85;
Eff. July 1, 2015;
Amended Eff. August 1, 2015-2015;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0608

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a)(3), please change "understand" to "in understanding"

Please consider rewording (a)(5) – "a list of prohibited behaviors that staff members shall follow" seems to contradict itself. Can you instead say something like "a list of prohibited behaviors including shaking a child, tossing a child into the air or crib,..."

Look at how getting signatures of parents is done elsewhere. I don't like this.

In (b), is the requirement that the parents sign, or that the center obtain parent's signatures? There is contradictory language on lines 21-22 and 30. I think that you can probably delete the language on lines 21-22.

In (c), line 32, is the requirement that the parents sign, or that the center obtain parent's signatures?

In (d), what do you mean by "additional" in "additional caregivers"?

Please begin (e)(1) through (4) with lower case letters.

Please update your History Note with any additional statutory authority for 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: August 1, 2017

10A NCAC 09 .0608 is adopted as published in 31:20 NCR 1954-1955 as follows:

10A NCAC 09 .0608 PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA

(a) Each child care center licensed to care for children up to five years of age shall develop and adopt policies to prevent shaken baby syndrome and abusive head trauma prior to licensure. The policy shall include the following:

- (1) How to recognize, respond to, and report the signs and symptoms of shaken baby syndrome and abusive head trauma. Signs and symptoms include: irritability, difficulty staying awake, difficulty breathing, inability to lift the head, seizures, lack of appetite, vomiting, and bruises;
- (2) Strategies to assist staff members in coping with a crying, fussing, or distraught child;
- (3) Strategies to assist staff members understand how to care for infants;
- (4) Strategies to ensure staff members understand the brain development of children up to five years of age;
- (5) A list of prohibited behaviors that staff members shall follow in order to care for children in a developmentally appropriate manner. Prohibited behaviors shall include, but not be limited to, shaking a child, tossing a child into the air or into a crib, chair, or car seat, and pushing a child into walls, doors, and furniture; and
- (6) Resources to assist staff members and families in preventing shaken baby syndrome and abusive head trauma.

(b) Within 30 days of adopting the policy, the child care center shall review the policy with parents of currently enrolled children up to five years of age. A copy of the policy shall be given and explained to the parents of newly enrolled children up to five years of age on or before the first day the child receives care at the center. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain the following:

- (1) The child's name;
- (2) The date the child first attended the center;
- (3) The date the operator's policy was given and explained to the parent;
- (4) The parent's name;
- (5) The parent's signature; and
- (6) The date the parent signed the acknowledgment.

The child care center shall obtain the parent's signature and the acknowledgement shall be kept in the child's file.

(c) If a child care center changes the policy at any time, the child care center shall give written notice of the change to the child's parent 14 days prior to the implementation of the new policy and the parent shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. The center shall obtain the parent's signature and this statement shall be kept in the child's file.

(d) For purposes of this Rule, "staff" includes the operator, additional caregivers, substitute providers, and uncompensated providers.

1 (e) Within 30 days of adopting the policy, the child care center shall review the policy with existing staff members
2 who provide care for children up to five years of age. Each child care center shall review the policy with new staff
3 members prior to the individual providing care to children. The acknowledgement of this review shall contain:

4 (1) The individual's name;

5 (2) The date the center's policy was given and explained to the individual;

6 (3) The individual's signature; and

7 (4) The date the individual signed the acknowledgment.

8 The child care center shall retain the acknowledgement in the staff member's file.

9 (f) If a child care center changes the policy at any time, the child care center shall review the revised policy with staff
10 members 14 days prior to the implementation of the new policy. The individual shall sign a statement that attests that
11 a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the staff member's
12 file.

13
14 History Note: Authority G.S. 143B-168.3;

15 Temporary Adoption Eff. September 23, 2016;

16 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0701

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please show changes to the Rule Name and also be sure that the name matches the Submission for Permanent Rule form.

Has your regulated public indicated that this information would be more clear in chart form? It seems a bit confusing.

In the chart, is the description under the item intended to say what the item is requiring? If so, please make this more clear.

In the chart, is the determination that a person is "emotionally and physically fit to care for children" in the opinion of the health care provider"? Also, when is this required? it says "obtained within 12 months", but then also indicates that it is due within 60 days of employment.

For the emergency information form, please say something like "emergency information form, including the name, address..."

What is to be included in the health questionnaire? Is this provided elsewhere? Why not combine who this applies to as you have for the emergency information form.

In (b), how is it to be determined whether there has been a deterioration? What is this determination to be based upon?

In (c), what is to be contained in the forms? I think that the information form is covered, but what about the rest?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .0701 is readopted as published in 31:20 NCR 1955-1956 as follows:

SECTION .0700 ~~HEALTH AND OTHER STANDARDS FOR CENTER 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:

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

<u>All staff, including the director.</u>	<u>Health Questionnaire</u>	<u>Annually following the initial medical statement.</u>
<u>Substitute providers and volunteers.</u>	<u>Health Questionnaire</u>	<u>On or before first day of work and annually thereafter.</u>

(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.

(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.

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

~~(a) All personnel, employed by a child care center, including the director, shall have on file within 60 days of the date of employment, a statement signed by a health care professional that indicates that the person is emotionally and physically fit to care for children. When submitted the medical statement shall not be older than 12 months.~~

~~(b) The Division, or the director of the child care center, may request another evaluation of an employee's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the person's emotional or physical fitness to care for children.~~

~~(c) A test showing each employee, including the director, to be free of active tuberculosis is required prior to employment. The results indicating the individual is free of active tuberculosis shall be obtained within the 12 months prior to the date of employment.~~

~~(d) Each employee, including the director, shall also annually submit a medical statement from a health care professional, or must complete a health questionnaire giving information about the status of his/her health on a form provided by the Division.~~

~~(e) Staff medical statements, proof of a tuberculosis test, and completed health questionnaires shall be included in the employee's individual personnel file in the center.~~

~~(f) Emergency medical care information shall be on file for each individual staff person. That information shall include the name, address, and telephone number of the person to be contacted in case of an emergency, the responsible party's choice of health care professional, and preferred hospital; any chronic illness the individual has and any medication taken for that illness; and any other information that has a direct bearing on assuring safe medical treatment for the individual. This emergency medical care information shall be on file in the center on the staff person's first day of employment and shall be updated as changes occur and at least annually.~~

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. 1998:

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0702

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please repeal this Rule in accordance with 26 NCAC 02C .0108(6)(a)(iii)

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: August 1, 2017

1 **10A NCAC 09 .0702 is repealed through readoption as published in 30:20 NCR 1956 as follows:**

2
3 **10A NCAC 09 .0702 STANDARDS FOR SUBSTITUTES, VOLUNTEERS**

4 ~~(a) In child care centers the substitute staff and volunteers who are counted in the child care staff/child ratio shall~~
5 ~~comply with the health standards contained in this Section.~~

6 ~~(b) All substitutes and volunteers not included in the child care staff/child ratio shall complete the health questionnaire~~
7 ~~described in Rule .0701 of this Section prior to the first day of work and complete a health questionnaire annually~~
8 ~~thereafter as long as they continue to work in the center.~~

9 ~~(c) A test showing each substitute and volunteer is free of active tuberculosis is required prior to the first day of work.~~
10 ~~The results of the test shall be obtained within the 12 months prior to employment or the beginning of the volunteer~~
11 ~~activity. This Paragraph applies only to individuals who volunteer more than once per week.~~

12 ~~(d) The age of substitute staff and volunteers shall be verified prior to the first day of work by documenting the~~
13 ~~substitute staff or volunteer's date of birth in the individual's record. Any substitute teacher shall be at least 18 years~~
14 ~~old and literate.~~

15 ~~(e) Emergency medical care information as described in Rule .0701(f) of this Section shall be on file for all substitutes~~
16 ~~and volunteers on the person's first day of work and shall be updated as changes occur and at least annually.~~

17
18 *History Note: Authority G.S. 110-85; 110-91(1),(8),(9); 143B-168.3;*

19 *Eff. January 1, 1986;*

20 *Amended Eff. July 1, 2010; July 1, 1998; October 1, ~~1991-1991~~;*

21 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0703

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please add a comma in between "substitute providers" and "and uncompensated providers."

In (a), line 6, please delete or define "full" in "full responsibility" (isn't this addressed elsewhere in your Rules already, making this unnecessary?)

In (b), how is the operator to verify the age? What documentation will be sufficient?

Why is (c) necessary? The statute is already law.

What is the difference in an administrator and an operator? I see the term "operator" is defined, but I don't see anything for administrator. Are they used synonymously?

In (d)(2), what "equivalency"? How is this determined by the Division?

In (d)(3) copy of what request? There seems to be something missing here. I assume that this is a request to assess the equivalency of credentials in accordance with G.S. 110-91(8), but that is not clear. Also, what is to be included in the request. Perhaps (d) and (e) should be switched and (e) appears to address some of this.

What is the intent of (f)? Please state the requirement more clearly. Also, what is meant by "requirements... in this Section"? Do you mean a specific Rule? If so, please cite to that.

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .0703 is readopted with changes as published in 31:20 NCR 1956-1957 as follows:

10A NCAC 09 .0703 GENERAL STATUTORY REQUIREMENTS

(a) ~~Staff~~ Child care providers, substitute providers and uncompensated providers counted toward meeting the staff/child ratio requirements set forth in ~~Rules .0712 and Rule .0713~~ of this Section shall meet the requirements of G.S. 110-91(8). No one under 18 years of age shall have full responsibility for or be left in charge of a group of children.

~~(b) Anyone who is at least 13 years of age, but less than 16 years of age, may work in a child care center on a volunteer basis, as long as he or she is supervised by and works with a required staff person who is at least 21 years of age, and also meets the health standards for volunteers found in Rule .0702 of this Section. No one younger than 16 years old shall be left alone with children nor counted toward meeting the required staff/child ratio.~~

(b) On or before the first day of work, the operator shall verify the age of substitute providers and volunteers and documentation of the substitute provider or volunteer's date of birth shall be maintained in the individual's personnel file in the center.

~~(c) The provisions of G.S. 110-90.2 which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a child care center are hereby incorporated by reference reference, and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion does not include parents or other persons who enter the center only for the purpose of performing parental responsibilities; nor does it include persons who enter the center for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.~~

(d) Within six months of an individual assuming lead teacher or child care administrator duties, each center shall maintain the following information in the individual's staff record:

- (1) a copy of the credential certificate;
- (2) a copy of notification from the Division that the individual meets the equivalency or that the individual does not meet the equivalency and must enroll in coursework;
- (3) a dated copy of the request submitted by the individual to the Division for the assessment of equivalency status; ~~status or the opportunity to test out of the credential coursework~~; or
- (4) documentation of enrollment in credential coursework.

(e) If the individual does not yet meet the staff qualifications required by G.S. 110-91(8) when assuming lead teacher or administrative duties, the individual shall submit ~~the following information to the Division within six months of assuming the duties:~~ to the Division [an application for equivalency on the lead teacher or child care administrator form provided by the Division, with] documentation of completion of the coursework or credential to be considered for equivalency within six months of assuming the duties. [A copy of the form for lead teacher may be found on the Division's website at http://ncechildcare.nc.gov/pdf_forms/dcd-0169.pdf and for child care administrators at http://ncechildcare.nc.gov/pdf_forms/dcd-0173.pdf.]

- (1) a request to test out of credential coursework on a form provided by the Division; or

(2) application for equivalency on a form provided by the Division, with documentation of completion of the coursework or credential to be considered for equivalency as required by the Division.

(f) For child care centers in an occupied residence that are licensed for 3 to 12 children when any preschool-age children are in care, or for 3 to 15 children when only school-age children are in care, centers with a licensed capacity of three [3] to 12 children, when an individual has responsibility both for administering the child care program and for planning and implementing the daily activities of a group of children, the requirements for lead teacher in this Section shall apply to this individual. If the program has more than one group of children, the requirement regarding lead teacher shall apply to each group of children.

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

Eff. January 1, 1986;

Amended Eff. May 1, 2013; October 29, 1998; January 1, 1990; July 1, 1988;

January 1, ~~1987-1987~~;

Readoption Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0704

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

What is your authority to create a work around to 110-91(8)?

IF you do have authority, please note the following:

Please begin (a)(1) through (a)(3) with lower case letters.

In (a)(1), what is an equivalent to a "high school diploma"?

Delete "and" at the end of (a)(1)

In (a)(2), please delete or define "verifiable" Please delete "at least"

In (a)(3), please delete or define "successfully." Also, what is the overall intent of (a)(3). It is unclear what this is allowing. Do you mean that 32 clock hours is considered to be two semester credit hours? Please reword to make the requirement more clear.

Please end (a)(3) with a period and delete "or"

What is your authority for (b) and (c)?

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: August 1, 2017

10A NCAC 09 .0704 is readopted as published in 31:20 NCR 1957 as follows:

10A NCAC 09 .0704 PRESERVICE REQUIREMENTS FOR CHILD CARE ADMINISTRATORS

(a) A child care administrator who has not met the staff qualifications required by G.S. 110-91(8) shall meet the requirements in this Rule prior to exercising any child caring ~~responsibilities.~~ responsibilities as follows:

- (1) Have either a high school diploma or its equivalent; and
- (2) Have two years of full-time verifiable work experience in a child care center or early childhood work experience; or an undergraduate, graduate, or associate degree, with at least 12 semester hours in child development, child psychology, early childhood education or directly related field; or a Child Development Associate Credential; or completion of a community or technical college curriculum program in the area of child care or early childhood; or one year of full-time verifiable child care or early childhood work experience and a North Carolina Early Childhood Credential; and
- (3) Have verification of having successfully completed, or be currently enrolled in, two semester credit hours, or 32 clock hours, of training in the area of early childhood program administration; or, have one year experience performing administrative responsibilities; or

(b) ~~An~~ A child care administrator who does not meet the requirements of Paragraph (a) of this Rule may share the requirements in Paragraph (a) of this Rule with another individual, provided that prior to exercising child caring responsibilities, the individual who is responsible for planning and implementing the daily program at the center to comply with Sections .0500 and .0600 of this ~~Subchapter~~ Chapter shall be a full-time staff ~~person~~ member on-site who meets Subparagraphs (a)(1) and (2) of this Rule, and the other individual shall meet Subparagraph (a)(3) of this Rule and be either on-site or off-site.

(c) Any person who is at least 21 years old and literate who was employed as an on-site child care administrator in a child care program on or before September 1, 1986, shall be exempt from the provisions of Paragraphs (a) and (b) of this Rule, as long as the person is employed by the same operator.

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

Eff. January 1, 1986;

*Amended Eff. October 29, 1998; April 1, 1997; November 1, 1989; July 1, 1988; January 1, ~~1987~~,
1987;*

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0705

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please repeal this Rule in accordance with 26 NCAC 02C .0108(6)(a)(iii)

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: August 1, 2017

10A NCAC 09 .0705 is repealed through readoption as published in 31:20 NCR 1975-1976 as follows:

10A NCAC 09 .0705 SPECIAL TRAINING REQUIREMENTS

(a) ~~At least one staff member shall be knowledgeable of and able to recognize common symptoms of illness.~~

(b) ~~Staff who have completed a course in basic first aid, shall be present at all times children are present. First aid training shall be renewed on or before expiration of the certification or every three years, whichever is less. The number of staff required to complete the course is based on the number of children present as shown in the following chart:~~

Number of children present	Number of staff trained in first aid required
1-29	1 staff
30-79	2 staff
80 and above	3 staff

~~Verification of each required staff person's completion of this course shall be maintained in the person's individual personnel file in the center. The basic first aid course shall address principles for responding to emergencies, and techniques for handling common childhood injuries, accidents and illnesses such as choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.~~

(c) ~~A first aid information sheet shall be posted in a prominent place for quick referral. An acceptable form may be requested free of charge from the North Carolina Child Care Health and Safety Resource Center.~~

(d) ~~Each child care center shall have at least one person on the premises at all times, and at least one person who accompanies the children whenever they are off the premises, who has successfully completed certification in a cardiopulmonary resuscitation (CPR) course provided by either the American Heart Association or the American Red Cross or other organizations approved by the Division. Other organizations shall be approved if the Division determines that the courses offered are substantially equivalent to those offered by the American Red Cross. CPR training shall be renewed on or before the expiration of the certification or every two years, whichever is less. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. The course shall provide training in CPR appropriate for the ages of children in care. Documentation of successful completion of the course from the American Heart Association, the American Red Cross, or other organization approved by the Division shall be on file in the center.~~

(e) ~~Staff shall complete at least four clock hours of training in safety. This training shall address playground safety hazards, playground supervision, maintenance and general upkeep of the outdoor area, and age and developmentally appropriate playground equipment. Staff counted to comply with this Rule shall have six months from the date of employment, or from the date a vacancy occurs, to complete the required safety training. The number of staff required to complete this training shall be as follows:~~

1 (1) ~~In centers with a licensed capacity of less than 30 children, at least one staff person shall complete~~
2 ~~this training.~~

3 (2) ~~In centers with a licensed capacity of 30 or more children, at least two staff, including the~~
4 ~~administrator, shall complete this training.~~

5 (f) ~~In centers that are licensed to care for infants ages 12 months and younger, the center director and any child care~~
6 ~~provider scheduled to work in the infant room, including volunteers counted in staff/child ratios, shall complete ITS-~~
7 ~~SIDS training. ITS SIDS training shall be completed within four months of the individual assuming responsibilities~~
8 ~~in the infant room or as an administrator, and shall be completed again every three years from the completion of~~
9 ~~previous ITS SIDS training. Completion of ITS SIDS training may be included once every three years in the number~~
10 ~~of hours needed to meet annual in-service training requirements in Section .0700 of this Chapter. Prior to an individual~~
11 ~~assuming responsibility for the care of an infant, the center's safe sleep policy for infants shall be reviewed with the~~
12 ~~individual as required by Rule .0707(a) of this Section.~~

13
14 *History Note: Authority G.S. 110-88; 110-91(1),(8); 143B-168.3;*

15 *Eff. January 1, 1986;*

16 *Amended Eff. January 1, 1996; January 1, 1992; January 1, 1991; January 1, 1987;*

17 *Temporary Amendment Eff. October 1, 1997;*

18 *Amended Eff. July 1, 2008; November 1, 2005; May 1, 2004; July 1, 1998;*

19 *Temporary Amendment Eff. September 23, ~~2016~~; 2016;*

20 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0707

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please repeal this Rule in accordance with 26 NCAC 02C .0108(6)(a)(iii)

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: August 1, 2017

10A NCAC 09 .0707 is repealed through readoption as published in 31:20 NCR 1958 as follows:

10A NCAC 09 .0707 IN-SERVICE AND ORIENTATION TRAINING REQUIREMENTS

(a) ~~Each center shall assure that each new employee who is expected to have contact with children receives a minimum of 16 clock hours of on site training and orientation within the first six weeks of employment. This training and orientation shall include:~~

- ~~(1) training in the recognition of the signs and symptoms of child abuse or neglect and in the employee's duty to report suspected abuse and neglect pursuant to G.S. 7B-301;~~
- ~~(2) review of the center's operational policies, including the center's safe sleep policy for infants, the Emergency Preparedness and Response Plan, and the emergency medical care plan;~~
- ~~(3) adequate supervision of children in accordance with 10A NCAC 09 .0714(f);~~
- ~~(4) first hand observation of the center's daily operations;~~
- ~~(5) instruction in the employee's assigned duties;~~
- ~~(6) instruction in the maintenance of a safe and healthy environment;~~
- ~~(7) review of the center's purposes and goals;~~
- ~~(8) review of the center's personnel policies;~~
- ~~(9) review of the child care licensing law and rules;~~
- ~~(10) 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; and~~
- ~~(11) an explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations.~~

(b) ~~As part of the training required in Paragraph (a) of this Rule, each new employee shall complete, within the first two weeks of employment, six clock hours of the training referenced in Subparagraphs (a)(1), (a)(2), and (a)(3) of this Rule.~~

(c) ~~The child care administrator and any staff who have responsibility for planning and supervising a child care facility, as well as staff who work directly with children, shall participate in in-service training activities annually, as follows:~~

- ~~(1) persons with a four year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university shall complete five clock hours of training;~~
- ~~(2) persons with a 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 or its equivalent shall complete eight clock hours of training;~~
- ~~(3) persons with a 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 or its equivalent shall complete 10 clock hours of training;~~
- ~~(4) persons with at least 10 years documented, professional experience as a teacher, director, or caregiver in a licensed child care arrangement shall complete 15 clock hours of training; or~~

(5) shall complete 20 clock hours of training.

(d) For staff listed in Subparagraphs (e)(1), (e)(2), (e)(3) and (e)(4) of this Rule, basic cardiopulmonary resuscitation (CPR) training required in Rule .0705 of this Section shall not be counted toward meeting annual in-service training. First aid training may be counted once every three years.

(e) If a child care administrator or lead teacher is enrolled in coursework to meet the staff qualification requirements in G.S. 110-91(8), the individual may choose to apply for completed coursework toward meeting the annual in-service training requirement.

(f) Any staff working less than 40 hours per week may choose the option for 20 hours of in-service training, 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

History Note: Authority G.S. 110-88; 110-91(11); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 2015; January 1, 2006; May 1, 2004; October 29, 1998; October 1, 1991;
November 1, 1989; July 1, 1988; January 1, 1987;
Temporary Amendment Eff. September 23, 2016; 2016;
Repealed Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0710

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

As rules are read without the title as titles can be changed without going through the rule-making process, please make it clear within the body of the rule that this rule applies to lead teachers, teachers, and aids.

In (a), how is it determined whether something is “an equivalent” of the required credentials? Please set forth the factors that the Department will use in making this determination?

In (a) and (b), what is your authority to create a work-around of 110-91(8) with regard to lead teachers? 110-91(8) requires that lead teachers have their credentials, or an equivalent or begin coursework within 6 months of employment. (b) seems to contradict this requirement. Please clarify.

In (b), please delete “at least”

In (b)(1), please delete or define “verifiable”

In (b)(2), please delete or define “successful”

In (b)(3), please change “could” to “shall”

What is your authority for (c)? This seems covered by 110-91(8).

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: August 1, 2017

10A NCAC 09 .0710 is readopted as published in 31:20 NCR 1959 as follows:

10A NCAC 09 .0710 PRESERVICE REQUIREMENTS FOR LEAD TEACHERS, TEACHERS AND AIDES

(a) If an individual already has a North Carolina Early Childhood Credential or its equivalent, none of the requirements of this Rule shall apply. If an individual does not have a North Carolina Early Childhood Credential or its equivalent, the requirements of this Rule shall be met.

(b) A lead teacher or a teacher shall be at least 18 years of age, have a high school diploma or its equivalent, and have at least one of the following:

- (1) One year of verifiable child care experience working in a child care center or two years of verifiable experience as a licensed family child care home operator; or
- (2) Successful completion of a two year high school program of Early Childhood Education in Family and Consumer Sciences Education; or
- (3) Twenty hours of training in child development, which could include the North Carolina Early Childhood Credential coursework, within the first six months of employment in addition to the number of ~~annual in-service~~ on-going training hours required in Rule ~~0707~~ .1103 of this ~~Section~~ Chapter.

~~(c) An aide is a person who assists the lead teacher or the teacher in planning and implementing the daily program, and shall be at least 16 years old and literate.~~

~~(d)~~(c) Individuals employed prior to July 1, 1998 are exempted from the requirements of this Rule, as long as they remain employed by the same operator.

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

Eff. July 1, 1988;

Amended Eff. January 1, 2005; October 29, 1998; April 1, 1997; October 1, 1991; November 1, 1989. 1989;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0711

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (b), what does "any person providing support to the operation of the program" mean? If possible, please replace this with a defined term.

In (b), please remove the semi-colon after age.

In (b), will the requirements of the local health department vary dependent upon where the child care center is located? Please delete "if applicable"

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: August 1, 2017

1 **10A NCAC 09 .0711 is readopted with changes as published in 31:20 NCR 1959 as follows:**

2
3 **10A NCAC 09 .0711 PRESERVICE REQUIREMENTS FOR OTHER STAFF**

4 (a) Any person whose job responsibility includes driving a vehicle to transport children, including any substitute
5 driver, shall meet the requirements in Rule .1003 of this ~~Subchapter.~~ Chapter.

6 (b) Non-care giving staff or any person providing support to the operation of the program shall be at least 16 years of
7 age; and meet the requirements of the local health department for food handlers, if applicable, when duties are related
8 to food preparation or food service.

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

11 *Eff. July 1, 1988;*

12 *Amended Eff. July 1, 1998; October 1, 1991; November 1, ~~1989~~. 1989.*

13 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0712

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please repeal this Rule in accordance with 26 NCAC 02C .0108(6)(a)(iii)

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: August 1, 2017

10A NCAC 09 .0712 is repealed through readoption as published in 31:20 NCR 1959 as follows:

10A NCAC 09 .0712 STAFF/CHILD RATIOS FOR CENTERS WITH A LICENSED CAPACITY OF LESS THAN 30 CHILDREN

(a) ~~The staff/child ratios and group sizes for a child care center with a licensed capacity of less than 30 children are as follows:~~

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

(1) ~~When only one caregiver is required to meet the staff/child ratio, and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties which are not direct child care responsibilities.~~

(2) ~~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 and who can respond within a reasonable period of time; or~~

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

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

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

(c) ~~The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.~~

History Note: Authority G.S. 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; 1990;

Repealed Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0713

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please show changes to the rule name.

Please begin (a)(1) through (5) with lower case letters.

Are (a)(6) through (8) intended to be their own Paragraphs or a continuation of (a)? If they are intended to be subparagraphs, please end them with semi-colons and begin with lower-case letters – it does appear to be that they would be appropriate to be their own paragraphs.

How do (a)(6) and (a)(8) and (d) go together?

In (a)(7)(A), please define “reasonable period.” What is the intent of this? Is it to say that if only one person is on the premises, and an emergency arises, that contact information for a second person should be posted and that second person should be contacted?

Is (d) specific to in home programs? Please make this clear. You may want to consider formatting this Rule differently for this purpose.

Is (e) specific to in home programs? Please make this clear.

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: August 1, 2017

10A NCAC 09 .0713 is readopted as published in 31:20 NCR 1959-1560 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 ~~with a licensed capacity of 30 or more children~~ shall be as follows:

<u>Age of Children</u>	<u>Ratio Staff/Children</u>	<u>Maximum Group Size</u>
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

~~(b)(1)~~ In any multi-age group situation, the staff/child ratio for the youngest child in the group shall be maintained for the entire ~~group~~. group;

~~(c)(2)~~ Children younger than two years old may be cared for in groups with older children for the first and last operating hour of the ~~day~~ day, provided the staff/child ratio for the youngest child in the group is ~~maintained~~. maintained;

~~(d)(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~~. appropriate;

~~(e)(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~~. group; and

~~(f)(5)~~ Except as provided in ~~Paragraphs (c) and (d)~~ Subparagraphs (2) and (3) of this Rule, Paragraph, children under one year of age shall be kept separate from children two years of age and over.

~~(g) 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 old.~~

~~(h)(6)~~ When only one caregiver is required to meet the staff/child ~~ratio~~. ratio and no children under two years of age are in care, that ~~person-caregiver~~ may concurrently perform food preparation or other duties ~~which that~~ are not direct child care responsibilities as long as supervision of the children as specified in ~~Rule .0714(f) of this Section~~ 10A NCAC 09 .1801 is maintained.

~~(i)(7)~~ When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:

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

(8) Except as provided in ~~Paragraph (h)~~ Subparagraph (6) of this ~~Rule, 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 ~~which~~ that are not direct child care responsibilities.

~~(k) The staff/child ratio applicable to a classroom 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:

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

~~(c)~~ The staff/child ratio applicable to a classroom 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, 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, 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.

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

1 *Eff. December 1, 1988;*
2 *Amended Eff. January 1, 2006; July 1, 1998; July 1, 1994; January 1, 1992; August 1, 1990;*
3 *November 1, ~~1989~~ 1989;*
4 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0714

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is meant by “regular basis”? Do you mean who is at the center in accordance with this Rule? If so, please consider saying something like:

Each child care center shall have ~~an a child care administrator~~ on site on a regular basis. The administrator who shall be responsible for monitoring the program and overseeing administrative duties of the center. ~~This requirement may be met by having one or more persons on site who meet the requirements for an a child care administrator according to the licensed capacity of the center. The following hourly requirements are based on an [the] child care administrator shall be on site in accordance with the following chart:~~

<u>Licensed Capacity</u>	<u>Weekly On-Site Hours</u>
<u>Less than 30 children</u>	<u>20</u>
<u>30-79 children</u>	<u>25</u>
<u>80-199 children</u>	<u>30</u>
<u>200 or more children</u>	<u>40</u>

~~The administrator's required weekly on-site hours may include those hours that he or she is normal working schedule and may include times when the [child care] administrator may be off site due to administrative duties, illness, or vacation. [vacation;]~~

(b) The administrator's required on-site hours may be split among one or more persons who meet the requirements for a child care administrator as set forth in 110-91(8).

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

If you choose not to use the suggested language, in (a), line 6, what do you mean by “requirements of a child care administrator”? Do you mean those set forth in 110-91(8)?

In (a), line 8, by “may include” do you mean “shall include”?

In (a), is “weekly on-site hours” accurate if time spent off site performing administrative duties counts? It seems contradictory to the rest of the Rule. Should it be something like “weekly hours”?

In (b), please delete “at least’

In (b), please provide a specific cite to the requirements rather than simply saying “as set forth in this Section”? I assume that you mean 110-91(8) (and .0704 and .0710 if you have authority for it.)

In (b), what is considered to be the beginning and end of the day?

Please begin (b)(1) through (b)(3) with lower case letters.

In (b)(2), please delete “at least”

In (b)(3), how is it determined whether a person can apply the information received during orientation?

In (c), please delete “at least”

In (c), page 2, line 1, by “may include” do you mean “shall include”?

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

10A NCAC 09 .0714 is readopted as published in 31:20 NCR 1960-1961 as follows:

10A NCAC 09 .0714 OTHER STAFFING REQUIREMENTS

(a) Each child care center shall have ~~an~~ a child care administrator on site on a regular basis. The child care administrator shall be responsible for monitoring the program and overseeing administrative duties of the center. This requirement may be met by having one or more persons on site who meet the requirements for ~~an~~ a child care administrator according to the licensed capacity of the center. The following hourly requirements are based on ~~an~~ the child care administrator's normal working schedule and may include times when the child care administrator may be off site due to administrative duties, illness, or ~~vacation~~ vacation:

- (1) ~~Each center with a licensed capacity of less than 30 children shall have an administrator on site for at least 20 hours per week.~~
- (2) ~~Each center with a licensed capacity of 30 to 79 children shall have an administrator on site for at least 25 hours per week.~~
- (3) ~~Each center with a licensed capacity of 80 to 199 children shall have an administrator on site for at least 30 hours per week.~~
- (4) ~~Each center with a licensed capacity of 200 or more children shall have an administrator on site for at least 40 hours per week.~~

<u>Licensed Capacity</u>	<u>Weekly On-Site Hours</u>
<u>Less than 30 children</u>	<u>20</u>
<u>30-79 children</u>	<u>25</u>
<u>80-199 children</u>	<u>30</u>
<u>200 or more children</u>	<u>40</u>

(b) At least one person who meets the requirements for ~~an~~ a child care administrator or lead teacher as set forth in this Section shall be on site during the center's operating ~~hours~~ hours, except that a person who is at least 18 years old with at least a high school diploma or its equivalent and who has a minimum of one year's experience working with children in a child care center may be on duty at the beginning or end of the operating day provided that:

- (1) No more than 10 children are ~~present~~ present;
- (2) The staff person has worked in that center for at least three ~~months~~ months; and
- (3) The staff person knows and can apply the information received during the orientation training required in Rule .1101 of this Section ~~center's operating policies and emergency procedures~~.

(c) At least one person who meets the requirements for a lead teacher shall be responsible for each group of children ~~as defined in Rule .0102 of this Chapter~~ except as provided in Paragraph (b) of this Rule. This requirement may be met by having one or more persons who meet the requirements for a lead teacher responsible for the same group of children. Each lead teacher shall be responsible for only one group of children at a time. Each group of children shall have a lead teacher in attendance for at least two-thirds of the total daily hours of operation, based on a normal working

~~schedule~~ schedule, and may include times when the lead teacher may not be in attendance due to circumstances such as illness or vacation.

~~(d) A teacher is a person who is responsible to the lead teacher and assists with planning and implementing the daily program.~~

~~(e)~~ (d) No aide ~~or aides~~ shall have responsibility for a group of children except as provided in Paragraph (b) of this Rule.

~~(f) Children shall be adequately supervised at all times. Adequate supervision shall mean that:~~

~~(1) Staff must be positioned in the indoor and outdoor environment to maximize their ability to hear or see the children at all times and render immediate assistance;~~

~~(2) Staff must interact with the children while moving about the indoor or outdoor area;~~

~~(3) Staff must know where each child is located and be aware of children's activities at all times;~~

~~(4) Staff must provide supervision appropriate to the individual age, needs and capabilities of each child; and~~

~~(5) All of the conditions in this Paragraph shall apply except when emergencies necessitate that direct supervision is impossible for brief periods of time. Documentation of emergencies shall be maintained and available for review by Division representatives upon request.~~

~~(g)~~(e) Nothing contained in this Rule Chapter shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual with a disability," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

~~(h) For groups of children aged two years or older, the staff/child ratio during nap time is considered in compliance if at least one person is either in each room or is visually supervising all the children and if the total number of required staff are on the premises and within calling distance of the rooms occupied by children.~~

~~(i) When a child is sleeping, bedding or other objects shall not be placed in a manner that covers the child's face.~~

History Note: Authority G.S. 110-85(1); 110-91(7),(8); 143B-168.3;

Eff. July 1, 1988;

Amended Eff. July 1, 2012; May 1, 2004; July 1, 1998; January 1, 1996; October 1, 1991;

November 1, 1989. 1989;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0801

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a)(6), please delete or define "particular" and "unique"

In (b), line 29, do you mean "may include the following" or "shall include the following:"?

In (b)(2), do you mean "contact information for the child's health care professional"?

Please end (c) with a period.

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: August 1, 2017

10A NCAC 09 .0801 is readopted as published in 31:20 NCR 1961-1962 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, legal guardian, or full-time custodian. 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) The completed, signed application shall be on file in the center on the first day the child attends and shall remain on file until the child is no longer attending.~~
 - ~~(2) The completed application shall include emergency medical information as specified in Rule .0802(b) of this Section.~~
 - ~~(3) The completed application shall give the child's full name and indicate the name the child is to be called. In addition, the application shall include the child's date of birth and any allergies, particular fears, or unique behavior characteristics that the child has.~~
 - ~~(4) The application shall include the names of individuals to whom the center may release the child as authorized by the person who signs the application.~~
- (1) emergency medical information as set forth in Rule .0802(b) 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) particular fears or unique 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 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. Sample medical action plans may be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_provideforms.asp;

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

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

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

5
6 *History Note: Authority G.S. 110-88; 143B-168.3;*

7 *Eff. January 1, 1986;*

8 *Amended Eff. November 1, 1989;*

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

10 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0802

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), line 5, please delete or define "in detail"

In (a)(1), (a)(2), and (b) please delete "at least"

In (a)(1)(A), please delete or define "simple" and "minimal"

In (a)(1)(B), what are the CPR or First Aid training recommendations?

In (3), please delete "which is in good working condition and is always." Alternatively, please define "good working condition."

In (b), is the "plan of action" the same as the "emergency medical care plan" referenced in (a)? Please be consistent.

In (c), please delete "individual." It appears to be superfluous language.

In (c), please consider providing the information that is required in list form.

In (e), line 32, is it required that the incident report be sent to the Division when any medical treatment is required (for example, a staff member puts a band-aid on a knee) or is this only when medical treatment is provided by a professional (based on line 23, I assume it's the latter, but I want to verify)?

In (e), line 34, what is required of the form? Are the contents of this form set forth elsewhere in rule or statute?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In(f), what is to be included in the log? Are the contents of this form set forth elsewhere in rule of statute?

In (g), please delete or define “prominent” and “quick.” What makes the sheet “acceptable” as referenced by “an acceptable form”? Please provide the requirements of this information sheet or form. Please also be consistent in terms – is this an information sheet or a form?

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

10A NCAC 09 .0802 is readopted with changes as published in 31:20 NCR 1962-1963 as follows:

10A NCAC 09 .0802 EMERGENCY MEDICAL CARE

(a) Each child care center shall have a written plan ~~which assures that emergency medical care is available or can be obtained for children.~~ that sets forth in detail 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. ~~during staff orientation with new staff and with all staff at least twice each year.~~ This plan shall give the procedures to be followed to ~~assure~~ ensure that any child who becomes ill or is injured and requires medical attention while in care at the ~~center~~ center, ~~or while participating in any activity provided or sponsored by the center,~~ receives appropriate medical attention. The following information shall be included in the center's emergency medical care plan:

- (1) ~~The name, address, and telephone number of a health care professional, community clinic, or local health department that is available to provide medical consultation;~~
- (2) ~~The name, address, and telephone number of the emergency room to be used when the parent's or family's health care professional cannot be reached or when transporting the ill or injured child to the person's preferred hospital could result in serious delay in obtaining medical attention;~~
- (3) ~~Designation of a means of transportation always available for use in the event of a medical emergency;~~
- (4)(1) The name of the ~~person,~~ person and ~~his or her~~ at least one alternate, ~~at the center,~~ responsible for ~~determining which of the following is needed,~~ carrying out that plan of action, ~~and assuring~~ ensuring that appropriate medical care is ~~given,~~ given, and determining which of the following is needed:
 - (A) ~~Simple~~ simple [pediatric] first aid given at the center for an injury or illness needing only minimal attention; and
 - (B) ~~Advice from previously identified medical consultant in order to decide if care is to be given at the center or if the ill or injured child is to be transported to a designated medical resource; or~~
 - (C)(B) ~~Immediate transportation of the child to a designated medical resource for appropriate treatment;~~ calling 911 in accordance with [pediatric] CPR or [pediatric] First Aid training recommendations.
- (5)(2) The name of the person and at least one alternate, ~~person(s)~~ at the center responsible for:
 - (A) ~~Assuring~~ ensuring that the signed authorization described in Paragraph ~~(e)~~ (d) of this Rule is taken with the ill or injured child to the medical facility;
 - (B) ~~Accompanying~~ accompanying the ill or injured child to the medical facility;
 - (C) ~~Notifying~~ notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment;
 - (D) ~~Notifying the medical facility about the ill or injured child being transported for treatment;~~ and

1 ~~(E)(D)~~ Obtaining obtaining substitute staff, if needed, to maintain required staff/child ratio and
2 adequate supervision of children who remain in the center; and

3 ~~(6)(3)~~ A statement giving the location of the telephone located on the premises which is in good working
4 condition and is always available for use in case of emergency. ~~Telephone numbers for the fire~~
5 ~~department, law enforcement office, emergency medical service, and poison control center shall be~~
6 ~~posted within sight of the telephone.~~ A telephone located in an office in the center that is sometimes
7 locked during the time the children are present shall not be designated for use in an emergency.

8 **(b) At least one person identified as the person or alternate responsible for carrying out the plan of action and ensuring**
9 **that appropriate medical care is given shall:**

10 (1) be on the premises at all times; and

11 (2) accompany children for off premise activities.

12 ~~(b)(c)~~ Emergency medical care information shall be on file for each individual child. That information shall include
13 the name, address, and telephone number of the parent or other person to be contacted in case of an emergency, and
14 the responsible party's choice of health care professional; professional and preferred hospital; any chronic illness ~~the~~
15 ~~individual has~~ and any medication taken for that illness; and any other information that has a direct bearing on ~~assuring~~
16 ensuring safe medical treatment for the child. This emergency medical care information shall be on file in the center
17 on the child's first day of attendance and shall be updated as changes occur and at least annually.

18 ~~(e)(d)~~ Each child's parent, legal guardian, or full-time custodian shall sign a statement authorizing the center to obtain
19 medical attention for the child in an emergency. That statement shall be on file on the first day the child attends the
20 center. It shall be easily accessible to staff so that it can be taken with the child whenever emergency medical treatment
21 is necessary.

22 ~~(4)(e)~~ The child care provider shall complete an An incident report shall be completed each time a child is injured or
23 receives medical treatment by a health care professional, community clinic, or local health department, as a result of
24 an incident occurring while the child is ~~at the child care center.~~ in care. This incident report shall include:

25 (1) the child's name, date and time of incident, part of body injured, type of ~~injury,~~ injury;

26 (2) the names of adult witnesses to ~~incident,~~ incident;

27 (3) a description of how and where incident ~~occurred,~~ occurred;

28 (4) the piece of equipment involved ~~(if any),~~ (if any);

29 (5) any treatment ~~received,~~ received; and

30 (6) the steps taken to prevent reoccurrence.

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

35 ~~(e)(f)~~ An incident log shall be completed any time an incident report is completed. This log shall be cumulative and
36 maintained in a separate file and shall be available for review by a representative of the Division. This log shall be

1 completed on a form provided by the Division. A copy of the log may be found on the Division's website at
2 http://ncchildcare.nc.gov/pdf_forms/incident_log_i.pdf.

3 (g) A [pediatric] First Aid information sheet shall be posted in a prominent place for quick referral. An acceptable
4 form may be requested free of charge from the North Carolina Child Care Health and Safety Resource Center at 1-
5 800-367-2229.

6
7 *History Note: Authority G.S. 110-85; 110-91(1),(9); 143B-168.3;*

8 *Eff. January 1, 1986;*

9 *Amended Eff. July 1, 2010; July 1, 1998; January 1, 1996; October 1, 1991; November 1, ~~1989~~.*

10 *1989;*

11 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0803

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (2)(a), what is your authority to say what will be on the pharmacy label? I believe that this would fall under the Pharmacy Act.

In (4), just so I'm clear, a parent may write "as needed" on the instruction sheet for anything contained within (6), (7), (8), and (9)?

Just so I'm clear, is (6) and (7) left exclusively to the discretion of the parent? Does the childcare facility have the ability to decline to the child the medication or ointment, repellant, lotion, etc., only if a question arises in accordance with (5)?

In (7), please change "---" to a comma.

As indicated by (4), should "when needed" be somewhere in Items (8) and (9)?

What is the intent of (9) and what is it speaking to? What sort of over the counter medications might the State Health Director direct? How would a parent be notified of this? Is there a cross-reference available?

In (10), please add "and" after "unavailable"

In (12), what if the authorization expires?

In (14), what are CPR or First Aid training recommendations?

In (14)(c), please delete or define "immediately."

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

In (14)(d), please delete or define “closely”

Please add G.S. 110-102.1A to your History Note.

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: August 1, 2017

1 10A NCAC 09 .0803 is readopted with changes as published in 31:20 NCR 1963-1965 as follows:

2
3 10A NCAC 09 .0803 ADMINISTERING MEDICATION

4 The following provisions apply to the administration of medication in child care centers:

- 5 (1) No prescription or over-the-counter medication and no topical, non-medical ointment, repellent,
6 lotion, ~~cream~~ cream, fluoridated toothpaste, or powder shall be administered to any child:
- 7 (a) without written authorization from the child's parent;
 - 8 (b) without written instructions from the child's parent, physician or other health professional;
 - 9 (c) in any manner not authorized by the child's parent, physician or other health professional;
 - 10 (d) after its expiration date; ~~or~~
 - 11 (e) for non-medical reasons, such as to induce ~~sleep~~; sleep; or
 - 12 (f) with a known allergy to the medication.
- 13 (2) Prescribed medications:
- 14 (a) shall be stored in the original containers in which they were dispensed with the pharmacy
15 labels specifying:
 - 16 (i) the child's name;
 - 17 (ii) the name of the medication or the prescription number;
 - 18 (iii) the amount and frequency of dosage;
 - 19 (iv) the name of the prescribing physician or other health professional; and
 - 20 (v) the date the prescription was filled; or
 - 21 (b) if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall
22 be labeled with the child's name, and shall be accompanied by written instructions
23 specifying:
 - 24 (i) the child's name;
 - 25 (ii) the names of the medication;
 - 26 (iii) the amount and frequency of dosage;
 - 27 (iv) the signature of the prescribing physician or other health professional; and
 - 28 (v) the date the instructions were signed by the physician or other health professional;
 - 29 ~~and~~
 - 30 (c) shall be administered only to the child for whom they were ~~prescribed~~; prescribed; and
 - 31 (d) shall be administered according to the prescription, using amount and frequency of dosage
32 specified on the label.
- 33 (3) A parent's written authorization for the administration of a prescription medication described in Item
34 (2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
- 35 (4) Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen,
36 topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the

1 manufacturer's original packaging on which the child's name is written or labeled and shall be
2 accompanied by written instructions specifying:

- 3 (a) the child's name;
- 4 (b) the names of the authorized over-the-counter medication;
- 5 (c) the amount and frequency of the ~~dosages;~~ dosages, which shall not exceed the amount and
6 frequency of the dosages on the manufacturer's label;
- 7 (d) the signature of the parent, physician or other health professional; and
- 8 (e) the date the instructions were signed by the parent, physician or other health professional.

9 The permission to administer over-the-counter medications is valid for up to 30 days at a time,
10 except as allowed in Items (6), (7), (8) and (9) of this Rule. Over-the-counter medications shall not
11 be administered on an "as needed" basis, other than as allowed in Items (6), (7), (8) and (9) of this
12 Rule.

- 13 (5) When questions arise concerning whether any medication should be administered to a child, the
14 caregiver may decline to administer that medication without signed, written dosage instructions
15 from a licensed physician or authorized health professional.

- 16 (6) A parent may give a caregiver standing authorization for up to six months to administer prescription
17 or over-the-counter medication to a child, when needed, for chronic medical ~~conditions~~ conditions,
18 such as asthma, and for allergic reactions. The authorization shall be in writing and shall contain:

- 19 (a) the child's name;
- 20 (b) the subject medical conditions or allergic reactions;
- 21 (c) the names of the authorized over-the-counter medications;
- 22 (d) the criteria for the administration of the medication;
- 23 (e) the amount and frequency of the dosages;
- 24 (f) the manner in which the medication shall be administered;
- 25 (g) the signature of the parent;
- 26 (h) the date the authorization was signed by the parent; and
- 27 (i) the length of time the authorization is valid, if less than six months.

- 28 (7) A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter,
29 topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, fluoridated
30 toothpaste, and powders --- such as sunscreen, diapering creams, baby lotion, and baby powder ---
31 to a child, when needed. The authorization shall be in writing and shall contain:

- 32 (a) the child's name;
- 33 (b) the names of the authorized ointments, repellents, lotions, creams, fluoridated toothpaste,
34 and powders;
- 35 (c) the criteria for the administration of the ointments, repellents, lotions, creams, fluoridated
36 toothpaste, and powders;

- (d) the manner in which the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders shall be applied;
- (e) the signature of the parent;
- (f) the date the authorization was signed by the parent; and
- (g) the length of time the authorization is valid, if less than 12 months.
- (8) A parent may give a caregiver standing authorization to administer a single weight-appropriate dose of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The authorization shall be in writing and shall contain:
- (a) the child's name;
- (b) the signature of the parent;
- (c) the date the authorization was signed by the parent; and
- (d) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (9) A parent may give a caregiver standing authorization to administer an over-the-counter medication as directed by the North Carolina State Health Director or designee, when there is a public health emergency as identified by the North Carolina State Health Director or designee. The authorization shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
- (a) the child's name;
- (b) the signature of the parent;
- (c) the date the authorization was signed by the parent; and
- (d) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (10) Pursuant to G.S. 110-102.1A, a caregiver may administer medication to a child without parental authorization in the event of an emergency medical condition when the child's parent is unavailable, providing the medication is administered with the authorization and in accordance with instructions from a bona fide medical care provider.
- (11) A parent may withdraw ~~his or her~~ written authorization for the administration of medications at any time in writing.
- (12) Any medication remaining after the course of treatment is completed or after authorization is withdrawn shall be returned to the child's parents. Any medication the parent fails to retrieve within 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.
- (13) Any time prescription or over-the-counter medication is administered by center personnel to children receiving care, the following information shall be recorded: including any time medication is administered in the event of an emergency medical condition without parental authorization as permitted by G.S. 110-102.1A,
- (a) the child's ~~name~~, name;
- (b) the ~~date~~, date the medication was given;

- 1 (c) the time the medication was given; ~~time;~~
2 (d) the amount and the type of medication ~~given;~~ given; and
3 (e) the name and signature of the person administering the medication. ~~medication shall be~~
4 recorded.

5 This information shall be noted on a medication permission slip, or on a separate form developed
6 by the provider which includes the required information. This information shall be available for
7 review by a representative of the Division during the time period the medication is being
8 administered and for at least six months after the medication is administered. No documentation
9 shall be required when items listed in Item (7) of this Rule are applied to children.

10 (14) If medication is administered in error, whether administering the wrong dosage, giving to the wrong
11 child, or giving the incorrect type of medicine, the child care facility shall:

- 12 (a) call 911 in accordance with ~~[pediatric]~~ CPR or ~~[pediatric]~~ First Aid training
13 recommendations;
14 (b) notify the center director;
15 (c) contact the child's parent immediately;
16 (d) observe the child closely; and
17 (e) document the medication error in writing, including:
18 (i) the child's name and date of birth;
19 (ii) the type and dosage of medication administered;
20 (iii) the name of the person who administered the medication;
21 (iv) the date and time of the error;
22 (v) the signature of the child care administrator, the parent and the staff member who
23 administered the medication;
24 (vi) the actions taken by the center following the error; and
25 (vii) the actions that will be taken by the center to prevent a future error.

26 This documentation shall be maintained in the child's file.

27
28 *History Note: Authority G.S. 110-85; 110-91(1),(9); 143B-168.3;*
29 *Eff. January 1, 1986;*
30 *Amended Eff. May 1, 2004; April 1, 2001; July 1, 1998; January 1, ~~1996.~~ 1996;*
31 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0804

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is considered to be a "mildly ill" child? Is it a child who has a fever of less than 101 degrees for a infant younger than two months and 100.4 for other children who is not exhibiting any symptoms set forth in (a)(1) through (12)? I think that this could be set forth more clearly.

In (a), is it exclusively at the discretion of the center as to whether they will provide care?

In (a), please delete or define "routine" in "routine group activities." Given (a)(12), is "and who remains capable of participating in routine group activities" necessary?

In (a)(1), by "above normal", do you mean "above the child's normal pattern"?

(a)(3) indicates that exclusion is to begin immediately for lice, is exclusion not immediate for all of these conditions?

In (a)(5), please delete "known"

In (a)(6), how does this statement need to be conveyed to the center? Is written verification required?

Just to make sure that I'm clear, in (a)(10) is it up to the discretion of the center on whether to allow a child with impetigo to stay until the end of the day, and that child may return immediately upon treatment (even if the

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

treatment occurs minutes before the child is dropped at the center)? If this is correct, it's fine as written – I just wanted to be sure.

In (b)(1), have the Rules of CPH been incorporated by reference elsewhere in your Rules?

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: August 1, 2017

10A NCAC 09 .0804 is readopted with changes as published in 31:20 NCR 1965-1966 as follows:

10A NCAC 09 .0804 INFECTIOUS AND CONTAGIOUS DISEASES

(a) Centers may provide care for a mildly ill child who has a Fahrenheit temperature of 101 degrees or less by any method for infants younger than two months or a temperature of 100.4 or less by any method less than 100 degrees axillary, or 101 degrees orally, and who remains capable of participating in routine group activities; so long as ~~and~~ the child ~~shall~~ does not have any of the following:

- (1) ~~the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water;~~ more than two stools above normal and diarrhea is not contained by a diaper or when toilet-trained children are having accidents;
- (2) two or more episodes of vomiting within a 12 hour period;
- (3) lice, exclusion shall begin immediately upon identification until completion of first treatment; ~~a red eye with white or yellow eye discharge, until 24 hours after treatment has started;~~
- (4) scabies; ~~scabies or lice;~~
- (5) known chicken pox or a rash suggestive of chicken pox;
- (6) tuberculosis, until a health professional states that the child is not infectious;
- (7) strep throat, until 24 12 hours after antibiotic treatment has ~~started;~~ started and no fever is present;
- (8) pertussis, until five days after treatment has started;
- (9) hepatitis A virus infection, until one week after onset of illness or jaundice;
- (10) impetigo, ~~until 24 hours after~~ exclusion may begin at the end of the program day until treatment has started; ~~or~~
- (11) a physician's or other health professional's written order that the child be separated from other ~~children.~~ children; or
- (12) exclusion for symptoms not included in this list shall be required if the symptoms prevent the child from participating comfortably in activities as determined by staff members of the program or the symptoms result in a need for care that is greater than the staff members can provide without compromising the health and safety of other children.

(b) Centers that choose to provide care for mildly ill children shall:

- (1) follow all procedures to prevent the spread of communicable diseases described in 15A NCAC 18A .2800, "Sanitation of Child Care Centers", as adopted by the Commission for Public Health;
- (2) separate from the other children any child who becomes ill while in care or who is suspected of having a communicable disease or condition other than as described in Paragraph (a) of this Rule until the child leaves the center;
- (3) notify all parents at enrollment that the center will be providing care for mildly ill children;
- (4) notify the parent of any child who becomes ill or who is suspected of being ill with a communicable condition other than as described in Paragraph (a) of this Rule that the child is ill and shall leave the center;

(5) notify the parent of any ~~sick~~ mildly ill child in care if the child's condition worsens while the child is in care.

~~[(c)] [A copy of "Caring for Our Children: Appendix A" shall be located in the child care facility for referral regarding common signs and symptoms of illness. The book is incorporated by reference, including subsequent amendments and editions, and is available free of charge online at <http://efoc.nrekids.org/TOC/efm>.]~~

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

Eff. January 1, 1986;

Amended Eff. December 1, 2014; July 1, 1998; November 1, 1991; November 1, ~~1989~~; 1989;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0806

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Are both (b) and (c) necessary? (c) appears to be superfluous.

If (c) is necessary, please change "linen" to "linens"

In (d), what does it mean that "staff shall consider the developmental readiness"? How is this to be determined?

In (e), please delete or define "proper" in "proper hygiene." Please delete "as needed."

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: August 1, 2017

10A NCAC 09 .0806 is readopted as published in 31:20 NCR 1966 as follows:

10A NCAC 09 .0806 TOILETING, CLOTHING AND LINENS

(a) Diapers ~~will~~ shall be changed whenever they become soiled or wet and not on a shift basis.

(b) ~~There must be~~ The center shall ensure that clean clothes are available in the event that a child's clothes become
wet or soiled. so that when the clothes worn by a child becomes wet or soiled the child has clean clothes to put on. The
change of clothing may be provided by the center or by the child's parents.

(c) A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet.

(d) Staff shall not force children to use the toilet and staff shall consider the developmental readiness of each ~~individual~~
child ~~during~~ when toilet training.

(e) Staff shall provide assistance to each child to ensure proper hygiene, as needed.

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

Eff. January 1, 1986;

Amended Eff. July 1, 1998; November 1, ~~1989~~, 1989;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0901

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), where is the actual copy of the Meal Patterns? I went to the website provided and it appears to provide general information and does not provide the actual requirements. Is the intent that the Federal Regulation be incorporated by Reference come October 1? I'm not sure that this website is sufficient to provide clarity – is there something more specific?

In (b), what is considered to be a “meal” versus a “snack”? Is this set forth in the Meal Patterns?

In (b), should (b) begin with “when food is prepared by or provided by the center? I assume that this whole paragraph will apply to those centers that provide food, not just the posting requirements?

In (b), please delete or define “easily”

In (b), what is meant by “comparable food value”? Do you mean nutritional value as provided by Paragraph (a)?

In (d), who must sign the opt out statement? I assume the parent and not the center's staff? Please make this clear.

In (d), I'm not sure that “For purposes of this Rule, opting out means” is accurate. Sub-Paragraphs (d)(1) through (d)(4) don't appear to be setting forth the meaning of “opt-out”, it appears to be setting parameters. Would it be more accurate to say something like:

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

"A child's parent may opt out of the supplemental food provided by the center, subject to the following:

(1) the center shall not...

(2) the ability...

(3) if a child...

(4) if the child's...

When a child's parent opts out of the supplemental food provided by the center, the center shall obtain a signed statement from the parent acknowledging his or her decision..."

In (d)(4), please add a comma in between "opted out" and "but does not"

In (e), please change "must" to "shall."

In (e), unless already incorporated by reference elsewhere, please provide a cross-reference to the requirements of CPH. I assume as set forth in Section .2800 of 15A NCAC 18?

In (f)(5) and (f)(6), please delete "old"

In (g), please change "it" to "they." Please delete or define "easily"

In (i), please say "cakes, and donuts" and delete "etc."

In (i), what are "other celebrations"? Is this necessary since you have already provided some examples with "holidays" and "birthdays"?

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: August 1, 2017

10A NCAC 09 .0901 is readopted with changes as published in 31:20 NCR 1966-1967 as follows:

SECTION .0900 - NUTRITION STANDARDS

10A NCAC 09 .0901 GENERAL NUTRITION REQUIREMENTS

(a) Meals and snacks served to children in a child care center 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>, free of charge from the Division at the address in 10A NCAC 09 .0102(2). Rule .0102(1) of this Chapter.

(b) Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and food preparation staff when food is prepared or provided by the center, except in centers with a licensed capacity of 3 to 12 children located in a residence. A variety of food shall be included in meals and snacks. Any substitution shall be of comparable food value and shall be recorded on the menu prior to the meal or snack being served.

(c) When children bring their own food for meals or snacks to the center, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the center must provide additional food necessary to meet those requirements. requirements unless the child's parent or guardian opts out of the supplemental food provided by the center as set forth in G.S. 110-91(2)h.1. A statement acknowledging the parental decision to opt out of the supplemental food provided by the center signed by the child's parent or guardian shall be kept on file at the center. Opting out means that the center will 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 center's designated times. If the child's parent or guardian has opted out but does not provide all food and drink for the child, the center shall provide supplemental food and drink as if the child's parent or guardian had not opted out of the supplemental food program.

(d) A child's parent may opt out of the supplemental food provided by the center 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, a signed statement acknowledging the parental decision shall be kept in the child's file at the center and a copy provided to the parent. For purposes of this Rule, opting out means that:

- (1) the center 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 center's designated times;
- (2) the ability to opt out of specific meals or days based on menu options is not available;
- (3) if a child requests specific foods being served to other children, but the parent has opted out, the center shall not serve supplemental food; and

1 (4) if the child's parent or guardian has opted out but does not provide all meals and snacks for the child,
2 the center shall replace the missing meal or snack as if the child's parent or guardian had not opted
3 out of the supplemental food program.

4 ~~(d)~~(e) Drinking water must be freely available to children of all ages. Drinking fountains or individual drinking
5 utensils shall be provided. When a private water supply is used, it must be tested by and meet the requirements of the
6 Commission for Public Health.

7 ~~(e)~~(f) The child care provider ~~will provide~~ shall serve only the following beverages:

8 (1) breast ~~milk~~; milk, as specified in Paragraph (k) of this Rule;

9 (2) formula;

10 (3) water;

11 (4) unflavored whole milk, for children ages ~~12-24~~ 12-23 months;

12 (5) unflavored skim or lowfat milk for children ~~two years and older; or~~ [25] 24 months through five
13 years old;

14 (6) ~~[flavored or unflavored skim or low-fat milk for children older than five years; or]~~ unflavored skim
15 milk, unflavored low-fat milk, or flavored skim milk for children six years old and older; or

16 ~~(6)~~(7) 100 percent fruit juice, limited to 6 ounces per ~~day~~; day, for all ages.

17 ~~(f)~~(g) Children's special diets or food allergies shall be posted where it can be easily seen in the food preparation area
18 and in the child's eating area.

19 ~~(g)~~(h) The food required by special diets for medical, ~~religious~~ religious, or cultural reasons, or parental preferences,
20 may be provided by the center or may be brought to the center by the parents. If the diet is prescribed by a health care
21 professional, a statement signed by the health care professional shall be on file at the center and written instructions
22 shall be provided by the child's parent, health care professional, or a licensed dietitian/nutritionist. If the diet is not
23 prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on
24 file at the center.

25 ~~(h)~~(i) Food that does not meet the nutritional requirements specified in Paragraph (a) of this Rule, such as ~~cookies,~~
26 ~~chips, cupcakes, cakes,~~ donuts, etc., shall ~~be available~~ only be offered for special occasions such as holidays, birthdays,
27 and other celebrations.

28 ~~(i)~~(j) Staff shall role model appropriate eating behaviors by consuming only food or beverages that meet the nutritional
29 requirements specified in Paragraph (a) of this Rule in the presence of children in care.

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

34 History Note: Authority G.S. 110-85; 110-91(2); 143B-168.3;

35 Eff. January 1, 1986;

36 Amended Eff. December 1, 2012; July 1, 2010; July 1, 1998; October 1, 1991; November 1, ~~1989.~~
37 1989.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0902

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Was it intentional that the titles in .0902 and .0903 have different beginnings? .0902 is general nutrition requirements for infants, while .0903 is requirements for children. Did you intend to keep "general" in .0902? Either way, it is no problem as we do not review titles, but I wanted to bring it to your attention.

In (a), please change "must" to "shall."

In (a), what is to be included in the actual plan itself? I assume that it must include information regarding the feeding such as what kind of milk, how often, etc? Please consider providing the information on line 6 (child's name, signature of parent or healthcare provider, date) in a list form and also include what is to be included in the plan.

In (a), please delete "quick"

In (b), please change "will" to "shall."

In (b), when will infants be placed in feeding chairs? When they are eating solids? There seems to be a bit of repetition in (b) that creates a small amount of confusion.

In (b), please 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: August 1, 2017

1 **10A NCAC 09 .0902 is readopted as published in 31:20 NCR 1967 as follows:**

2
3 **10A NCAC 09 .0902 GENERAL NUTRITION REQUIREMENTS FOR INFANTS**

4 (a) The parent or health care provider of each child under 15 months of age shall provide the center an individual
5 written feeding ~~schedule~~ plan for the child. This ~~schedule~~ plan must be followed at the center. This ~~schedule~~ plan
6 must include the child's name, be signed by the parent or health care provider, and be dated when received by the
7 center. Each infant's ~~schedule~~ plan shall be modified in consultation with the child's parent or health care provider to
8 reflect changes in the child's needs as he or she develops. The feeding instructions for each infant shall be posted for
9 quick reference by the ~~caregivers~~. ~~caregivers, except in centers licensed for three to 12 children located in a residence.~~

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

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

15 (d) Each infant shall be served only bottles labeled with their individual name.

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

18 *Eff. January 1, 1986;*

19 *Amended Eff. December 1, 2012; July 1, 1998; October 1, 1991; November 1, ~~1989~~; 1989;*

20 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .0903

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Overall, it is unclear to me what the timing of the requirements should be given that "children shall be provided a meal or snack a minimum of every four hours"? What if a school aged child is in the center for less than 4 hours? Must the center offer a snack if the child is only there for 30 minutes? It's unclear how these requirements go together?

What are considered to be a "child's daily food needs"? Is this set forth in the Meal Patterns for children that has been incorporated by reference?

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: August 1, 2017

10A NCAC 09 .0903 is readopted as published in 31:20 NCR 1967-1968 as follows:

10A NCAC 09 .0903 REQUIREMENTS FOR CHILDREN AGED 15 24 MONTHS AND OLDER

Meals and snacks shall be planned according to the number of hours a child is in the center. Children shall be provided a meal or snack a minimum of every four hours. These rules apply in all situations except during sleeping hours and nighttime care:

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

- (1) ~~For preschool-aged children in the center at least two hours but less than four hours, and for all school-aged children, one snack shall be provided unless the child is present during the time the center is serving a meal, in which case, a meal shall be provided.~~
- (2) ~~For children in the center at least four hours, but less than six hours, one meal shall be provided equal to at least one-third of the child's daily food needs.~~
- (3) ~~For children in the center at least six hours, but less than twelve hours, two meals and one snack or two snacks and one meal shall be provided equal to at least one-half of the child's daily food needs.~~
- (4) ~~For children in the center more than twelve hours, two snacks and two meals shall be provided which are equal to at least two-thirds of the child's daily food needs.~~
- (5) ~~No child shall go more than four hours without a meal or a snack being provided.~~
- (6) ~~A nutritious evening meal must be provided to each child who receives second shift care (from approximately 3:00 p.m. to 11:00 p.m.) and who is present when the regularly scheduled evening meal is served.~~

History Note: Authority G.S. 110-85; 110-91(2); 143B-168.3;

- 1 *Eff. January 1, 1986;*
- 2 *Amended Eff. November 1, 1989; January 1, ~~1987~~ 1987;*
- 3 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1001

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is meant by “when the vehicle is in motion”? What about when the vehicle is at a stoplight?

In (a), the link to DPS’s requirements appears to be incorrect. It seems to link to a page that is not found. Please provide the correct information and incorporate by reference DPS’s requirements in accordance with 150B-21.6. Would this not be addressed by G.S. 20-137.1?

Is (b) necessary? It appears to be duplicative of (a)’s “each adult and child shall be restrained with an individual seat belt or child safety seat...”

Given 20-137.1(a1), what is your authority to prohibit a child from riding in the front seat, if they meet the pertinent age and weight requirements?

In (d), please change “do not” to “shall not.”

What is your authority specific to this requirement? If a vehicle is not otherwise required by state or federal statute to be equipped with child safety seats or seatbelts, what is your authority to require them to have it for children under two? What do you mean by “unless those vehicles are equipped with such restraints”? I’m not sure what the overall intent of this phrase is.

In your History note, please delete 110-91 since you have a more specific cite of 110-91(13).

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .1001 is readopted as published in 31:20 NCR 1968 as follows:

SECTION .1000 - TRANSPORTATION STANDARDS

10A NCAC 09 .1001 SEAT RESTRAINTS AND CHILD SAFETY SEATS

- (a) ~~Each~~ When the vehicle is in motion, each adult and child shall be restrained with an individual seat belt or appropriate child restraint device when the vehicle is in motion. child safety seat appropriate to the child's age or weight in accordance with North Carolina Department of Public Safety requirements located at <https://www.ncdps.gov/Index2.cfm>.
- (b) Only one person shall occupy each seat belt or child ~~restraint device~~ safety seat.
- (c) Children shall not occupy the front seat if the vehicle is equipped with an operational passenger side airbag.
- (d) Except for when children under two years of age are transported, the restraint requirements in this Rule do not apply to vehicles not required by federal or state law to be equipped with ~~seat restraints~~ child safety seats or seatbelts, unless those vehicles are equipped with such restraints.

History Note: Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1998; July 1, 1995; November 1, 1989; July 1, 1988; January 1, ~~1987~~ 1987;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1002

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is meant by "good repair" and "safe." Please define.

In (a), by "hurt themselves", do you mean on the torn upholstery? Please clarify.

In (b), what are the applicable state and federal rules and regulations?

In (c), what is the state law regarding liability insurance?

In (d), what is "other safety equipment as appropriate"?

In your History note, please delete 110-91 since you have a more specific cite of 110-91(13).

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: August 1, 2017

1 **10A NCAC 09 .1002 is readopted as published in 31:20 NCR 1968 as follows:**

2
3 **10A NCAC 09 .1002 SAFE VEHICLES**

4 (a) ~~All vehicles~~ Vehicles used to transport children shall be in good repair, safe, and free of hazards such as torn
5 upholstery that allows children to remove the interior padding or hurt themselves, broken windows, ~~and~~ holes in the
6 floor or ~~roof~~, roof, or tire treads of less than 2/32 of an inch.

7 (b) Vehicles used to transport children shall comply with all applicable State and federal laws and regulations.

8 ~~(b)(c)~~ Vehicles shall be insured for liability as required by State laws governing transportation of passengers.

9 ~~(c)(d)~~ Vehicles used to transport children in snowy, icy, and other hazardous weather conditions must be equipped
10 with snow tires, chains, or other safety equipment as appropriate.

11
12 *History Note: Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3;*

13 *Eff. January 1, 1986;*

14 *Amended Eff. July 1, ~~1998~~. 1998;*

15 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1003

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On the Submission for Permanent Rule Form, please provide the adoption date of the Commission.

In (a), by "other adult", do you mean another staff member or volunteer?

In (a), please change "assure" to "ensure."

In (a), please delete "responsible." Isn't the requirement simply that the children are transferred to a person authorized by the parent?

In (b), is this Rule intended to address procedures for pick-up and delivery for off-site activities (including those Centers who have a routine transport of children to and from the Center) or is this Rule addressing the everyday pick up and drop of children by parents to the centers? Please clarify. Assuming that this Rule is only applicable to off-site activities, does "each center" only include those centers that transport children? Must centers who do not transport children have these procedures in place?

In (b), please delete or define "safe" in "safe procedures"

In (c), please delete or define "firmly"

In (j), please define "routine" in "routine transport"

In (k), please consider deleting "with them for use in an emergency" so that the sentence reads "When children are transported, staff in each vehicle

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

shall have a functioning cellular telephone or other functioning two-way voice communication device. Staff shall not use cellular telephones..."

In your History note, please delete 110-91 since you have a more specific cite of 110-91(13).

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

1 **10A NCAC 09 .1003 is readopted as published in 31:20 NCR 1968 as follows:**

2
3 **10A NCAC 09 .1003 SAFE PROCEDURES**

4 (a) The driver or other adult in the vehicle shall assure that all children are transferred to a responsible person who is
5 indicated on the child's application as specified in Rule ~~.0801(a)(4)~~ .0801(a)(7) of this Chapter or as authorized by the
6 parent.

7 (b) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be
8 communicated to parents, and a copy shall be posted in the center where they can be seen by the parents. ~~Centers~~
9 ~~licensed for three to 12 children located in a residence are not required to post these procedures.~~

10 (c) A ~~first-aid~~ [pediatric] First Aid kit and fire extinguisher shall be located in each vehicle used ~~on a regular basis~~ to
11 transport children. The ~~first-aid~~ [pediatric] First Aid kit and fire extinguisher shall be firmly mounted or secured if
12 kept in the passenger compartment.

13 (d) For each child being transported, ~~emergency and identifying information~~ information, including the child's name,
14 photograph, emergency contact information, and a copy of the emergency medical care information form required by
15 Rule .0802(c) of this Chapter, [and seating chart] shall be in the vehicle.

16 (e) The driver shall:

- 17 (1) be 21 years old or a licensed bus driver;
18 (2) have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the
19 vehicle being driven or comparable license from the state in which the driver resides; and
20 (3) have no convictions of Driving While Impaired (DWI) or any other impaired driving offense within
21 the previous three years.

22 (f) Each person in the vehicle shall be seated in the manufacturer's designated areas. No child shall ride in the load
23 carrying area or floor of a vehicle.

24 (g) Children shall not be left in a vehicle unattended by an adult.

25 (h) Children shall be loaded and unloaded from curbside or in a safe, off-street area, out of the flow of traffic, so that
26 they are protected from all traffic hazards.

27 (i) Before children are transported, written permission from a parent shall be obtained that shall include when and
28 where the child is to be transported, expected time of departure and arrival, and the transportation provider.

29 (j) Parents may give standing permission, valid for up to 12 months, for routine transport of children to and from the
30 center.

31 (k) When children are transported, staff in each vehicle shall have a functioning cellular telephone or other functioning
32 two-way voice communication device with them for use in an emergency. Staff shall not use cellular telephones or
33 other functioning two-way voice communication devices except in the case of an emergency and only when the vehicle
34 is parked in a safe location.

35 (l) For routine transport of children to and from the center, staff shall have a list of the children being transported.
36 Staff members shall use this list to ~~check~~ document attendance as children board the vehicle and as they depart the
37 vehicle. A list of all children being transported shall also be available at the center.

1 *History Note:* *Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3;*
2 *Eff. January 1, 1986;*
3 *Amended Eff. December 1, 2014; November 1, 2007; July 1, 1998; October 1, 1991; January 1,*
4 *~~1987.~~ 1987;*
5 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1004

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please change "regulations" to "Rules"

In (a) and (b), to what specific Rule are you cross-referencing? Do you mean .0713? Section .0700 has a lot of information that has nothing to do with ratios. Please either provide a more specific cross-reference or provide the actual ration in this Rule.

In (b), is the driver able to be counted toward the ratio when children aged two years or older are being transported? If not, please make this its own Paragraph.

In (b), what if only one child under the age of two is being transported? What if there is a mix of ages? I think that some additional information would probably be helpful in providing some clarification.

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: August 1, 2017

1 **10A NCAC 09 .1004 is readopted with changes as published in 31:20 NCR 1968 as follows:**

2
3 **10A NCAC 09 .1004 STAFF/CHILD RATIOS**

4 (a) When children aged two years and older are being transported, the staff/child ratios required for compliance
5 with child care center regulations as set forth in Section .0700 of this **Subchapter Chapter** shall apply.

6 (b) When three or more children under the age of two years are being transported, the staff/child ratio requirements
7 for child care centers set forth in Section .0700 of this **Subchapter Chapter** for children under age two shall be
8 maintained. The driver shall not be counted in the staff/child ratio.

9
10 *History Note: Authority G.S. 110-85; 110-91(13); 143B-168.3;*
11 *Eff. January 1, 1986;*
12 *Amended Eff. July 1, 1998; July 1, ~~1988~~-1988;*
13 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1005

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please consider changing the format of this Rule to include Items, rather than paragraphs.

In (a), please change "which" to "that"

In (b)(3), is it the responsibility of the parent to give the permission, or is it the responsibility of the Center to obtain the permission?

In (b)(4), please delete or define "regular basis"

In (b)(5), please delete or define "easily"

Please end (b)(5)(A) through (C) in semi-colons, rather than commas

In (c), please delete "to the extent 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: August 1, 2017

10A NCAC 09 .1005 (recodified from .0512) is readopted as published in 31:20 NCR 1969 as follows:

10A NCAC 09 .0512 .1005 OFF PREMISE ACTIVITIES

(a) Off premise activities refer to any activity which takes place away from a licensed and approved space. Licensed and approved space includes "primary space" as described in 10A NCAC 09 .1401(a), outdoor space as described in 10A NCAC 09 .1402, single use rooms, or other administrative areas.

(b) When children participate in off premise activities the following shall apply:

(1) Children under the age of three shall not participate in off premise activities that involve children being transported in a motor vehicle.

(2) When children are transported in a motor vehicle for off premise activities, the provisions in Rule .1003(c) through (i) and (k) of this Chapter shall apply.

(3) Before staff members walk children off premises for play or outings, the parent of each child shall give written permission for the child to be included in such activities.

(4) Parents may provide a written statement giving standing permission which may be valid for up to 12 months for participation in off premise activities that occur on a regular basis.

(5) The facility shall post a schedule of off premise activities in each participating classroom where it can be easily viewed by parents, and a copy shall be given to parents. The schedule shall be current and shall include the:

(A) location of the activity,

(B) purpose of the activity,

(C) time the activity will take place,

(D) date of the activity; and

(E) name of the person(s) to be contacted in the event of an emergency.

(6) Each time that children are taken off the premises, staff shall take a list of the children participating in the activity with them. Staff members shall use this list to check attendance when leaving the facility, periodically when the children are involved in the activity, before leaving the activity to return to the child care facility, and upon return to the facility. A list of all children participating in the off premise activity shall also be available at the center.

(c) The provisions of Subparagraphs (b)(1) and (5) of this Rule shall be waived, to the extent necessary, to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

History Note: Authority G.S. 110-85; 110-91(9),(12); 143B-168.3;

Eff. November 1, 2007;

Prior to readoption of September 1, 2017 this language was located in Rule .0512;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1101

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), line 7, please delete "a minimum of" in "a minimum of 16 clock hours"

In (b), please delete specifically.

Is there a reason that this has been provided in chart form? It seems as though the requirements would be more clear set forth in list form since there is no overlap – this Rules simply appears to say what must be accomplished within two weeks, and what must be accomplished within six weeks.

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: August 1, 2017

10A NCAC 09 .1101 is adopted with changes as published in 31:20 NCR 1969 as follows:

SECTION .1100 – CONTINUING EDUCATION AND PROFESSIONAL DEVELOPMENT

10A NCAC 09 .1101 NEW STAFF ORIENTATION REQUIREMENTS

(a) Each center shall ensure that each new employee who is expected to have contact with children receives a minimum of 16 clock hours of on-site orientation within the first six weeks of employment. As part of this orientation, each new employee shall complete six clock hours of orientation within the first two weeks of employment.

(b) New staff orientation shall include an overview of the following topics, specifically focusing on the operation of the facility:

<u>Within first two weeks of employment</u>	<u>Within first six weeks of employment</u>
Information regarding recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301	Firsthand observation of the center's daily operations
Review of the center's operational policies, including the center's safe sleep policy for infants, <u>the center's policy for transportation, the center's identification of building and premises safety issues</u> , the Emergency Preparedness and Response Plan, and the emergency medical care plan	Instruction in the employee's assigned duties
Adequate supervision of children in accordance with 10A NCAC 09 .1801	Instruction in the maintenance of a safe and healthy environment
Information regarding prevention of shaken baby syndrome and abusive head trauma and child maltreatment	Instruction in the administration of medication to children in accordance with 10A NCAC 09 .0803
Prevention and control of infectious diseases, including immunization	Review of the center's purposes and goals
	Review of the child care licensing law and rules
	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
	An explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations
	Prevention of and response to emergencies due to food and allergic reactions

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1102

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please begin (a)(1) through (a)(3) with lower-case letters.

In (a)(1), please "direct", unless this has already been done elsewhere.

In (a)(2), please add a comma in between "occupational therapists" and "and physical therapists"

In (c), line 29, and (d), page 2, lines 2-3, what is meant by "certification appropriate for the ages of children in care"? Is this determined by the certifying body?

In (c), line 30, please add commas at the beginning and end of "or for new staff hired on or after September 1, 2017"

In (c), line 31, (d), line 5, (e), line 12, rather than "is not permitted", please say "shall not be permitted"

In (c), line 32, (d), line 3, (e), line 10, and (f), line 23, please delete "at least"

In (c) and (d), by "approved training organization" do you mean an approved organization in accordance with Rule .1105 of this Section? If so, I think it's fine as written, I just wanted to verify that this is set forth somewhere.

In (g), line 30, do you mean "may" or "shall" count toward training requirements? If may is intended, please provide how it will be determined whether it will count?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .1102 is adopted with changes as published in 31:20 NCR 1969-1970 as follows:

10A NCAC 09 .1102 HEALTH AND SAFETY TRAINING REQUIREMENTS

(a) Child care administrators and staff members shall complete health and safety training within one year of employment, unless the staff member has completed the training within the year prior to beginning employment. Health and safety training shall be in addition to the new staff orientation requirements set forth in Rule .1101 of this Section. The following persons shall be exempt from this requirement:

(1) Staff members that do not have direct caregiving responsibilities for a child or group of children;

(2) Service providers such as speech therapists, occupational therapists and physical therapists; and

(3) Substitute providers who provide services for less than 10 days in a 12-month period.

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

(1) Prevention and control of infectious diseases, including immunization;

(2) Administration of medication, 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]~~ biocontaminants;

(7) Precautions in transporting children, if applicable;

(8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;

(9) ~~[Pediatric]~~ CPR and ~~[Pediatric]~~ First Aid training as required in Paragraphs (c) and (d) of this Rule;

(10) ~~[Recognizing and Responding to Suspicions of Child Maltreatment as required in Paragraph (g) of this Rule;]~~ Recognizing and reporting child abuse, child neglect, and child maltreatment; and

(11) Prevention of sudden infant death syndrome and use of safe sleeping practices.

(c) All staff who provide direct care or accompany children when they are off premises shall successfully complete certification in ~~[pediatric]~~ First ~~[Aid.]~~ Aid appropriate to the ages of children in care. The training shall be completed by June 30, 2018 or for new staff hired on or after September 1, 2017 training must be completed within 90 days of employment. Distance learning is not permitted for ~~[pediatric]~~ First Aid training. At all times when children are in care at least one staff member present must have successfully completed ~~[pediatric]~~ First Aid training, as evidenced by a certificate or card from an approved training organization. ~~[Pediatric]~~ First Aid training shall be renewed on or before expiration of the certification. "Successfully completed" is defined as demonstrating competency, as evaluated by the instructor. Verification of each required staff member's completion of this course from an approved training organization shall be maintained in the staff member's file in the center. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.

(d) All staff who provide direct care or accompany children when they are off premises shall successfully complete certification in a ~~[pediatric]~~ cardiopulmonary resuscitation (CPR) ~~[course.]~~ course appropriate to the ages of children in care. At all times when children are in care at least one staff member present must have successfully completed ~~[pediatric]~~ CPR training. The training shall be completed by June 30, 2018 or for new staff hired on or after September 1, 2017 training must be completed within 90 days of employment. Distance learning is not permitted for ~~[pediatric]~~ CPR training. ~~[Pediatric]~~ CPR training shall be renewed on or before the expiration of the certification. Verification of each staff member's completion of this course from an approved training organization shall be maintained in the staff member's file in the center. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.

(e) At least one staff member shall complete training in playground safety. This training shall address playground safety hazards, playground supervision, maintenance and general upkeep of the outdoor learning environment, and age and developmentally appropriate playground materials and equipment. Distance learning is not permitted for playground safety training. Completion of playground safety training shall be included in the number of hours needed to meet annual on-going training requirements in this Section. Staff counted to comply with this Rule shall have six months from the date of employment, or from the date a vacancy occurs, to complete the required safety training. A certificate of each designated staff member's completion of this course shall be maintained in the staff member's file in the center.

(f) In centers that are licensed to care for infants, the child care administrator and any child care provider scheduled to work in the infant room shall complete ITS-SIDS training. ITS-SIDS training shall be completed within two months of an individual assuming responsibilities in the infant room and every three years thereafter. Child care administrators, as defined in G.S. 110-86(2a), shall complete ITS-SIDS training within 90 days of employment and every three years thereafter. Completion of ITS-SIDS training shall be included once every three years in the number of hours needed to meet on-going training requirements in this Section. At all times, at least one child care provider who has completed ITS-SIDS training shall be present in the infant room while children are in care. A certificate of each staff member's completion of this course shall be maintained in the staff member's file in the center.

(g) The child care administrator and all staff members shall complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days of employment. ~~[and every three years thereafter. Completion of Recognizing and Responding to Suspicions of Child Maltreatment training shall be included once every three years in the number of hours needed to meet on-going training requirements in this Section.]~~ This training may count toward requirements set forth in Rule .1103 of this Section. Recognizing and Responding to Suspicions of Child Maltreatment training is available at <https://www.preventchildabusenc.org/services/trainings-and-professional-development/rrcourse>. A certificate of each staff member's completion of this course shall be maintained in the staff member's file in the center.

History Note: Authority G.S. 110-85; 110-91(1),(8), (11); 143B-168.3;
Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1103

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), line 12, please consider changing "as well as" to "and"

In (a), please delete or define "directly" if a definition hasn't already been done elsewhere in your Rules.

In (a), what is considered to be "professional" experience?

What is the intent of (e), is it simply to say that if a staff member works less than 40 hours per week, they may prorate training requirements as follows? If so, please consider simplifying this subparagraph to say something like "Any staff working less than 40 hours per week may choose to complete prorated on-going training requirements as follows:" If you choose to not use this language, please delete "as applicable"

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: August 1, 2017

10A NCAC 09 .1103 is adopted with changes as published in 31:20 NCR 1970 as follows:

10A NCAC 09 .1103 ON-GOING TRAINING REQUIREMENTS

~~{(a) After the first year of employment, all child care administrators and staff members shall complete 18 hours of on-going training activities annually. The training hours shall include:}~~

~~{(1)} [10 hours of child development related training annually as set forth in G.S. 110-91(11); and}~~

~~{(2)} [8 hours of health and safety training annually so that every three years, all of the topic areas set forth in 10A NCAC 09 .1102(b) will have been covered.}~~

~~{(3)} [A combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete this requirement.}~~

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

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

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

<u>WORKING HOURS PER</u> <u>WEEK</u>	<u>CLOCK HOURS REQUIRED</u>
<u>0-10</u>	<u>5</u>
<u>11-20</u>	<u>10</u>
<u>21-30</u>	<u>15</u>
<u>31-40</u>	<u>20</u>

~~(f) [b] [Upon the request of an operator or staff member, coursework appropriate to job responsibilities taken at a regionally accredited college or university shall be counted toward on-going training requirements.]~~ 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.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1104

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 5, please change "reviewed at least annually" to "review the plan annually."

In (2), does "appropriate for the ages of children in their care" relate to developmentally appropriate as defined in .0102?

In (3), please add a comma after "coursework"

In (4), by "planned goals", do you mean the "professional development goals" referenced in (1)?

Please add 110-91(11) to your History Note.

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: August 1, 2017

1 10A NCAC 09 .1104 is adopted with changes as published in 31:20 NCR 1970-1971 as follows:

2
3 **10A NCAC 09 .1104 PROFESSIONAL DEVELOPMENT PLAN**

4 All center administrators and staff members shall complete a professional development plan within one year of
5 employment and reviewed at least annually. ~~[every three years thereafter.]~~ The plan shall:

- 6 (1) document the individual's professional development goals;
7 (2) be appropriate for the ages of children in their care;
8 (3) include the continuing education, coursework or training needed to meet the individual's planned
9 goals; ~~[that the individual will be responsible for completing within the three year time frame of the~~
10 ~~plan; and]~~
11 (4) be completed by the administrator and staff member in a collaborative manner; and
12 (5) [(4)] be maintained in their personnel file.

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

16 *History Note:* Authority G.S. 110-85; 110-91(9);
17 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1105

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please show changes made to the Rule name.

In (1), line 7 and 12, please change "is not" to "shall not be"

In (2), line 14, please change "is required" to "shall be required"

In (2)(a) are the contents of the training approval form set forth elsewhere in rule or statute? If not, please provide the contents of the form. Why has the change been made from 20 days to 15 days post-publication? This appears to be a potential substantial change issue.

In (2)(a), please delete "at least"

In (3), please change "is" on line 25 to "shall be"; and "is not permitted" to "shall not be permitted" on line 28.

In (4)(b), what is meant by "best practice in adult learning principles"?

In (4)(d), how is it determined how many contacts hours are reasonable for the content and scope of the training?

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: August 1, 2017

10A NCAC 09 .1105 (recodified from .0708) is readopted with changes as published in 31:20 NCR 1971 as follows:

10A NCAC 09 .0708 .1105 TRAINING APPROVAL

Staff may meet the ~~in-service~~ 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 is not 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 ~~on a form provided by the division~~ 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 is required for any agencies, organizations, or individuals not specified in Item (1) of this Rule who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual ~~shall~~ shall:
 - (a) complete and submit ~~the in-service~~ on-going training approval forms provided by the Division at least 20 15 business days prior to the training ~~event~~ event;
 - (b) ~~A training roster listing~~ submit a training roster, to the Division, listing the attendees' name, the county of employment, and day time phone number ~~shall be submitted to the Division~~ no later than 15 days after the training ~~event~~ event;
 - (c) ~~The event sponsor shall~~ provide training evaluations to be completed by attendees and shall attendees; and
 - (d) keep the training rosters and evaluations on file for two ~~three~~ years.
- (3) Distance learning is 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 <http://ope.ed.gov/accreditation/>. Distance learning is not permitted for [pediatric] Cardiopulmonary Resuscitation (CPR), [pediatric] First Aid, and playground safety training.
- ~~(3)(4)~~ Prior approval shall be determined upon: The Division shall approve training based upon the following factors:
 - (a) The trainer's education, training, and experience relevant to the training topic;
 - (b) Best practice in adult learning principles;
 - (c) Content that is in compliance with G.S. 110-91(11); and
 - (d) Contact hours reasonable for the proposed content and scope of the training session.
- ~~(4)(5)~~ The Division shall not approve: deny approval of training to:

- 1 (a) Agencies, organizations, or individuals not meeting the standards listed in this Rule and in
2 G.S. 110-91(11); and
- 3 (b) Agencies, organizations, or individuals who intentionally falsify any information submitted
4 to the Division.
- 5 (6) Agencies, organizations, or individuals who intentionally falsify any information submitted to the
6 Division pursuant to this Rule shall be permanently ineligible to apply for approval of training.
- 7 (7) Denial of approval of training or a determination of falsification is appealable pursuant to G.S. 110-94 and
8 the North Carolina Administrative Procedure Act, G.S. 150B-23.
- 9
- 10
- 11 *History Note: Authority G.S. 110-85; 110-91(11); 143B-168.3;*
12 *Eff. January 1, 1986;*
13 *Amended Eff. November 1, 2007; October 29, 1998; November 1, 1989; July 1, 2988; January 1,*
14 *1987;*
15 *Prior to readoption of September 1, 2017 this language was located in Rule .0708;*
16 *Readopted September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1106

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please correct the reason for action on the Submission for Permanent Rule Form in Box 9B.

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: August 1, 2017

1 **10A NCAC 09 .1106 (recodified from .0709) is readopted as published in 31:20 NCR 1971 as follows:**

2
3 **10A NCAC 09 ~~.0709~~ .1106 DOCUMENTATION OF ~~IN-SERVICE~~ TRAINING**

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

8
9 *History Note: Authority G.S. 110-85; 110-91(9),(11); 143B-168.3;*

10 *Eff. January 1, 1986;*

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

12 *Prior to amendment of September 1, 2017 this language was located in Rule .0709;*

13 *Readopted Eff. September 1, 2017.*

10A NCAC 09 .1301 is readopted as published in 31:20 NCR 1971-1972 as follows:

SECTION .1300 - BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS

10A NCAC 09 .1301 BUILDING CODE REQUIREMENTS FOR CENTERS IN OPERATION PRIOR TO 4/1/72 (NWSPI)

For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for child care centers in operation prior to April 1, 1972 developed by the Building Code Council are hereby incorporated by reference by the Child Care Commission and do not include any subsequent amendments. This Rule does not apply to small group facilities described in Rule .1303 of this Section. A copy of the North Carolina Building Code standards is on file at the Division of Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours. The North Carolina State Building Code standards for child care facilities is hereby incorporated by reference, including subsequent amendments and editions. The current Code may be found online at

[http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes -
Current and Past&user=State Building Codes.](http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes)

*History Note: Authority G.S. 110-91(4); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 1998-1998;
Readopted Eff. September 1, 2017.*

1 **10A NCAC 09 .1302-.1303 are repealed through readoption as published in 31:20 NCR 1972 as follows:**

2
3 **10A NCAC 09 .1302 BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS**

4
5 **10A NCAC 09 .1303 BUILDING CODE REQUIREMENTS FOR SMALL GROUP FACILITIES**
6 **LICENSED PRIOR TO 7/1/88**

7
8 *History Note: Authority G.S. 110-91(4); 143B-168.3;*

9 *Eff. January 1, 1986;*

10 *Amended Eff. July 1, 1998; January 1, ~~1987~~ 1987;*

11 *Repealed Eff. September 1, 2017.*

1 **10A NCAC 09 .1304 is repealed through readoption as published in 31:20 NCR 1972 as follows:**

2
3 **10A NCAC 09 .1304 REQUIREMENTS FOR CHILD CARE CENTERS LICENSED IN A RESIDENCE**

4 ~~Licensed child care centers in an occupied residence shall comply with the North Carolina Building Code developed~~
5 ~~by the Building Code Council Code, which are hereby incorporated by reference and include subsequent amendments.~~
6 ~~For purposes of this Rule, licensed child care centers in an occupied residence include centers that are licensed for~~
7 ~~three to 12 children when any preschool aged children are in care, or for three to 15 children when only school aged~~
8 ~~children are in care. A copy of the North Carolina Building Code standards is on file at the Division of Child~~
9 ~~Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection~~
10 ~~during regular business hours.~~

11
12 *History Note: Authority G.S. 110-91(4); 143B-168.3;*

13 *Eff. July 1, 1998;*

14 *Amended Eff. April 1, 2001-2001;*

15 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1401

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a) and (d), delete or define "routinely"

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: August 1, 2017

1 10A NCAC 09 .1401 is readopted with changes as published in 31:20 NCR 1972-1973 as follows:

2
3 10A NCAC 09 .1401 INDOOR SPACE

4 (a) ~~Indoor space on which licensed capacity is based will be referred to as "primary space". The licensing consultant~~
5 ~~will measure all primary space that will routinely be used by children who attend the center, except that the following~~
6 ~~will not be included: closets, hallways, storage areas, kitchens, bathrooms, utility areas; thresholds, foyers, space or~~
7 ~~rooms used for administrative activities or space occupied by adult sized desks, cabinets, file cabinets, etc.; single use~~
8 ~~rooms, including music rooms, isolation/sick rooms, gymnasiums, dining rooms, sleep rooms; any floor space~~
9 ~~occupied by or located under equipment, furniture, or materials not used by children; and any floor space occupied by~~
10 ~~or located under built in equipment or furniture.~~

11 (1) ~~Any single use room used by the children for sleeping only, either during nap time or any other~~
12 ~~time, will also be measured by the Division's representative to assure that the available floor space~~
13 ~~provides 200 cubic feet of air space per child for the maximum number of children who will sleep~~
14 ~~in that room at any time.~~

15 (2) ~~All measurements will be rounded off to the nearest inch.~~

16 (3) ~~Total space on which the licensed capacity is based will be the sum of the measurements of all~~
17 ~~primary space to be used by the children. However, no room will routinely be occupied by more~~
18 ~~children than the primary space in that room will accommodate at 25 square feet of space per child.~~
19 ~~This is not meant to preclude grouping children together periodically for special activities, such as~~
20 ~~to view films or slides; for special presentations, such as puppet or magic shows, a special story~~
21 ~~teller, a discussion of safety practices by a fireman or nurse, etc. However, care must be taken to~~
22 ~~assure that during such special activities, the room used is not so overcrowded that the children and~~
23 ~~staff would be endangered in case of a fire or other emergency necessitating evacuation of the center.~~

24 (b) ~~For centers with a licensed capacity of three to 12 children located in a residence, the dining area of a kitchen may~~
25 ~~be counted if it is routinely used for children's activities in addition to eating.~~

26 (c) ~~Paragraph (a) of this Rule shall apply only to child care centers initially licensed on or after February 1, 1985.~~

27 (a) As used in this Rule, the term "Primary Space" means the indoor space designated by the operator that will be
28 used routinely by children who attend the center. It shall be used to calculate a center's licensed capacity.

29 (b) The Division shall calculate the total area of the Primary Space by measuring the Primary Space or by reviewing
30 current drawings of the space that have been signed and sealed by an architect or engineer licensed to practice in the
31 State of North Carolina.

32 (c) All measurements of the Primary Space shall be rounded to the nearest inch.

33 (d) For child care centers in an occupied residence that are licensed for 3 to 12 children when any preschool-age
34 children are in care, or for 3 to 15 children when only school-age children are in care [centers in a residence with a
35 licensed capacity of 3 to 12 children,] the dining area of a kitchen may be counted as Primary Space if it is routinely
36 used for children's activities in addition to eating.

37 (e) The following spaces shall not be included in the designation or measurement of Primary Space:

- 1 (1) closets;
- 2 (2) hallways;
- 3 (3) storage areas;
- 4 (4) kitchens;
- 5 (5) bathrooms;
- 6 (6) utility areas;
- 7 (7) thresholds;
- 8 (8) foyers;
- 9 (9) space used for administrative activities;
- 10 (10) space occupied by adult-sized desks, cabinets, file cabinets, and other office equipment;
- 11 (11) any floor space occupied by or located under structures, equipment, and furniture not used by
- 12 children; and
- 13 (12) any floor space occupied by or located under built-in equipment or furniture.
- 14 (f) No room may be occupied by more than one child per 25 square feet of floor space, provided that a room may be
- 15 occupied by a larger group of children for special activities so long as such occupancy does not violate the State fire
- 16 code.
- 17 (g) During rest periods any room used by children shall have no less than 200 cubic feet of air space per child.
- 18 (h) Paragraphs (a) through (c) and (e) through (g) of this Rule shall only apply to centers initially licensed on or after
- 19 February 1, 1985.
- 20
- 21 *History Note: Authority G.S. 110-91(6); 143B-168.3;*
- 22 *Eff. January 1, 1986;*
- 23 *Amended Eff. July 1, 1998; November 1, ~~1989-1989~~;*
- 24 *Readopted Eff. September 1, 2017.*

1 10A NCAC 09 .1402 is readopted with changes as published in 31:20 NCR 1973 as follows:

2
3 10A NCAC 09 .1402 OUTDOOR SPACE

4 (a) When a center is licensed for ~~six to twenty nine~~ 6 to 29 children, ~~inclusive~~, there shall be 75 square feet per child
5 outdoor play area for the outdoor play area [are] shall be no smaller than 75 square feet times the total number of
6 children for which the center is licensed. ~~In addition, the total number of children on the playground shall not exceed~~
7 ~~the number the space will accommodate at 75 square feet per child.~~

8 (b) When a center is licensed for 30 or more children, the outdoor play area shall be no smaller than 75 square feet
9 times one-half of the total number of children for which the center is licensed or shall be 2,250 square feet, whichever
10 is larger. ~~there shall be 75 square feet per child of outdoor play area for at least one half of the total number for which~~
11 ~~the center is licensed, provided that the minimum amount of space on the outdoor play area shall be enough to~~
12 ~~accommodate at least 30 children.~~

13 (c) Paragraphs (a) and (b) of this Rule apply only to child care centers initially licensed after April 1, 1984.

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

15 (e) The outdoor area shall be designed so that staff ~~are~~ is able to ~~see and easily~~ adequately supervise the entire ~~area.~~
16 area in accordance with 10A NCAC 09 .1801(a).

17
18 *History Note: Authority G.S. 110-85(1),(2); 110-91(6); 143B-168.3;*

19 *Eff. January 1, 1986;*

20 *Amended Eff. January 1, ~~1996~~. 1996;*

21 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1403

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please show changes to the Rule Name.

In (a), please delete the comma after "in"

In (b)(4), is your regulated public familiar with what a "portable wading pool" is? Is this a baby pool? If not, are baby pools included in water play activities? I just want to be sure that I understand what is being covered by this Rule.

In (c) and (e), please change staff-child to staff/child for purposes of consistency with this and other Rules in this Chapter.

If (f), given that "adequate supervision" is defined elsewhere, do you mean "for purposes of this Rule, adequate supervision means..."?

In (g)(4) and (h)(2), please delete or define "specific"

In (h), page 2, line 11, please either delete "current" or delete "until it is superseded by a new statement." This language seems to potentially contradict itself or at the very least appears to be superfluous.

In (i), are parents required to provide written permission or are centers required to obtain written permission prior to a child participating in aquatic activities?

In (j) and (k)(4), please delete "at least"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (m) and (n), please change “are permitted” to “shall be permitted”

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

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

10A NCAC 09 .1403 is readopted with changes as published in 31:20 NCR 1973-1974 as follows:

10A NCAC 09 .1403 ACTIVITIES INVOLVING WATER

~~(a) This Rule applies to children and staff in child care centers that participate in aquatic activities.~~

~~(b)(a)~~ The requirements in this Rule apply to ~~aquatic activities~~, "aquatic activities," which are defined as activities that take place in, ~~on~~, or around a body of water such as swimming, swimming instruction, wading, and visits to water ~~parks, parks, and boating~~. 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 ~~activities~~. activity. These lifeguards shall not be counted in the required staff-child ratios referenced in Paragraph ~~(d)~~(e) of this Rule.

(d) Children under the age of three shall not participate in aquatic activities ~~except~~, except to the extent ~~necessary~~, 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. ~~Adequate supervision~~ "Adequate supervision" means that half of the center staff needed to meet the staff-child ratios in Paragraph ~~(d)~~(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 ~~pool~~. water. Staff shall be stationed in pre-assigned areas that will enable them at all times to hear, see, and respond ~~quickly~~ to the children ~~who are in the water and children who are 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 ~~is~~ will be handled during aquatic activities; ~~and~~
 (4) the facility's specific field trip and transportation policies and ~~procedures.~~ 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 ~~(f)~~(g) of this Rule;
 (2) any specific guidelines provided by the pool operator or other off-site aquatic facility; and
 (3) the requirements of this Rule.

The current statement shall be maintained in the staff person's personnel file for one year or until it is superseded by a new statement.

(i) Parents must provide written permission 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)~~(j) Any outdoor swimming pool ~~which is~~ located on the child care facility premises shall be enclosed by a fence that is at least four feet high, ~~and shall be~~ separated from the remaining outdoor play area by that ~~fence.~~ fence, and locked and inaccessible to children when not in use.

~~(j)~~(k) Swimming pool safety rules shall be posted ~~in a prominent place~~ 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~~ First Aid kit;
 (2) that only water toys are permitted;
 (3) that children ~~shall~~ are not allowed to run or push one another;
 (4) that swimming is allowed only when at least two adults are ~~an adult is~~ present; and
 (5) that glass objects are not allowed.

~~(k)~~(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. A copy of these Rules is on file with the Division of Child Development, Development and Early Education, 319 Chapanoke Road, 820 South Boylan Avenue, Raleigh, NC 27603, or may be obtained at no cost by writing the North Carolina Division of Environmental Health, 1630 Mail Service Center, Raleigh, NC 27699-1630.

(m) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation are permitted. [permitted around bodies of water. However, if children will be in the water for any part of the activity, Paragraphs (a) through (i) of this Rule shall apply.]

~~(n)~~(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

1 Coast Guard. This personal floatation device shall be worn for the duration of the activity. Children shall wear an age
2 or size appropriate life jacket whenever they participate in boating, rafting or canoeing activities.

3
4 *History Note: Authority G.S. 110-85; 110-88(5); 110-91(1),(6); 143B-168.3;*
5 *Eff. January 1, 1986;*
6 *Amended Eff. July 1, 2010; November 1, 2007; January 1, 1996; January 1, 1992; January 1,*
7 *~~1987.~~ 1987;*
8 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: Section .1700

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Why are some requirements specific to in FCCH provided in the body of the pertinent Rules (for example .0713) while other requirements are duplicated in this Section? Will this cause confusion to your regulated public?

Overall, given similar content in other Rules and the definition of child care facility in G.S. 110-86(3), why are these Rules necessary? It appears as though FCCHs would fall under the other Rules of this Section.

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: August 1, 2017

1 **10A NCAC 09 .1701 is repealed through readoption as published in 31:20 NCR 1974-1975 as follows:**

2
3 **SECTION .1700 – FAMILY CHILD CARE HOME REQUIREMENTS**

4
5 **10A NCAC 09 .1701 GENERAL PROVISIONS RELATED TO LICENSURE OF HOMES**

6
7 *History Note: Authority G.S. 110-85; 110-86(3); 110-88(1); 110-91; 110-99; 110-105; 143B-168.3;*
8 *Eff. January 1, 1986;*
9 *Amended Eff. July 1, 2015; May 1, 2013; November 1, 2006; April 1, 2003; April 1, 1999; July 1,*
10 *1998; January 1, 1991; January 1, 1990; July 1, 1988; January 1, 1987;*
11 *Temporary Amendment Eff. September 23, ~~2016~~ 2016;*
12 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1702

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), are the contents of the application form set forth elsewhere in rule or statute? If not, please provide the required contents of the form in rule.

In (b)(5), are the contents of the health questionnaire set forth elsewhere in rule or statute? If not, please provide the required contents of the form in rule.

In (b)(6), are the required pet vaccinations those that are recommended by the vet?

In (c), please change "an announced visit is not" to "shall not be"

In (d), line 34, please say "Paragraph (a) of this Rule" rather than "10A NCAC 09 .1702(a)."

In (h), what is meant by "all applicable requirements for the change"? Are (h)(1) through (6) intended to address this? I don't read (h)(1) through (6) to set forth specific requirements.

In (i), please delete "prominent"

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: August 1, 2017

10A NCAC 09 .1702 is readopted as published in 31:20 NCR 1975-1977 as follows:

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

(a) Any person who plans to operate a family child care home (FCCH) shall apply for a license using a form provided by the Division. Only one licensed family child care home shall operate at the location address of any home. The form can be found on the Division's website at http://ncchildcare.dhhs.state.nc.us/general/mb_customerservice.asp. http://ncchildcare.nc.gov/pdf_forms/FacilityProfileApp.pdf. ~~The applicant shall submit the completed application, to the Division that complies with the following:~~

(1) ~~only one licensed family child care home shall operate at the location address of any home; and~~

(2) ~~the applicant shall list each location address where a licensed family child care home will operate.~~

(b) ~~If a family child care home operates at more than one location address by cooperative arrangement among two or more families, the following procedures apply:~~

(1) ~~one parent whose home is used as a location address shall be designated the coordinating parent and shall co-sign the application with the applicant; and~~

(2) ~~the coordinating parent shall know the current location address at all times and shall provide the information to the Division upon request.~~

(c) ~~The applicant shall ensure that the family child care home complies with the following requirements:~~

(1) ~~single wide manufactured homes are limited to a maximum of three preschool age children (not more than two may be two years of age or less) and two school age children;~~

(2) ~~all children are kept on the ground level with an exit at grade;~~

(3) ~~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) ~~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) ~~heating appliances shall be installed and maintained according to NC Building Code Chapter 603.5.3;~~

(6) ~~all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees; and~~

(7) ~~pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated.~~

~~(d)~~(b) The applicant shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include:

(1) a copy of a non-expired qualification letter in accordance with 10A NCAC 09 .2702;

(2) a copy of documentation of completion of a ~~first-aid~~ pediatric First Aid and pediatric cardiopulmonary resuscitation (CPR) course;

(3) a copy of documentation of completion of ITS-SIDS training;

~~(3)~~(4) proof of negative results of the applicant's tuberculosis test completed within the past 12 months;

- 1 ~~(4)~~(5) a completed health questionnaire; a copy of the health questions can be found on the Division's
2 website at
3 http://ncchildcare.nc.gov/pdf_forms/emergency_information_health_questionnaire_i.pdf ;
4 ~~(5)~~(6) a copy of ~~current~~ non-expired pet vaccinations for any pet in the home;
5 ~~(6)~~(7) if a home has a private well, a negative well water bacteriological analysis; ~~analysis if the home has~~
6 a private well;
7 ~~(7)~~(8) copies of any inspections required by local ordinances; and
8 ~~(8)~~(9) any other documentation required by the Division according to the rules in this Section to support
9 the issuance of a license.

10 ~~(e)(c)~~ Upon receipt of a complete application and supporting documentation, a Division representative shall make an
11 announced visit to each home. An announced visit is not required by a Division representative if the applicant is
12 subject to the circumstances in ~~Paragraph (g) of this Rule.~~ 10A NCAC 09 .2214. The issuance of a license applies as
13 follows:

- 14 (1) if all applicable requirements of G.S. 110, Article 7 and this Section are met, a six month temporary
15 license shall be issued;
16 (2) a one- star rated license shall be issued to a family child care home operator who complies with the
17 minimum standards for a license contained in this Section and G.S. 110-91 at the end of the six
18 month temporary time period;
19 (3) a two- through five- star rated license shall be issued to a family child care home operator who
20 complies with minimum and voluntary standards for a license contained in this Section, Section
21 .2800 of this Chapter and G.S. 110-91, at the end of the six month temporary time period;
22 ~~(2)~~(4) if the applicable requirements of G.S. 110, Article 7 and this Section are not met, ~~but the applicant~~
23 ~~has the potential to comply,~~ the Division representative shall establish with the applicant a time
24 period for the home to achieve compliance. If the Division representative determines that all
25 applicable requirements of G.S. 110, Article 7 and this Section are met within the established time
26 period, a license shall be issued; or
27 ~~(3)~~(5) if all applicable requirements of G.S. 110, Article 7 and this Section are not met or cannot be met
28 within the established time, the Division shall deny the application.

29 ~~(f)(d)~~ ~~The Division shall allow the applicant to operate prior to the Division representative's visit described in~~
30 ~~Paragraph (e) of this Rule when the applicant is currently licensed as a family child care home operator, needs to~~
31 ~~relocate and notifies the Division of the relocation, and the Division representative is unable to visit before the~~
32 ~~relocation occurs.~~ A family child care home operator shall notify the Division no later than 30 calendar days prior to
33 relocation of a family child care home. The operator must apply for a license for the new physical location as described
34 in 10A NCAC 09 .1702(a). An applicant operator requesting relocation of the family child care home shall not operate
35 until he or she has received a license from the Division for the new location. ~~either temporary permission to operate~~
36 ~~or a license.~~

37 ~~(g)~~ The Secretary may deny the application for the license under the following circumstances:

- (1) ~~if any child care facility license previously held by the applicant has been denied, revoked, or summarily suspended by the Division;~~
 - (2) ~~if the Division initiated denial, revocation, or summary suspension proceedings against any child care facility license previously held by the applicant and the applicant voluntarily relinquished the license;~~
 - (3) ~~during the pendency of an appeal of a denial, revocation, or summary suspension of any other child care facility license held by the applicant;~~
 - (4) ~~if the Division determines that the applicant has a relationship with an operator or former operator who previously held a license under an administrative action described in Subparagraphs (g)(1), (2), or (3) of this Rule. As used in this Rule, an applicant has a relationship with a former operator if the former operator would be involved with the applicant's child care facility in one or more of the following ways:~~

 - (A) ~~would participate in the administration or operation of the facility;~~
 - (B) ~~has a financial interest in the operation of the facility;~~
 - (C) ~~provides care to the children at the facility;~~
 - (D) ~~resides in the facility; or~~
 - (E) ~~would be on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;~~
 - (5) ~~based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7 or this Chapter;~~
 - (6) ~~if abuse or neglect has been substantiated against the applicant or a household member; or~~
 - (7) ~~if the applicant is a disqualified child care provider or has a disqualified household member residing in the FCCH.~~
- ~~(h) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule, the Division shall consider:~~
- (1) ~~any documentation provided by the applicant which describes the steps the applicant will take to prevent reoccurrence of noncompliance issues that led to any prior administrative action taken against a license previously held by the applicant;~~
 - (2) ~~training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;~~
 - (3) ~~proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;~~

- 1 ~~(4)~~ ~~documentation of collaboration or mentorship with a licensed child care provider to obtain~~
2 ~~additional knowledge and experience related to operation of a child care facility; and~~
3 ~~(5)~~ ~~documentation explaining relationships with persons meeting the criteria listed in Subparagraph~~
4 ~~(g)(4) of this Rule.~~

5 ~~(+)(e)~~ The license shall not be bought, sold, or transferred from one individual to another.

6 ~~(+)(f)~~ The license ~~is~~ shall be valid only for the location address listed on it.

7 ~~(+)(g)~~ The license ~~must~~ shall be returned to the Division in the event of termination, revocation, suspension, or
8 summary suspension.

9 ~~(+)(h)~~ A licensee shall notify the Division in writing if a change occurs that affects the information shown on the
10 license. The Division shall issue a new license upon verification of the operator's compliance with all applicable
11 requirements for the change. This includes the following:

- 12 (1) decreasing the capacity of the family child care home;
13 (2) increasing the capacity of the family child care home;
14 (3) changes to shifts of care;
15 (4) requests to change the age range of the family child care home;
16 (5) requests to remove a restriction from the license, including documentation of steps taken by the
17 operator to comply with requirements which resulted in the licensure restriction; and
18 (6) changes to the operator's legal name.

19 (i) The license shall be posted in a prominent place in the home that parents are able to view daily.

20
21 *History Note:* Authority G.S. ~~110-85~~; 110-88(5); 110-86; 110-91; ~~110-91(4)~~; 110-93; 110-99; 143B-168.3;

22 Eff. January 1, 1986;

23 Amended Eff. March 1, 2014; December 1, 2012; August 1, 2011; July 1, 2010; April 1, 2003; April
24 1, 2001; July 1, 1998; January 1, 1991; November 1, 1989; January 1, 1987;

25 Temporary Amendment Eff. September 23, ~~2016~~ 2016;

26 Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1703

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

As rule names can be changed without going through the rule-making process, please be sure that the subject of the Rule is clear within the body of the text.

Given .1103 and other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule that this Rule is applicable to home providers. Please incorporate any technical change requests for similar rules.

In (a)(1), how will it be determined whether there is reason to believe that there has been a deterioration in the operator's fitness? Please provide some factors that the Division is to use in making this determination.

Also in (a)(1), how will the Division determine whether to require the proof regarding tuberculosis?

In (a)(2), what is meant by "certification appropriate for the ages of children in care"? Is this determined by the certifying body?

In (a)(5), do you mean "may" or "shall" count toward training requirements? If may is intended, please provide how it will be determined whether it will count?

In (b)(1), please add a comma in between "occupational therapists" and "and physical therapists"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

Please begin (b)(1) and (2) and (c)(1) through (11) with lower case letters.

In (c), is it the health and safety training required by paragraph (b) of this Rule?

In (d), line 10, please consider changing “as well as” to “and”

In (d), please delete or define “directly” if a definition hasn’t already been done elsewhere in your Rules.

Is the highlighted information contained within (d) being moved from another Rule or are these entirely new requirements for family child care home operators? I assume that it has been moved (I do see that some of it has been moved around in this Rule.) Please verify.

In (d)(1), what is considered to be “professional” experience?

Please begin (d)(2) through (d)(5) with lower case letters and end them with semi-colons. Then add an “and” at the end of (d)(4).

In (d)(3), are the “annual on going training requirements” those set forth in (d)(1)? Assuming so, why is the language regarding these requirements different than in (d)(4) (“requirements in Subparagraph (d)(1))”? Please be consistent in the use of terms.

In (d)(4) and (d)(5), please change “of this Paragraph” to “of this Rule”

What is the intent of (d)(5), is it simply to say that if a staff member works less than 40 hours per week, they may prorate training requirements as follows? If so, please consider simplifying this subparagraph to say something like “Any staff working less than 40 hours per week may choose to complete prorated on-going training requirements as follows.” If you choose to not use this language, please delete “as applicable.”

If (f), please delete “annually”

Does “be appropriate” in (f)(2) related back to the definition of “developmental appropriate as defined in .0102?”

In (h)(1), lines 10 and 14, please change “is not” to “shall not be”

In (h)(2), line 16, please change “is required” to “shall be required”

In (h)(2)(A) are the contents of the training approval form set forth elsewhere in rule or statute? If not, please provide the contents of the form. Also, why

has the change been made from 20 days to 15 days post-publication? This appears to be a potential substantial change issue.

In (h)(2)(A), please delete "at least"

In (h)(3), please change "is" on line 25 to "shall be"; and "is not permitted" to "shall not be permitted" on line 28.

Please begin (i)(1) through (4) with lower-case letters.

In (i)(2), what is meant by "best practice in adult learning principles"?

In (i)(4), how is it determined how many contacts hours are reasonable for the content and scope of the training?

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: August 1, 2017

10A NCAC 09 .1703 (recodified from .1705) is readopted with changes as published in 31:20 NCR 1977-1981 as follows:

10A NCAC 09 .1705 .1703 ON-GOING REQUIREMENTS FOR FAMILY CHILD CARE HOME OPERATORS

(a) After receiving a license, an operator shall:

- (1) Update the health questionnaire annually. The Division may request an evaluation of the operator's emotional and physical fitness to care for children when there is reason to believe that there has been a deterioration in the operator's emotional or physical fitness to care for children. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis;
- (2) Renew [pediatric] First Aid training on or before expiration of the [certification;] certification appropriate for the ages of children in care;
- (3) Renew [pediatric] CPR course on or before the expiration of the [certification;] certification appropriate for the ages of children in care;
- (4) Renew ITS-SIDS training every three years from the completion of previous ITS-SIDS training; and
- (5) Complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days of licensure. [licensure and every three years thereafter. Completion of Recognizing and Responding to Suspicions of Child Maltreatment training shall be included once every three years in the number of hours needed to meet on-going training requirements in Paragraph (c) of this Rule.] This training may count toward requirements set forth in Paragraph (d) of this Rule. Recognizing and Responding to Suspicions of Child Maltreatment training is available at <https://www.preventchildabusenc.org/>.

(b) Operators and staff members shall complete health and safety training within one year of employment, unless the operator or staff member has completed the training within the year prior to beginning [employment.] employment or within the year prior to receiving a license. Health and safety training shall be in addition to the pre-licensing visit and new staff orientation requirements set forth in Rules [1708(e)(6)] .1702(d) and .1729(c) of this Section. The following persons shall be exempt from this requirement:

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

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

- (1) Prevention and control of infectious diseases, including immunization;
- (2) Administration of medication, 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; biocontaminants;
- (7) Precautions in transporting children, if applicable;
- (8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (9) [Pediatric] CPR and [Pediatric] First Aid training as required in Rule .1102(c) and (d) of this Chapter;
- (10) [Recognizing and Responding to Suspicions of Child Maltreatment as required in Rule .1102(g) of this Chapter;] 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 operator, as well as staff who work directly with children shall complete on-going training activities as follows:

(1)

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, professional 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 10A NCAC 09 .1705(c) will have been covered.
- (3) Cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training requirements.
- (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 Paragraph.

(5) 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 Paragraph, if applicable 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

[After the first year of employment, the operator and staff members shall complete 18 hours of on-going training activities annually. The training hours shall include:

- (1) Ten hours of child development related training annually as set forth in G.S. 110-91(11); and
- (2) Eight hours of health and safety training annually so that every three years, all of the topic areas set forth in Paragraph (c) of this Rule will have been covered;
- (3) A combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete this requirement.

(e) [Upon the request of an operator or staff member, coursework appropriate to job responsibilities taken at a regionally accredited college or university shall be counted toward on-going training requirements.] 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) The operator and staff members shall complete a professional development plan within one year of employment and [every three years] at least annually 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 that the individual will be responsible for completing; [completing within the three year time frame of the plan;] and
- (4) be completed by the operator and staff member in a collaborative manner; and
- (5) [4] be maintained in their personnel file.

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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) Each 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.

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(h) The 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:

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(1) Prior approval from the Division is not 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 is 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 at least 15 [20] business days prior to the training event;

(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 is 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 <http://ope.ed.gov/accreditation/>. Distance learning is not permitted for [pediatric] Cardiopulmonary Resuscitation (CPR) and [pediatric] First Aid.

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

(1) The trainer's education, training, and experience relevant to the training topic;

(2) Best practice in adult learning principles;

(3) Content that is in compliance with G.S. 110-91(11); and

(4) Contact hours reasonable for the proposed content and scope of the training session.

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

(1) Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-91(11); and

(2) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division.

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

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

(a) Prior to receiving a license, each family child care home operator shall:

(1) Complete and keep on file a health questionnaire which attests to the operator's physical and emotional ability to care for children. The Division may require a written statement or medical examination report signed by a licensed physician or other authorized health professional if there is reason to believe that the operator's health may adversely affect the care of the children based upon observations and complaints made to the Division.

(2) Obtain written proof that he or she is free of active tuberculosis. The results indicating the individual is free of active tuberculosis shall be obtained within 12 months prior to applying for a license.

(3) Complete within 12 months prior to applying for a license a basic first aid course that shall address principles for responding to emergencies, and techniques for handling common childhood injuries, accidents and illnesses such as choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.

(4) Successfully complete within 12 months prior to applying for a license a course by the American Heart Association or the American Red Cross or other organizations approved by the Division in cardiopulmonary resuscitation (CPR) appropriate for the ages of children in care. Other organizations shall be approved if the Division determines that the courses offered are substantially equivalent to those offered by the American Red Cross. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. Documentation of successful completion of the course from the American Heart Association, the American Red Cross, or other organization approved by the Division shall be on file in the home.

(b) After receiving a license, an operator shall:

(1) Update the health questionnaire referenced in Paragraph (a) of this Rule annually. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis.

(2) Complete a first aid course as referenced in Paragraph (a) of this Rule. First aid training shall be renewed on or before expiration of the certification or every three years, whichever is less.

(3) Successfully complete a CPR course as referenced in Paragraph (a) of this Rule. CPR training shall be renewed on or before the expiration of the certification, or every two years, whichever is less.

(4) If licensed to care for infants ages 12 months and younger, complete ITS SIDS training within four months of receiving the license, and complete it again every three years from the completion of previous ITS SIDS training. Completion of ITS SIDS training may be included once every three

years in the number of hours needed to meet the annual in-service training requirement in Paragraph (b)(5) of this Rule.

(5) Complete 12 clock hours of annual in-service training in the topic areas required by G.S. 110-91(11), except that persons with at least 10 years work experience as a caregiver in a child care arrangement regulated by the Division of Child Development and Early Education shall complete eight clock hours of annual in-service training. Only training which has been approved by the Division as referenced in Rule .0708 of this Chapter shall count toward the required hours of annual in-service training. The operator shall maintain a record of annual in-service training activities in which he or she has participated. The record shall include the subject matter, the topic area in G.S. 110-91(11) covered, the name of the training provider or organization, the date training was provided and the number of hours of training completed. First aid training may be counted no more than once every three years.

(6) Within one year of the effective date of the license, complete the Emergency Preparedness and Response in Child Care training. For the purposes of this Rule, the Emergency Preparedness and Response in Child Care is a training approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities. Existing operators have two years as of the effective date of this Rule to complete the Emergency Preparedness and Response in Child Care training. Documentation of completion of the training shall be maintained in the operator's personnel file.

(7) Upon completion of the Emergency Preparedness and Response in Child Care training, 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 must 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. The Plan shall include the following:

- (A) written procedures for accounting for all in attendance, including the location of the children, staff, volunteer and visitor attendance lists and the name of the person(s) responsible for bringing the lists in the event of an emergency;
- (B) a description for how and when children shall be transported;
- (C) methods for communicating with parents and emergency personnel or law enforcement;
- (D) a description of how children's nutritional and health needs will be met;
- (E) the relocation and reunification process;
- (F) emergency telephone numbers;

- (G) evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency;
- (H) the date of the last revision of the plan;
- (I) specific considerations for non-mobile children and children with special needs; and
- (J) 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, but is not limited to, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and additional caregiver, additional caregiver contact information, Incident Report forms, an area map, and emergency telephone numbers.
- (8) Review the Emergency Preparedness and Response Plan annually or when information in the plan changes, to ensure all information is current.
- (9) Review the Family Child Care Home's Emergency Preparedness and Response Plan with additional caregivers during orientation and on an annual basis.

History Note: Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. July 1, 2015; July 1, 2008; May 1, 2004; July 1, 1998; November 1, 1989; January 1, 1987;
Temporary Amendment Eff. September 23, 2016; 2016;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1704

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 the Submission for Permanent Rule form, please provide the adoption date by the agency and sign the form.

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

Please begin (a)(1) through (a)(4) with lower-case letters.

In (b), please delete or define "promptly"

In (c), what is meant by "special difficulties"? What is meant by "as gently as possible"?

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: August 1, 2017

1 **10A NCAC 09 .1704 (recodified from .1703) is readopted as published in 31:20 NCR 1977 as follows:**

2
3 **10A NCAC 09 .1703 .1704 CAREGIVER INTERACTIONS**

4 (a) Caregivers shall ~~relate to~~ interact with children in positive ways by helping them feel welcome and comfortable,
5 treating them with respect, listening to what they say, responding to them with acceptance and appreciation and
6 participating in ~~many~~ activities with the children. For example, caregivers shall:

- 7 (1) Make eye contact when speaking to a child;
8 (2) ~~Actively engage~~ Engage children in conversation to share experiences, ideas and opinions;
9 (3) Help children develop problem-solving skills; and
10 (4) Facilitate learning by providing positive reinforcement, encouraging efforts and recognizing
11 accomplishments.

12 (b) Caregivers shall respond promptly to an infant or toddler's physical and emotional needs, especially when
13 indicated by crying through actions such as feeding, diapering, holding, positive touching, smiling, talking and eye
14 contact.

15 (c) The caregiver shall recognize the special difficulties of infant and toddler separations and assist families, infants,
16 and toddlers to make the transition from home to the program as gently as possible.

17
18 *History Note: Authority G.S. 110-85; 110-91(8),(11); 143B-168.3;*

19 *Eff. July 1, ~~2010~~; 2010;*

20 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1706

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given .901, .902, and .0903, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers?

Please see the technical change requests and questions for Rules .0901, .0902, and .0903 and incorporate them for 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: August 1, 2017

10A NCAC 09 .1706 is readopted with changes as published in 31:20 NCR 1981-1982 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>, free of charge from the Division at the address in Rule .0102(1) .0102(2) of this Chapter.

~~[(b)] [Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and the operator. A variety of food shall be included in meals and snacks. Any substitution shall be of comparable food value and shall be recorded on the menu prior to the meal or snack being served.]~~

~~(b) [(c)]~~ 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 the additional food necessary to meet those requirements, ~~requirements unless the child's parent or guardian opts out of the supplemental food provided by the operator as set forth in G.S. 110-91(2) h.1. A statement acknowledging the parental decision to opt out of the supplemental food provided by the operator signed by the child's parent or guardian shall be on file at the home. Opting out means that the operator will 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. If the child's parent or guardian has opted out but does not provide all food and drink for the child, the program shall provide supplemental food and drink as if the child's parent or guardian had not opted out of the supplemental food program.~~

~~[(c)]~~ (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, a signed statement acknowledging the parental decision shall be on file at the home and a copy provided to the parent. For purposes of this Rule, opting out means that:

- (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.

(e) (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.

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

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

(h) (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.

(i) (h) Meals and snacks shall be planned according to the number of hours a child is in care. For children ages 15 24 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:

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

(j) (i) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding schedule plan for the child. This schedule plan shall be followed at the home. This schedule 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 schedule 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 be available for quick reference by the operator.

~~(g)~~ ~~(h)~~ (i) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers ~~are~~ 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.

~~(h)~~ ~~(i)~~ (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 easily disassembled for cleaning purposes.

~~(m)~~ (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.

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

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

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

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

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

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

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

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

~~(m)~~ ~~(n)~~ (u) The operator ~~will provide~~ shall serve only the following beverages:

- (1) breast ~~milk;~~ milk, as specified in Paragraph (k) of this Rule;
- (2) formula;
- (3) water;
- (4) unflavored whole milk, for children ages ~~12-24~~ 12-23 months;
- (5) unflavored skim or lowfat milk for children ~~two years old and older;~~ [25] 24 months through five years old; ~~or~~

1 (6) ~~[flavored or unflavored skim or low fat milk for children older than five years; or]~~ unflavored skim
2 milk, unflavored low fat milk, or flavored skim milk for children six years old and older; or
3 (6)(7) 100 percent fruit juice, limited to 6 ounces per ~~day~~. day, for all ages.
4

5 *History Note:* *Authority G.S. 110-85; 110-91(2); 143B-168.3;*
6 *Eff. December 1, 2012;*
7 *Temporary Amendment Eff. September 23, ~~2016~~ 2016;*
8 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1707

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 your authority to limit child care homes in single wide manufactured homes to a maximum of three pre-school age children with no more than two being two years of age or less? G.S. 110-91(7)b. simply says that "no more than five children shall be preschool-aged."

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: August 1, 2017

1 **10A NCAC 09 .1707 is adopted as published in 31:20 NCR 1982 as follows:**

2
3 **10A NCAC 09 .1707 BUILDING REQUIREMENTS**

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

- 5 (1) single-wide manufactured homes are limited to a maximum of three preschool-age children (no
6 more than two shall be two years of age or less) and two school-age children;
7 (2) all children are kept on the ground level with an exit at grade;
8 (3) all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one
9 electrically operated and one battery operated smoke detector located next to each other;
10 (4) all homes are provided with at least one five pound 2-A: 10-B: C type extinguisher for every 2,500
11 square feet of floor area;
12 (5) heating appliances shall be installed and maintained according to NC Building Code Chapter
13 603.5.3;
14 (6) all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated
15 when the temperature is above 85 degrees; and
16 (7) pipes or radiators that are hot enough to be capable of burning children and are accessible to the
17 children are covered or insulated.

18
19 History Note: Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3;
20 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1708

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

In (a), line 8, please delete "regularly scheduled"

Why is (b) necessary? It appears as though all of this information is captured by .1702 with regard what must be submitted with the application.. What is the overall intent? If the intent is to say a prospective operator must do these things, then say that, but as written, it is unclear what "submit supporting documentation with the application" means given the wording of (b)(1) through (5) and .1702.

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: August 1, 2017

1 10A NCAC 09 .1708 is adopted with changes as published in 31:20 NCR 1982-1983 as follows:

2
3 **10A NCAC 09 .1708 PRE-LICENSING REQUIREMENTS**

4 ~~[(a)] [Anyone who wishes to obtain a license to operate a family child care home shall first request a pre licensing~~
5 ~~workshop provided by the Division and submit an application for a license with supporting documentation as described~~
6 ~~in 10A NCAC 09 .1702 and this Rule.]~~

7 (a) [(b)] The prospective operator of the family child care home shall complete the pre-licensing workshop provided
8 by the Division prior to the Division issuing an initial license. The Division shall provide regularly scheduled
9 workshops for new family child care home applicants. A schedule of these workshops may be obtained from the
10 Division at http://ncchildcare.nc.gov/pdf_forms/prelicworkshop.pdf. ~~[The prospective operator of the family child~~
11 ~~care home shall complete the pre licensing workshop provided by the Division prior to the Division issuing an initial~~
12 ~~license.]~~

13 (b) [(c)] [Prior to receiving a license, each family child care home operator] After completing the pre-licensing
14 workshop, the prospective operator shall submit supporting documentation with the application for a license as
15 specified in 10A NCAC 09 .1702 and as follows:

- 16 (1) Complete and keep on file a health questionnaire which attests to the operator's physical and
17 emotional ability to care for children.
- 18 (2) Obtain written proof that he or she is free of active tuberculosis. The results indicating the individual
19 is free of active tuberculosis or the screening completed by a licensed health professional shall be
20 obtained within 12 months prior to applying for a license.
- 21 (3) Complete certification in ~~[pediatric]~~ First Aid appropriate for the ages of children in care within 12
22 months prior to applying for a license. Verification of the operator's completion of this course from
23 an approved training organization shall be maintained in the operator's personnel file. The Division
24 shall post a list of approved training organizations on its website at
25 http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.
- 26 (4) Complete certification in a ~~[pediatric]~~ Cardiopulmonary Resuscitation (CPR) course appropriate for
27 the ages of children in care within 12 months prior to applying for a license. Verification of the
28 operator's completion of this course from an approved training organization shall be maintained in
29 the operator's personnel file. The Division shall post a list of approved training organizations on its
30 website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.
- 31 (5) If requesting a license to care for infants ages 12 months and younger, complete ITS-SIDS training
32 within 12 months prior to applying for a license.
- 33 ~~[(6)] [Complete an orientation training. Training required pursuant to this Rule shall not be counted~~
34 ~~toward annual on going training requirements. A Division representative may conduct the~~
35 ~~orientation during a pre licensing visit or the operator may complete orientation in the specified~~
36 ~~topic areas from an approved training. The Division shall post a list of approved training~~

organizations on its website at http://ncehildcare.nc.gov/providers/pv_sn2_ov_pd.asp. Training topics for orientation shall include:}]

[(A)] [Recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;]

[(B)] [Review of the home's operational policies, including the written plan of care, safe sleep policy, transportation policy, identification of building and premises safety issues, and the Emergency Preparedness and Response Plan;]

[(C)] [Adequate supervision of children in accordance with 10A NCAC 09 .1711(a);]

[(D)] [Information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;]

[(E)] [Prevention and control of infectious diseases, including immunization;]

[(F)] [Firsthand observation of the home's daily operations;]

[(G)] [Instruction regarding assigned duties;]

[(H)] [Instruction in the maintenance of a safe and healthy environment;]

[(I)] [Instruction in the administration of medication to children in accordance with 10A NCAC 09 .1720(b);]

[(J)] [Review of the child care licensing law and rules;]

[(K)] [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;]

[(L)] [An explanation of the operator's obligation to cooperate with representatives of State and local government agencies during visits and investigations; and]

[(M)] [Prevention of and response to emergencies due to food and allergic reactions.]

[The operator shall sign and date a statement which attests that this orientation training was completed. This statement shall be kept on file in the home available for review by the Division.]

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

Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1709

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

In (d), what is considered to be an emergency? Is this defined elsewhere in rule or statute?

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: August 1, 2017

1 **10A NCAC 09 .1709 is adopted as published in 31:20 NCR 1983-1984 as follows:**

2
3 **10A NCAC 09 .1709 INSPECTIONS**

4 (a) The operator shall permit the Division to inspect the premises of the family child care home prior to licensure, and
5 at any time thereafter during operating hours, to ensure compliance with G.S. 110, Article 7 and 10A NCAC 09.

6 (b) The Division shall conduct an announced visit prior to the initial issuance of license.

7 (c) The Division shall make at least one unannounced visit annually to ensure compliance with the licensure statutes
8 and rules.

9 (d) The Division shall make an unannounced visit when the Division receives a complaint alleging a violation of
10 licensure statutes, or rules, or if the Division has cause to believe an emergency exists at the facility.

11
12 History Note: Authority G.S. 110-105; 143B-168.3

13 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1710

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

In (a), line 4, please delete or define "knowingly"

Why is (d) necessary given 110-90.2? Please delete (d) as it is unnecessary to incorporate a statute by reference as it is already law.

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: August 1, 2017

1 **10A NCAC 09 .1710 is adopted with changes as published in 31:20 NCR 1984 as follows:**

2
3 **10A NCAC 09 .1710 ACCESS TO THE FAMILY CHILD CARE HOME**

4 (a) ~~[No person shall be allowed]~~ The child care operator shall not knowingly permit a person on the premises of a
5 family child care home who has been convicted of a "reportable conviction" as defined in G.S. 14-208.6(4).

6 (b) The parent of a child enrolled in a family child care home shall be allowed access to the home during its operating
7 hours for the purposes of contacting the child or evaluating caregiving space at the home and the care provided by the
8 operator for the child. The parent shall notify the operator of his or her presence upon entering the premises.

9 (c) Parents subject to court orders related to custody of a child enrolled in a family child care home shall only be
10 allowed access to the home in accordance with the court order.

11 (d) The provisions of G.S. 110-90.2 which exclude persons with certain criminal records or personal habits or behavior
12 which may be harmful to children from operating or being employed in a child care facility are hereby incorporated
13 by reference.

14
15 History Note: Authority 110-85; 110-90.2; 110-91; 143B-168.3;
16 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1711

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

Given .1801, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule. Please incorporate any technical change requests for similar rules

Why is it necessary to parse out (a)(1) and (2) – it is providing the same information and appears to be duplicative. Could it just be “the operator shall be positioned in the indoor and outdoor environment...” as you have done in .1801?

In (a)(1) and (a)(2), please delete or define “immediate”

In (4)(C), please delete or define “brief periods of time”

In (4)(C), please consider either providing the records requirements or cross-referencing .2318.

In (4)(D), please change “the operator is not” to “the operator shall not be”

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: August 1, 2017

10A NCAC 09 .1711 is adopted as published in 31:20 NCR 1984 as follows:

10A NCAC 09 .1711 **SUPERVISION OF CHILDREN**

(a) Children shall be adequately supervised at all times. "Adequate supervision" shall mean that:

- (1) For pre-school age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear and see the children at all times and render immediate assistance;
- (2) For school-age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear or see the children at all times and render immediate assistance;
- (3) The operator shall interact with the children while moving about the indoor or outdoor area; and
- (4) For children of all ages:
 - (A) the operator shall know where each child is located and be aware of children's activities at all times;
 - (B) the operator shall provide supervision according to the individual age, needs, and capabilities of each child;
 - (C) all of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is impossible for brief periods of time. Written documentation of emergencies stating the date, time, and reason shall be maintained and available for review by Division representatives upon request; and
 - (D) for children who are sleeping or napping, the operator is not required to visually supervise them, but shall be able to hear and respond without delay to them. Children shall not sleep or nap in a room with a closed door between the children and the operator. The operator shall be on the same level of the home where children are sleeping or napping.

(b) Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

History Note: Authority 110-85; 110-88; 143B-168.3;
Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1712

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

In (b), line 7, please delete "intend to"

In (d), line 12, please delete or define "qualified." I would think that a definition or a cross-reference would be appropriate.

In (e)(1), please delete or define "typical"

In (e)(6), is the requirement that parents sign, or is the directive to the caregivers? I believe that the directive is actually to the caregivers and should read something like "the operator shall obtain a statement signed by the parent that acknowledges the receipt and explanation of the plan. The operator shall also obtain permission for children to be transported..."

Are these records also required to be maintained for one year past the enrollment of the child in accordance with .2318 or is that requirement specific to centers that are not home care centers?

Why is 110-86(3) included in this History Note, but not in others in this Section? I will note that I don't think you need it, but if you want to include it, please include it throughout this Section.

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .1712 is adopted as published in 31:20 NCR 1984-1985 as follows:

10A NCAC 09 .1712 WRITTEN PLAN OF CARE

(a) Each operator who intends to complete routine tasks while children are in care shall develop and adopt a written plan of care for completing routine tasks. For purposes of this Rule, routine tasks includes running errands, meeting personal and family demands, attending classes, and attending medical appointments.

(b) Operators who intend to complete routine tasks with enrolled children shall limit these tasks to no more than two hours per week.

(c) Children shall not attend classes or medical appointments, with the family child care home operator, as described in Paragraph (a) of this Rule.

(d) Operators who attend classes, medical appointments, or who must complete routine tasks in excess of two hours per week, shall ensure that a qualified additional caregiver or substitute provider cares for enrolled children during these times.

(e) The written plan of care shall:

- (1) specify typical times for completing routine tasks and include those times on the written schedule;
- (2) specify the names of any individuals, such as additional caregivers or substitute providers, who will be responsible for the care of children when the operator is attending to routine tasks;
- (3) specify how the operator shall maintain compliance with transportation requirements specified in 10A NCAC 09 .1723 if children are transported;
- (4) specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
- (5) specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children; and
- (6) be provided and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are included on the written schedule. The acknowledgment and written parental permission shall be retained in the child's record as long as the child is enrolled at the home and a copy of each document shall be maintained on file for review by the Division.

(f) If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan 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 records as long as the child is enrolled in the home and a copy shall be maintained on file for review by the Division.

History Note: Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3;
Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1713

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

Line 4, please delete or define "in detail"

In (1)(a), please delete or define "simple" and "minimal"

In (1)(b), what are the CPR or First Aid training recommendations?

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: August 1, 2017

1 **10A NCAC 09 .1713 is adopted with changes as published in 31:20 NCR 1985 as follows:**

2
3 **10A NCAC 09 .1713 EMERGENCY MEDICAL CARE**

4 The operator shall have a written plan that sets forth in detail the steps to follow in the event of a child medical
5 emergency. This plan shall give the procedures to be followed to ensure that any child who becomes ill or is injured
6 and requires medical attention while in care receives appropriate medical attention. The operator shall be responsible
7 for:

- 8 (1) ensuring appropriate medical care is given, and determining which of the following is needed:
9 (a) simple [~~pediatric~~] First Aid for an injury or illness needing only minimal attention; or
10 (b) calling 911 in accordance with [~~pediatric~~] CPR or [~~pediatric~~] First Aid training
11 recommendations.
12 (2) ensuring that the signed authorization described in 10A NCAC 09 .1721(a)(3) is taken with the ill
13 or injured child to the medical facility;
14 (3) notifying a child's parents or emergency contact person about the illness or injury and where the
15 child has been taken for treatment; and
16 (4) obtaining substitute providers, if needed, to maintain adequate supervision of children who remain
17 in care.

18 This plan shall be reviewed with all additional caregivers and substitute providers prior to caring for children and
19 whenever the plan is revised. The plan shall be available for review by the Division during facility operating hours.
20

21 *History Note: Authority 110-85; 110-91; 143B-168.3;*
22 *Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1714

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given Rule .0607, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make it clear within the body of the Rule that this applies specifically to FCCHs. Please incorporate any technical change requests for similar rules.

In (b), please verify the dates provided. I will note that the dates in .0607 have been changed.

What is (d)(1)(A) requiring? Is this requiring that the procedures say where the children, staff, and volunteers are to go? How do lists come into play?

In (d)(10), please delete "but is not limited to"

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: August 1, 2017

10A NCAC 09 .1714 is adopted as published in 31:20 NCR 1985-1986 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 approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities.

(b) Existing operators that were licensed on or before July 1, 2015 shall have until July 1, 2017 to complete the Emergency Preparedness and Response in Child Care training. Within one year of the effective date of a new license, the operator shall complete the Emergency Preparedness and Response in Child Care training.

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 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, but is not limited to, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and additional caregiver, additional caregiver contact information, Incident Report forms, an area map, and emergency telephone numbers.

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

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

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

8
9 History Note: Authority 110-85; 110-88; 110-91; 143B-168.3;

10 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1716

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

How will the Division determine its course of action?

On line 5, please delete or define "reasonable"? How will this be determined?

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: August 1, 2017

10A NCAC 09 .1716 is readopted as published in 31:20 NCR 1986 as follows:

10A NCAC 09 .1716 FAILURE TO MAINTAIN REQUIREMENTS

(a) If the Division determines that a family child care home operator fails to maintain compliance with the requirements for licensure, the Division may establish a reasonable time period to allow the operator to achieve compliance or recommend issuance of an administrative action and civil penalty in accordance with 10A NCAC 09 .2200. ~~a provisional license in accordance with Rule .0401 of this Subchapter.~~

~~(b) If the operator fails to achieve compliance within the established time period, the Division may suspend, terminate, or revoke the license. The operator may appeal any such action pursuant to the provisions of G.S. 150B.~~

(c) ~~The Division may recommend imposition of a civil penalty in accordance with the procedures set forth in Section .2200 of this Subchapter and according to the following schedules:~~

(1) ~~A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed when the Division has substantiation that a child was abused or neglected while in care in a family child care home.~~

(2) ~~A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:~~

(A) ~~Repeated incidents of exceeding the number of children allowed in a licensed family child care home;~~

(B) ~~Repeated incidents where there has been a lack of supervision of the children; or~~

(C) ~~Willful, repeated pattern of noncompliance with any requirement contained in this Subchapter or in the General Statutes.~~

(3) ~~A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:~~

(A) ~~Denial of entry to an authorized representative of the Division;~~

(B) ~~Documented noncompliance with the number of children allowed in a licensed family child care home;~~

(C) ~~Lack of supervision of the children in care; or~~

(D) ~~Failure to comply with a corrective action plan designed by the Division to correct noncompliance with any applicable requirement in this Subchapter or in the General Statutes.~~

History Note: Authority G.S. 110-85; 110-86(3); 110-88(1),(5),(6a); 110-91; 110-98; 110-103.1; 110-105; 110-105.2; 110-106; 143B-168.3; 150B-23;
Eff. January 1, 1986;
Amended Eff. July 1, 1998; January 1, 1991; January 1, 1987. 1987;
Readopted September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1718

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given Section .0500, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make it clear within the body of the Rule that this applies specifically to FCCs. Please incorporate any technical change requests for similar rules.

Regarding (a)(1), I just want to verify that the outdoor requirements for FCCs are different than other providers since .0508 requires 30 minutes for children under the age of 2 or children who are in care for less than 5 hours.

In (a)(4), please delete or define "immediately"

It appears as though (a)(7) and (a)(8) should be their own paragraphs as they don't seem to fit within the introductory language of (a).

This Rule currently has no Paragraph (b). It skips from (a) to (c).

In (a)(9), please delete or define "safe" and "uncluttered." Are there definitions provided elsewhere in rule or statute?

Please begin (c)(1) through (3) with lower case letters.

(c)(4) does not seem to go with (c). Please remove the (4) and simply make it part of (c). If you do this, please move the and to (c)(2) and end it with "and"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

1 10A NCAC 09 .1718 is readopted with changes as published in 31:20 NCR 1986-1988 as follows:

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

4 ~~(a) Children shall be adequately supervised at all times. "Adequate supervision" shall mean that:~~

5 (1) ~~For pre school age children, the operator shall be positioned in the indoor and outdoor environment~~
6 ~~to maximize his or her ability to hear and see the children at all times and render immediate~~
7 ~~assistance;~~

8 (2) ~~For school age children, the operator shall be positioned in the indoor and outdoor environment to~~
9 ~~maximize his or her ability to hear or see the children at all times and render immediate assistance;~~

10 (3) ~~The operator shall interact with the children while moving about the indoor or outdoor area; and~~

11 (4) ~~For children of all ages:~~

12 ~~(i) the operator shall know where each child is located and be aware of children's activities at all times;~~

13 ~~(ii) the operator shall provide supervision according to the individual age, needs, and capabilities of each child; and~~

14 ~~(iii) all of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision~~
15 ~~is impossible for brief periods of time. Written documentation of emergencies stating the date, time, and reason shall~~
16 ~~be maintained and available for review by Division representatives upon request.~~

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

18 (1) Developmentally appropriate equipment and materials for a variety of outdoor activities that allow
19 for vigorous play, large and small muscle development, and social, emotional, and intellectual
20 development. For purposes of this Rule "vigorous" means done with force and energy. Each child
21 shall have the opportunity for a minimum of one hour of outdoor play each day that weather
22 conditions permit. The operator shall provide space and time for vigorous indoor activities when
23 children cannot play outdoors;

24 (2) ~~An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual~~
25 ~~linens for each pre school aged child in care for four hours or more, or for all children if overnight~~
26 ~~care is provided, to rest. Individual sleep requirements for infants aged 12 months or younger shall~~
27 ~~be provided for as specified in 10A NCAC 09 .1724(a)(2). A supply of clean linens must be on hand~~
28 ~~so that linens can be changed whenever they become soiled or wet. Linens shall be changed weekly~~
29 ~~or whenever they become soiled or wet;~~

30 (3) ~~For children who are sleeping or napping, the operator is not required to visually supervise them,~~
31 ~~but shall be able to hear and respond without delay to them. Children shall not sleep or nap in a~~
32 ~~room with a closed door between the children and the operator. The operator shall be on the same~~
33 ~~level of the home where children are sleeping or napping;~~

34 ~~(4)~~(3) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other
35 objects shall not be placed in a manner that covers the child's face;

- (5)(4) A separate area that can be supervised pursuant to ~~Paragraph (a) of this Rule~~ 10A NCAC 09 .1720(a) for children who become ill to the extent that they can no longer participate in routine group activities. Parents shall be notified immediately if their child becomes too sick to remain in care;
- (6)(5) The opportunity each day for each child under the age of 12 months ~~to~~ for supervised play while awake and alert while positioned on his or her stomach;
- (7)(6) Developmentally appropriate activities as planned on a written ~~schedule.~~ 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.~~ schedule and activity plan;
- (7) The written schedule 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) Be displayed in a place where parents are able to view it;
- (C) ~~(B)~~ Show times and activities that are developmentally appropriate for the ages of children in care;
- (C) ~~(D)~~ Reflect daily opportunities for both free choice and guided activities;
- (D) ~~(E)~~ Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit; ~~and~~
- (E) ~~(F)~~ Include a daily gross motor activity that may occur indoors or ~~outdoors.~~ outdoors; and
- (F) ~~(G)~~ For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, napping, and toileting;
- (8) The written activity plan 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 http://ncchildcare.nc.gov/providers/pv_foundations.asp:
- (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;

1 (iii) blocks and block building;
 2 (iv) manipulatives; and
 3 (v) family living and dramatic play.
 4 (D) Provide materials and opportunities at least weekly, indoors or outdoors, for the following:
 5 (i) music and rhythm;
 6 (ii) science and nature; and
 7 (iii) sand and water play.
 8 (9) A safe, uncluttered area that allows freedom of movement shall be available, both indoors and
 9 outdoors; and
 10 (10) Operators who provide care to school-age children shall provide a balance of activities appropriate
 11 to the age, needs and interests of the school-age children.
 12 (c) When screen ~~time is time, including videos, video games, and computer usage, is provided,~~ provided on any
 13 electronic media device with a visual display, it shall be:
 14 (1) ~~Offered only as a free choice activity;~~ to stimulate a developmental domain in accordance with the
 15 North Carolina Foundations for Early Learning and Development as referenced in this Section;
 16 ~~(2)~~ ~~Used to meet a developmental goal; and~~
 17 ~~(3)(2)~~ Limited to a maximum of 30 minutes per day and no more than a total of two and a half hours per
 18 week per child; for each child two years of age and older. Usage time periods may be extended for
 19 specific special events, projects, occasions such as a current event, homework, on-site computer
 20 classes, holiday, and birthday celebration.
 21 (3) Documented on a cumulative log or activity plan, and shall be available for review by the Division;
 22 and
 23 (4) Screen time is prohibited for children under the age of two three years. The operator shall offer
 24 alternate activities for children under the age of two three years.
 25 ~~(d) Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by~~
 26 ~~G.S. 168A-3(9), or a "qualified individual," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8),~~
 27 ~~from working in a licensed child care facility.~~
 28
 29 History Note: Authority *G.S. 110-85; 110-88; ~~110-91(2); 110-91(12); 143B-168.3;~~*
 30 *Eff. July 1, 1998;*
 31 *Amended Eff. May 1, 2016; December 1, 2012; July 1, 2010; March 1, 2006; May 1, ~~2004~~, 2004;*
 32 *Readopted September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1719

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

In (a), line 6, and in (a)(1) line 9-10, please delete "but not limited to"

In (a)(4), where are combustibles to be stored?

(a)(1) and (a)(5) seem to have some duplicative information. Please delete (a)(5).

In (a)(6), please delete "at least." Please also change line 23-24 to read "For purposes of this Rule, designated emergency medications are those that are used or needed for the immediate recovery from a life-threatening event and include..."

In (a)(8) please consider moving the information regarding toxic substances to (a)(7) where other toxic substances are referenced. Also what is meant by "toxic substances shall be stored below or separate from medications and food." What is meant by stored below?

In (a)(11), line 14, please add a comma in between "transport children" and "or during"

In (a)(13), please delete or define "easily" in "easily visible"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (a)(14), please delete or define “always”

(a)(7) and (a)(31) repeat each other. Please delete one.

Please begin (b)(1) through (b)(3) with lower case letters.

In (b)(2), what is meant by “clean”?

In (b)(3), is the requirement that a parent sign, or that the FCCH obtain the parent’s signature?

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: August 1, 2017

10A NCAC 09 .1719 is readopted with changes as published in 31:20 NCR 1988-1990 as follows:

10A NCAC 09 .1719 REQUIREMENTS FOR A SAFE INDOOR/OUTDOOR ENVIRONMENT
(Temporary)

(a) The operator of a family child care home shall provide a physically maintain a safe and healthy indoor and outdoor environment that meets the developmental needs of children in care, including but not limited to the following: for the children in care. In addition, the operator shall:

- (1) keep all areas used by the children, both indoors and outdoors, clean and orderly and free of items ~~which~~ that are potentially hazardous to children. Potentially hazardous items including but not limited to, power tools, nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene whether or not intended for use by children, shall be stored in locked areas, removed from the premises, or otherwise inaccessible to children. This includes the removal of items that a child can swallow. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment;
- (2) empty firearms of ammunition and keep both in separate, locked storage;
- (3) keep all materials used for starting fires, such as matches, lighters, and accelerants in locked storage;
- ~~(4)~~(4) safely store all combustible materials that may create a fire hazard. hazard;
- ~~(2)~~(5) safely store potentially hazardous equipment and supplies such as ~~lawnmowers~~, lawn mowers, hand and power tools, propane stoves, gasoline, kerosene, ~~nails~~, or nails so they are inaccessible to children;
- (6) medications including prescription and non-prescription items shall be stored in a locked cabinet or other locked container. Designated emergency medications shall be stored out of reach of children at least five feet high, but are not required to be in locked storage. For the purposes of this Rule designated emergency medications, used or needed for the immediate recovery from a life-threatening event, include [Epi Pen, Glucagon, Diazepam suppositories or gel and albuterol; epinephrine auto-injector, diazepam rectal installation and albuterol];
- (7) keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children are in care; A list of toxic plants may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms.form16b_bb.pdf;
- (8) keep all corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product that is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if ingested, inhaled, or handled shall be kept in its original container or in another labeled container, used according to the manufacturer's instructions, and stored in a locked area when not in use. Locked areas shall include those that are unlocked with a combination, electronic, or magnetic device, key, or equivalent locking device. These unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any product not listed in this Paragraph of this Rule that is labeled "keep out

- of reach of children" without any other warnings shall be kept inaccessible to children when not in use, but is not required to be kept in locked storage. The product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor;
- (9) ensure potential ~~[bio-contaminants]~~ biocontaminants are stored in locked areas, or removed from the premises or otherwise inaccessible to ~~[children]~~ children, or disposed of in a covered, plastic-lined receptacle;
- (10) keep ~~[pediatric]~~ First Aid supplies in a place accessible to the operator;
- (11) keep tobacco products in locked storage when children are in care. Children shall be in a smoke free and tobacco free environment. The operator and staff shall not smoke or use any product containing, made or derived from tobacco, including cigarettes, e-cigarettes, cigars, little cigars, smokeless tobacco, and any device used to inhale or ingest tobacco products at any time during operating hours while children are in care on the premises of the family child care home, on vehicles used to transport children or during any off premise activities;
- ~~[(12)]~~ post signage regarding the smoking and tobacco restriction at each entrance to the family child care home and on vehicles used to transport children;
- ~~[(13)]~~ (12) notify the parent of each child enrolled in the facility, in writing, of the smoking and tobacco restriction;
- ~~[(14)]~~ [verification of Subparagraphs (12) and (13) of this Paragraph by the Division shall be evidence that the operator has complied with the smoking and tobacco restriction for persons that are not employed by the facility;]
- ~~[(15)]~~ (13) have a working telephone within the family child care home. A telephone located in an area of the family child care home that is sometimes locked during the time the children are present shall not be the only phone available during operating hours. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted in a location easily visible in the home;
- ~~[(16)]~~ (14) have access to a means of transportation that is always available for emergency situations;
- ~~[(17)]~~ [have a copy of "Caring for Our Children: Appendix A" located in the child care facility for referral regarding common signs and symptoms of illness. The book is incorporated by reference, including subsequent amendments and editions, and is available free of charge online at <http://cfcc.nrckids.org/TOC/cfm;>]
- ~~[(18)]~~ (15) have a ~~[pediatric]~~ First Aid information sheet posted in a place for quick referral by staff members. A child care operator may request a ~~[pediatric]~~ First Aid information sheet from the North Carolina Child Care Health and Safety Resource Center at 1-800-367-2229;
- ~~[(19)]~~ (16) conduct a monthly fire drill;
- ~~[(20)]~~ (17) conduct a "shelter-in-place drill" or "lockdown drill" as defined in 10A NCAC 09 .0102 at least every three months and records shall be maintained as required by 10A NCAC 09 .0302(f)(8);

1 ~~[(21)]~~(18) check the indoor and outdoor environment daily for debris, vandalism, broken equipment and
2 animal waste. The operator shall keep all areas used by the children, indoors and outdoors, clean
3 and orderly and free of items which are potentially hazardous to children. This includes the removal
4 of items that a child can swallow and use of outdoor play equipment that is too hot to touch. In
5 addition, loose nails or screws and splinters shall be removed on inside and outside equipment;
6 ~~[(22)]~~(19) not have plastic bags, toys, and toy parts small enough to be swallowed accessible to children
7 under three years of age. This includes materials that can be easily torn apart such as foam rubber
8 and Styrofoam, except that Styrofoam plates may be used for food service and larger pieces of foam
9 rubber may be used for supervised art activities;
10 ~~[(23)]~~(20) ensure that jump ropes and rubber bands are not accessible to children under five years of age
11 without adult supervision. Balloons shall be prohibited for children of all ages;
12 ~~[(24)]~~(21) teacher-made and home-made equipment and materials may be used if they are safe and functional.
13 Materials and equipment that are accessible to children shall not be coated or treated with, nor shall
14 they contain, toxic materials such as creosote, pentacholorphenol, tributyl tin oxide, dislodgeable
15 arsenic and any finishes which contain pesticides;
16 ~~[(25)]~~(22) ensure the equipment and toys are in good repair and are developmentally appropriate for the
17 children in care;
18 ~~(3)~~~~[(26)]~~(23) ensure that all stationary outdoor equipment is firmly anchored and is not installed over concrete
19 or asphalt. Footings ~~which~~ that anchor the equipment shall not be exposed;
20 ~~(27)~~(24) ensure that any openings in equipment, steps, decks, and handrails shall be smaller than 3½ inches
21 or greater than 9 inches to prevent entrapment;
22 ~~(28)~~(25) ensure that all commercially manufactured equipment and furnishings shall be assembled and
23 installed according to procedures specified by the manufacturer;
24 ~~(29)~~(26) ensure that a shaded area in available to children in the outdoor learning environment. The shade
25 may be provided by a building, awnings, trees, or other methods;
26 ~~(4)~~~~[(30)]~~(27) securely mount electric fans out of the reach of children or have a mesh guard on each fan;
27 ~~(5)~~~~[(34)]~~(28) cover all electrical outlets not in use and remove ~~old, cracked~~ cracked, or frayed cords in
28 occupied outlets;
29 ~~(6)~~~~[(32)]~~(29) ensure that, for appliances with heating elements, such as bottle warmers, crock pots, irons,
30 coffee pots, or curling irons, neither the appliance nor ~~the~~ any cord, ~~if applicable~~, is accessible to
31 preschool children;
32 ~~(7)~~~~[(33)]~~(30) have solid and safe indoor and outdoor stairs and steps if these are used by the children. Indoor
33 indoor and outdoor stairs with more than two ~~or more~~ steps ~~which~~ that are used by the children shall
34 be railed. Indoor stairs with more than two steps shall be made inaccessible to children in care who
35 are two years old or ~~younger~~, younger; and
36 ~~[(34)]~~(31) ensure that toxic plants shall be inaccessible to children. A list of toxic plants may be found on the
37 Division's website at http://ncchildcare.nc.gov/pdf_forms/form16b_bb.pdf.

1 (8) maintain any swimming pools or wading pools on the premises in a manner that will safeguard the
2 lives and health of the children. All swimming or wading pools used by children in care shall meet
3 the "Rules Governing Public Swimming Pools," in accordance with 15A NCAC 18A .2500 which
4 are hereby incorporated by reference including subsequent amendments. A copy of these Rules is
5 on file at the Division at the address given in Rule .0102 of this Chapter or may be obtained at no
6 cost by writing the North Carolina Division of Environmental Health, 1630 Mail Service Center,
7 Raleigh, NC 26799-1630;

8 (9) ~~enclose any in-ground swimming pools by a fence at least four feet high to prevent chance access~~
9 ~~by children. The swimming pool shall be separate from the play area. Access to the water in above~~
10 ~~ground swimming pools shall be prevented by locking and securing the ladder in place or storing~~
11 ~~the ladder in a place inaccessible to the children; and~~

12 (b) When animals are on the premises, the following shall apply:

13 (1) All household pets shall be vaccinated with up-to-date vaccinations as required by North Carolina
14 law and local ordinances. Rabies vaccinations are required for cats and dogs;

15 (2) Animal cages shall be kept clean; and

16 ~~(b)(3)~~ Prior to enrollment of children in a family child care home, and before new animals ~~that will be in~~
17 ~~the home~~ come into the family child care home, ~~a~~the parent of each child must sign a form
18 acknowledging the type of animal located on the premises and where the animal will be kept during
19 operating hours. This documentation shall be maintained in each child's file.

20
21 *History Note: Authority G.S. 110-85; 110-88; 110-91(3),(4),(5),(6);*

22 *Eff. July 1, 1998;*

23 *Amended Eff. May 1, 2012; April 1, 2001;*

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

25 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1720

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given Rules .803 and Section 2400, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule.

Please see the technical change requests and questions for Rule .0803 and Section .2400 and incorporate them for 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: August 1, 2017

1 10A NCAC 09 .1720 is readopted with changes as published in 31:20 NCR 1990-1993 as follows:

2
3 10A NCAC 09 .1720 MEDICATION REQUIREMENTS

4 (a) ~~To assure the safety of children in care, the operator shall:~~

- 5 (1) ~~empty firearms of ammunition and keep both in separate, locked storage;~~
- 6 (2) ~~keep items used for starting fires, such as matches and lighters, out of the children's reach;~~
- 7 (3) ~~keep all medicines in locked storage;~~
- 8 (4) ~~keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of~~
9 ~~reach or in locked storage when children are in care;~~
- 10 (5) ~~keep first aid supplies in a place accessible to the operator;~~
- 11 (6) ~~keep tobacco products out of reach or in locked storage when children are in care;~~
- 12 (7) ~~ensure the equipment and toys are in good repair and are developmentally appropriate for the~~
13 ~~children in care;~~
- 14 (8) ~~have a working telephone within the family child care home. Telephone numbers for the fire~~
15 ~~department, law enforcement office, emergency medical service, and poison control center shall be~~
16 ~~posted near the telephone;~~
- 17 (9) ~~have access to a means of transportation that is always available for emergency situations;~~
- 18 (10) ~~be able to recognize common symptoms of illnesses;~~
- 19 (11) ~~conduct a monthly fire drill; and~~
- 20 (12) ~~conduct a "shelter in place drill" or "lockdown drill" as defined in 10A NCAC 09 .0102 at least~~
21 ~~every three months.~~

22 (b)(a) The operator may provide care for a mildly ill child who has a Fahrenheit temperature of 101 degrees or less
23 by any method for infants younger than two months or a temperature of 100.4 or less by any method less than 100
24 degrees axillary, or 101 degrees orally, and who remains capable of participating in routine group activities; ~~provided~~
25 so long as the child does not have any of the following:

- 26 (1) ~~have~~ the sudden onset of diarrhea characterized by an increased number of bowel movements
27 compared to the child's normal pattern and with increased stool water; more than two stools above
28 normal and diarrhea is not contained by a diaper or when toilet-trained children are having accidents;
- 29 (2) ~~have~~ two or more episodes of vomiting within a 12 hour period;
- 30 (3) lice, exclusion shall begin immediately upon identification until completion of first treatment; have
31 a red eye with white or yellow eye discharge, until 24 hours after treatment has started;
- 32 (4) ~~have~~ scabies or lice; scabies;
- 33 (5) ~~have~~ known chicken pox or a rash suggestive of chicken pox;
- 34 (6) ~~have~~ tuberculosis, until a health professional states that the child is not infectious;
- 35 (7) ~~have~~ strep throat, until 24 12 hours after antibiotic treatment has started; started and no fever is
36 present;
- 37 (8) ~~have~~ pertussis, until five days after appropriate antibiotic treatment;

- (9) ~~have~~ hepatitis A virus infection, until one week after onset of illness or jaundice;
- (10) ~~have~~ impetigo, until 24 hours after treatment; or exclusion may begin at the end of the program day until treatment has started;
- (11) ~~have~~ a physician's or other health professional's written order that the child be separated from other ~~children.~~ children; or
- (12) exclusion for symptoms not included in this list shall be required if the symptoms prevent the child from participating comfortably in activities as determined by staff members of the program or the symptoms result in a need for care that is greater than the staff members can provide without compromising the health and safety of other children.
- (e)(b) The following provisions apply to the administration of medication in family child care homes:
- (1) No prescription or over-the-counter medication and no topical, non-medical ointment, repellent, lotion, ~~cream~~ cream, fluoridated toothpaste or powder shall be administered to any child:
- (A) without written authorization from the child's parent;
- (B) without written instructions from the child's parent, physician or other health professional;
- (C) in any manner not authorized by the child's parent, physician or other health professional;
- (D) after its expiration date; ~~or~~
- (E) for non-medical reasons, such as to induce ~~sleep.~~ sleep; or
- (F) with a known allergy to the medication.
- (2) Prescribed medications:
- (A) shall be stored in the original containers in which they were dispensed with the pharmacy labels specifying:
- (i) the child's name;
- (ii) the name of the medication or the prescription number;
- (iii) the amount and frequency of dosage;
- (iv) the name of the prescribing physician or other health professional; and
- (v) the date the prescription was filled; or
- (B) if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall be labeled with the child's name, and shall be accompanied by written instructions specifying:
- (i) the child's name;
- (ii) the names of the medication;
- (iii) the amount and frequency of dosage;
- (iv) the signature of the prescribing physician or other health professional; ~~and~~
- (v) the date the instructions were signed by the physician or other health professional; and
- (vi) shall be administered according to the prescription, using amount and frequency of dosage specified on the label; and

- (C) shall be administered only to the child for whom they were prescribed.
- (3) A parent's written authorization for the administration of a prescription medication described in Paragraph ~~(e)(2)~~(b)(2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
- (4) Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the manufacturer's original packaging on which the child's name is written or labeled and shall be accompanied by written instructions specifying:
- (A) the child's name;
 - (B) the names of the authorized over-the-counter medication;
 - (C) the amount and frequency of the ~~dosages~~; dosages, which shall not exceed the amount and frequency of the dosages on the manufacturer's label;
 - (D) the signature of the parent, physician or other health professional; and
 - (E) the date the instructions were signed by the parent, physician or other health professional.
- The permission to administer over-the-counter medications is valid for up to 30 days at a time, except as allowed in Subparagraphs ~~(e)(6)~~, (b)(6), (7), (8), and (9) of this Rule. Over-the-counter medications shall not be administered on an "as needed" basis, other than as allowed in Subparagraphs ~~(e)(6)~~, (b)(6), (7), (8), and (9) of this Rule.
- (5) When questions arise concerning whether any medication should be administered to a child, the caregiver may decline to administer the medication without signed, written dosage instructions from a licensed physician or authorized health professional.
- (6) A parent may give a caregiver standing authorization for up to six months to administer prescription or over-the-counter medication to a child, when needed, for chronic medical conditions such as asthma, and for allergic reactions. The authorization shall be in writing and shall contain:
- (A) the child's name;
 - (B) the subject medical conditions or allergic reactions;
 - (C) the names of the authorized over-the-counter medications;
 - (D) the criteria for the administration of the medication;
 - (E) the amount and frequency of the dosages;
 - (F) the manner in which the medication shall be administered;
 - (G) the signature of the parent;
 - (H) the date the authorization was signed by the parent; and
 - (I) the length of time the authorization is valid, if less than six months.
- (7) A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter, topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, fluoridated toothpaste, and powders --- such as sunscreen, diapering creams, baby lotion, and baby powder --- to a child, when needed. The authorization shall be in writing and shall contain:

- 1 (A) the child's name;
- 2 (B) the names of the authorized ointments, repellents, lotions, creams, fluoridated toothpaste,
- 3 and powders;
- 4 (C) the criteria for the administration of the ointments, repellents, lotions, creams, fluoridated
- 5 toothpaste, and powders;
- 6 (D) the manner in which the ointments, repellents, lotions, creams, fluoridated toothpaste, and
- 7 powders shall be applied;
- 8 (E) the signature of the parent;
- 9 (F) the date the authorization was signed by the parent; and
- 10 (G) the length of time the authorization is valid, if less than 12 months.
- 11 (8) A parent may give a caregiver standing authorization to administer a single weight-appropriate dose
- 12 of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The
- 13 authorization shall be in writing and shall contain:
- 14 (A) the child's name;
- 15 (B) the signature of the parent;
- 16 (C) the date the authorization was signed by the parent;
- 17 (D) the date that the authorization ends or a statement that the authorization is valid until
- 18 withdrawn by the parent in writing.
- 19 (9) A parent may give a caregiver standing authorization to administer an over-the-counter medication
- 20 as directed by the North Carolina State Health Director or designee, when there is a public health
- 21 emergency as identified by the North Carolina State Health Director or designee. The authorization
- 22 shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
- 23 (A) the child's name;
- 24 (B) the signature of the parent;
- 25 (C) the date the authorization was signed by the parent; and
- 26 (D) the date that the authorization ends or a statement that the authorization is valid until
- 27 withdrawn by the parent in writing.
- 28 (10) Pursuant to G.S. 110-102.1A, a caregiver may administer medication to a child without parental
- 29 authorization in the event of an emergency medical condition when the child's parent is unavailable,
- 30 providing the medication is administered with the authorization and in accordance with instructions
- 31 from a health care professional as defined in Rule ~~0102(16)~~ 0102(21) of this Chapter.
- 32 (11) A parent may withdraw ~~his or her~~ written authorization for the administration of medications at any
- 33 time in writing.
- 34 (12) Any medication remaining after the course of treatment is completed or after authorization is
- 35 withdrawn shall be returned to the child's parents. Any medication the parent fails to retrieve within
- 36 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.

(13) Any time prescription or over-the-counter medication is administered by a caregiver to children receiving care, the following information shall be recorded: ~~including any time medication is administered in the event of an emergency medical condition without parental authorization as permitted by G.S. 110-102.1A,~~

(A) the child's name, name;

(B) the date, date medication given;

(C) time, the time medication given;

(D) the amount and type of medication given, given; and

(E) the name and signature of the person administering the medication, ~~medication shall be recorded.~~

This information shall be noted on a medication permission slip, or on a separate form developed by the ~~provider~~ operator which includes the required information. This information shall be available for review by the Division during the time period the medication is being administered and for at least six months after the medication is administered. No documentation shall be required when items listed in Subparagraph ~~(e)(7)~~(b)(7) of this Rule are applied to children.

(14) if medication is administered in error, whether administering the wrong dosage, giving to the wrong child, or giving the incorrect type of medicine, the operator shall:

(A) call 911 in accordance with [pediatric] CPR or [pediatric] First Aid training recommendations;

(B) contact the child's parent immediately;

(C) observe the child closely; and

(D) document the medication error in writing, including:

(i) the child's name and date of birth;

(ii) the type and dosage of medication administered;

(iii) the name of the person who administered the medication;

(iv) the date and time of the error;

(v) the signature of the operator and the parent;

(vi) the actions taken by the operator following the error; and

(vii) the actions that will be taken by the operator to prevent a future error.

This documentation shall be maintained in the child's file.

~~(d) To assure the health of children through proper sanitation, the operator shall:~~

~~(1) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services every two years. Results of the analysis shall be on file in the home;~~

~~(2) have sanitary toilet, diaper changing and hand washing facilities. Diaper changing areas shall be separate from food preparation areas;~~

- 1 (3) ~~use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet.~~
2 The operator shall:
- 3 (A) wash his or her hands before, as well as after, diapering each child;
4 (B) ensure the child's hands are washed after diapering the child; and
5 (C) place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;
- 6 (4) ~~use sanitary procedures when preparing and serving food. The operator shall:~~
7 (A) wash his or her hands before and after handling food and feeding the children; and
8 (B) ensure the child's hands are washed before and after the child is fed;
- 9 (5) ~~wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily~~
10 ~~fluids.~~
- 11 (6) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain
12 a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor
13 the temperature;
- 14 (7) date and label all bottles for each individual child, except when there is only one bottle fed child in
15 care;
- 16 (8) have a house that is free of rodents;
- 17 (9) ~~screen all windows and doors used for ventilation;~~
- 18 (10) have all household pets vaccinated with up to date vaccinations as required by North Carolina law
19 and local ordinances. Rabies vaccinations are required for cats and dogs; and
- 20 (11) store garbage in waterproof containers with tight fitting covers.
- 21 (e) ~~The operator shall not force children to use the toilet and the operator shall consider the developmental readiness~~
22 ~~of each child during toilet training.~~
- 23 (f) ~~The operator shall not use tobacco products at any time while children are in care. Smoking or use of tobacco~~
24 ~~products shall not be permitted indoors while children are in care, or in a vehicle when children are transported.~~
- 25
- 26 History Note: Authority G.S. 110-85; 110-88; 110-91(6); 110-102.1A; 143B-168.3;
27 Eff. July 1, 1998;
28 Amended Eff. July 1, 2015; May 1, 2004; April 1, 2003; April 1, 2001;
29 Temporary Amendment Eff. September 23, ~~2016~~ 2016;
30 Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1721

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules. I believe that this Rule contains portions of .2318 and .2409.

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: August 1, 2017

1 **10A NCAC 09 .1721 is readopted as published in 31:20 NCR 1993-1994 as follows:**

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

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

- 7 (1) a copy of the child's health assessment as required by G.S. 110-91(1);
- 8 (2) a copy of the child's immunization record;
- 9 (3) ~~a health and emergency information form~~ an application for enrollment that includes information
10 set forth in this Subparagraph of this Rule provided by the Division that is completed and signed by
11 a child's ~~parent.~~ parent, as defined in 10A NCAC 09 .0102. A copy of the form ~~can~~ may be found
12 on the Division's website at http://ncchildcare.nc.gov/pdf_forms/DCD-0377.pdf. The completed
13 form shall be on file the first day the child attends. An operator may use another form other than
14 the one provided by the Division, as long as the form includes the following information:
- 15 (A) ~~the child's name, address, and date of birth;~~
- 16 (B) ~~the names of individuals to whom the child may be released;~~
- 17 (C) ~~the general status of the child's health;~~
- 18 (D) ~~any allergies or restrictions on the child's participation in activities with instructions from~~
19 ~~the child's parent or physician;~~
- 20 (E) ~~the names and phone numbers of persons to be contacted in an emergency situation;~~
- 21 (F) ~~the name and phone number of the child's physician and preferred hospital;~~
- 22 (G) ~~authorization for the operator to seek emergency medical care in the parent's absence; and~~
- 23 (A) the child's full name and the name the child is to be called;
- 24 (B) the child's date of birth;
- 25 (C) any allergies and the symptoms and type of response required for allergic reactions;
- 26 (D) any health care needs or concerns, symptoms of and the type of response required for these
27 health care needs or concerns;
- 28 (E) particular fears or unique behavior characteristics that the child has;
- 29 (F) the names of individuals to whom the operator may release the child as authorized by the
30 person who signs the application;
- 31 (G) the names and phone numbers of persons to be contacted in an emergency situation;
- 32 (H) the name and phone number of the child's physician; and
- 33 (J) authorization for the operator to seek emergency medical care in the parent's absence.
- 34 (4) For any child with health care needs such as allergies, asthma, or other chronic conditions that
35 require specialized health services, a medical action plan shall be attached to the application. The
36 medical action plan shall be completed by the child's parent or a health care professional and may
37 include the following:

1 (A) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity
2 considerations that are applicable;

3 (B) contact information for the health care professional(s);

4 (C) medications to be administered on a scheduled basis; and

5 (D) medications to be administered on an emergency basis with symptoms, and instructions.

6 The medical action plan shall be updated on an annual basis. Sample medical action plans may be
7 found on the Division's website at http://ncchildcare.nc.gov/providers/pv_provideforms.asp;

8 ~~(4)~~(5) when medication is administered, authorization for the operator to administer the specific
9 medication according to the parent's or physician's instructions.

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

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

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

15 ~~(b)~~(e) The operator shall complete and maintain other records ~~which~~ that include:

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

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

21 (3) incident reports that are completed each time a child is injured or when a child receives medical
22 treatment by ~~a physician, nurse, physician's assistant, nurse practitioner, a health care professional,~~
23 community clinic, or local health ~~department, department~~ as a result of an incident occurring while
24 the child is in care, the family child care home. ~~Each incident shall be reported on a form provided~~
25 ~~by the Division, signed by the operator and the parent, and maintained in the child's file. A copy~~
26 ~~of the form can be found on the Division's website at [http://ncchildcare.nc.gov/pdf_forms/DCDEE-](http://ncchildcare.nc.gov/pdf_forms/DCDEE-0058.pdf)~~
27 ~~0058.pdf. A copy shall be mailed to the Division within seven calendar days after the incident~~
28 ~~occurs;~~

29 The form shall contain the following information:

30 (A) facility identifying information;

31 (B) date and time of the incident;

32 (C) witness to the incident;

33 (D) time the parent is notified of the incident and by who;

34 (E) piece of equipment involved;

35 (F) cause of injury;

36 (G) type of injury;

37 (H) body part injured;

- (I) where the child received medical treatment;
- (J) description of how and where the incident occurred and pediatric First Aid received;
- (K) steps taken to prevent 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, and 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 http://ncchildcare.nc.gov/pdf_forms/DCDEE-0058.pdf;

- (4) an incident log ~~which~~ 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 http://ncchildcare.nc.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 http://ncchildcare.nc.gov/pdf_forms/fcch_outdoor_inspection_checklist.pdf;

- (6) ~~Accurate~~ 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; 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.

(c) Written records shall be maintained as follows:

- (1) All children's records as required in Section .1700 of this Chapter, except medication permission slips as required in Rule ~~.1720(e)(13)~~ .1720(b)(13) of this Section, ~~must~~ 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 10A NCAC 09 .1720(b)(13) shall be maintained during the time period the medication is being administered and for at least six months after the medication is administered.

~~(2)~~(3) Additional caregiver and substitute provider records as required in Section .1700 of this Chapter 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.

~~(3)~~(4) ~~Current~~ All program ~~records~~ records, including documentation of operator qualifications, as required in Section .1700 of this Chapter shall be maintained on file for as long as the license remains ~~valid.~~ valid except as follows: ~~Prior versions shall be maintained based on the time frame in the following charts:~~

(A) A minimum of 30 days from the revision or replacement date:

Record	Rule
Daily Schedule	.1718(7) <u>.1718(a)(6)</u>
<u>Activity Plan</u>	<u>.1718(a)(6)</u>
Infant Feeding Schedule	.1706(f) <u>.1706(j)</u>
<u>Menu</u>	<u>.1706(b)</u>
<u>Allergy Posting</u>	<u>.1706(f)</u>
SIDS Sleep Chart/Visual Check	.1724(8) <u>.1724(a)(8)</u>

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

Record	Rule
Attendance	<u>.1721(b)(6)</u>
Emergency Numbers	.1720(a)(8) <u>.1719(a)(14)</u>
<u>Safe Sleep Policy</u>	<u>.1724(c) and (d)</u>
<u>Written Plan of Care</u>	<u>.1712</u>
<u>Emergency Medical Care Plan</u>	<u>.1713</u>
Emergency Preparedness and Response Plan	<u>.1721(b)(1)</u>
Field Trip/Transportation Permission	.1723(4) <u>.1723(5)</u>
<u>List and Identifying Information for Children being Transported</u>	<u>.1723(14)</u>
Fire Drill Log	<u>.1721(b)(2)</u>
Lockdown or Shelter-in-Place Drill Log	<u>.1721(b)(7)</u>

Incident Log	.1721(b)(4)
Playground Inspection	.1721(b)(5)
Pet Vaccinations	.1720(d)(10) <u>.1719(b)(1)</u>
<u>Medication Error Log</u>	<u>.1720(14)</u>

- (4) Well-water analysis, pool inspection and inspections for local ordinances as referenced in Rules ~~.1720(d)(1), .1719(7), and .1702(d)~~ .1730(j), .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.
- (5) 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 commonly used graphic format. ~~electronically, except that records that require a signature of a staff person or parent shall be maintained in a paper format.~~
- (6) All records required in this Chapter shall be available at the family child care home for review by the ~~Division~~ Division during the hours of operation listed on the child care license.

History Note: Authority G.S. ~~110-85~~; 110-88; 110-91(1),(9);
Eff. July 1, 1998;
Amended Eff. July 1, 2015; July 1, 2010; July 1, 2008; April 1, 2003; April 1, 2001;
Temporary Amendment Eff. September 23, ~~2016~~ 2016;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1722

DEADLINE FOR RECEIPT: Friday, August 11, 2017

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

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

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

In (a)(1), please delete "but not limited to"

In (b), how is the appropriateness of discipline to be determined?

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: August 1, 2017

10A NCAC 09 .1722 is readopted as published in 31:20 NCR 1995-1996 as follows:

10A NCAC 09 .1722 PROHIBITED DISCIPLINE POLICY

~~(a) The operator shall provide a written copy of and explain the operator's discipline practices to a parent of each child at the time of enrollment. A parent must sign and date a statement which attests that a copy of the discipline policy was given to, and discussed with them. If an operator changes discipline practices, the parent must sign and date a statement acknowledging that they received written notice of and discussed the new policy at least 30 days prior to the implementation of the new policy. The signed statement shall be kept on file in the home available for review.~~

~~(b)(a)~~ No child shall be subjected to any form of corporal punishment by the family child care home operator, additional caregiver, substitute provider, caregiver, or any other person in the home, whether or not these persons reside in the ~~home~~, home as follows:

~~(e)(1)~~ No child shall be handled roughly in any way, including but not limited to shaking, pushing, shoving, pinching, slapping, biting, kicking, or ~~spanking~~, spanking;

~~(4)(2)~~ No child shall ever be placed in a locked room, closet, or box, or be left alone in a room separated from ~~staff~~, staff;

~~(e)(3)~~ No discipline shall ever be delegated to another ~~child~~, child;

~~(f) Discipline shall in no way be related to food, rest or toileting:~~

~~(1)(4)~~ No food shall be ~~withheld, or given, withheld or given~~ as a means of ~~discipline~~, punishment or reward;

~~(2)(5)~~ No child shall ever be disciplined for ~~lapses in toilet training~~, toileting accidents;

~~(3)(6)~~ No child shall ever be disciplined for not sleeping during rest ~~period~~, period;

~~(e)(7)~~ No child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning bathrooms or floors, or emptying diaper ~~pails~~, pails;

~~(8)~~ Physical activity, such as running laps and doing push-ups, shall not be withheld or required as punishment;

~~(9)~~ No child shall ever be yelled at, shamed, humiliated, frightened, threatened, or bullied; and

~~(10)~~ No child shall be restrained as a form of discipline unless the child's safety or the safety of others is at risk. For purposes of this Rule, "restraining" shall mean that a caregiver physically holds a child in a manner that restricts the child's movement, for a minimum amount of time necessary to ensure a safe environment. Children shall not be restrained through the use of heavy objects, including a caregiver's body, or any device such as straps, blankets, car seats, or cribs.

~~(4)(b)~~ Discipline practices shall be age and developmentally appropriate.

History Note: Authority G.S. 110-85; 110-91(10); 143B-168.3

Eff. July 1, 1998;

Amended Eff. April 1, 2003; April 1, ~~2004~~, 2001;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1723

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given Section .1000, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule.

In (1), what is meant by "good repair" and "safe." Please define.

In (1), by "hurt themselves", do you mean on the torn upholstery? Please clarify.

In (2), what are the applicable state and federal rules and regulations?

In (3), what is the state law regarding liability insurance?

In (4), what is "other safety equipment as appropriate"?

In (5), please define "routine" in "routine transport"

In (6), please delete "responsible." Isn't the requirement simply that the children are transferred to a person authorized by the parent?

In (14), please add "and" in between "information," and "a copy of the emergency"

Please begin (16)(a) through (c) with lower case letters.

In (16)(b), please define "regular" in "regular basis"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .1723 is readopted with changes as published in 31:20 NCR 1996-1997 as follows:

10A NCAC 09 .1723 TRANSPORTATION REQUIREMENTS

To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:

- (1) ensure that vehicles used to transport children are in good repair, safe, and free of hazards such as torn upholstery that allows children to remove the interior padding or hurt themselves, broken windows, holes in the floor or roof, or tire treads of less than 2/32 of an inch;
- (2) ensure that vehicles used to transport children comply with all applicable State and federal laws and regulations;
- (3) ensure that vehicles are insured for liability as required by State laws governing transportation of passengers;
- (4) ensure that vehicles used to transport children in snowy, icy, and other hazardous weather conditions are equipped with snow tires, chains, or other safety equipment as appropriate;
- ~~(4)~~(5) have written permission from a parent to transport his or her child and notify the parent when and where the child is to be transported, and ~~who~~ the name of the transportation provider. ~~provider will be.~~ Parents may give standing permission, valid for up to 12 months, for routine transport of children to and from the home;
- (6) ensure that all children are transferred to a responsible person who is indicated on the child's application for enrollment as specified in Rule .1721(a)(3) of this Section or as authorized by the parent;
- (7) load and unload children from curbside or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards;
- ~~(2)~~(8) ensure that all children regardless of age or location in the vehicle shall be restrained ~~with an~~ by individual seat ~~belts~~ belt or child ~~restraint devices.~~ safety seat appropriate to the child's age or weight in accordance with North Carolina Department of Public Safety requirements located at <https://www.ncdps.gov/Index2.cfm>. Only one person shall occupy each seat belt or child ~~restraint device;~~ safety seat;
- ~~(3)~~(9) be at least ~~18~~ 21 years old, and have a valid driver's license of the type required under the North Carolina Motor Vehicle Law for the vehicle being driven, or comparable license from the state in which the driver resides, and no convictions of Driving While Impaired (DWI), or any other impaired driving offense, within the last three years;
- ~~(4)~~(10) ensure that each child is seated in a manufacturer's designated ~~area;~~ area. No child shall ride in the load carrying area or floor of a vehicle;
- ~~(5)~~(11) ensure that a child shall not occupy the front seat if the vehicle has an operational passenger side airbag;

- (12) have a [pediatric] First Aid kit and fire extinguisher located in the vehicle used to transport children;
[The pediatric First Aid kit and fire extinguisher shall be firmly mounted or secured if kept in the passenger compartment;]
- ~~(6)~~(13) never leave children in a vehicle unattended by an adult;
- ~~(7)~~(14) have ~~emergency and identification~~ identifying information in the vehicle about each child ~~in the vehicle whenever children are being transported;~~ being transported, including the child's name, photograph, emergency contact information, a copy of the emergency medical care information form required by Rule .1721(a)(3) of this Section; and
- ~~(8)~~(15) ~~not use a~~ have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency. The transportation provider shall not use cellular telephones or other functioning two-way communication devices except in the case of an emergency and only when the vehicle is parked in a safe location. location; and
- (16) conduct off-premise activities as follows:
- (a) Before the operator walks children off premises for play or outings, the parent of each child shall give written permission for the child to participate in such activities;
- (b) Parents may provide a written statement giving standing permission which may be valid for up to 12 months for participation in off premise activities that occur on a regular basis; and
- (c) Each time the children are taken off premises, the operator shall take identifying information about each child including the child's name, photograph, emergency contact information, a copy of the emergency medical care information form required by 10A NCAC 09 .1721(a)(3) of this Section.

History Note: Authority G.S. 110-91; G.S. 110-91(13); 143B-168.3; Eff. July 1, 1998; Amended Eff. December 1, 2014; April 1, 2003-2003; Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1724

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given Section .0606, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule.

Please see the technical change requests and questions for Rule .0606 and incorporate them for 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: August 1, 2017

10A NCAC 09 .1724 is readopted with changes as published in 31:20 NCR 1997-1998 as follows:

10A NCAC 09 .1724 SAFE SLEEP PRACTICES

(a) Each operator licensed to care for infants aged 12 months or younger shall ~~develop and adopt~~ 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 with a firm padded surface when sleeping;

(3) specifies ~~whether no~~ pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths or and other objects may be placed in a crib with a sleeping infant aged 12 months or younger; younger, and if so, specifies the number and types of allowable objects;

(4) specifies that children shall not be swaddled;

(4) (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;

(5) (6) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75°F;

(6) (7) specifies the means by which the operator shall visually ~~check~~ check, in person, sleeping infants aged 12 months or younger;

(7) (8) specifies ~~the frequency with which~~ the operator shall visually check sleeping infants aged 12 months or ~~younger; younger~~ at least every 15 minutes;

(8) (9) specifies how the operator shall document compliance with visually checking on sleeping infants aged 12 months or younger, with such documents to be maintained for a minimum of one month; ~~and~~

(9) (10) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;

(10) (11) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, mat, or cot;

(11) (12) specifies that infants aged 12 months or younger are prohibited from sleeping in sitting devices, including but not limited to, car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to appropriate sleep environments at the earliest time possible; and

(12) (13) 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 ~~or a~~ and poster about safe sleep practices in a prominent place in the infant sleeping room or area.

(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) ~~A health care professional's or parent's waiver of the requirement that all infants aged 12 months or younger be placed on their backs for sleeping shall:~~ 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) ~~be~~ the infant's name and birth date;
- (2) be signed and dated by the infant's health care professional or parent; ~~and~~
- (3) [specify] if a wedge is needed, [specify] why it is needed and how it should be used; and
- (4) [specify] the infant's authorized sleep ~~positions;~~ positions.

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

(f) 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, ~~or~~ play ~~pen~~ 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; 2010;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1725

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given other Rules with similar content to this, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? Please incorporate any technical change requests for similar rules.

What is your authority regarding (a)(1) – would this be covered by sanitation standard set by the Commission for Public Health?

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: August 1, 2017

1 **10A NCAC 09 .1725 is adopted with changes as published in 31:20 NCR 1998-1999 as follows:**

2
3 **10A NCAC 09 .1725 SANITATION REQUIREMENTS FOR FAMILY CHILD CARE HOMES**

4 (a) To assure the health of children through proper sanitation, the operator shall:

- 5 (1) collect and submit samples of water from each well used for the children's water supply for
6 bacteriological analysis to the local health department or a laboratory certified to analyze drinking
7 water for public water supplies by the North Carolina Division of Laboratory Services every two
8 years. Results of the analysis shall be on file in the home;
- 9 (2) wash his or her hands prior to caring for children each day;
- 10 (3) ensure that each child's hands are washed upon arrival at the home each day;
- 11 (4) have sanitary toilet, diaper changing and hand washing facilities as follows:
 - 12 (A) diaper changing areas shall be separate from food preparation areas;
 - 13 (B) toileting areas shall have toilet tissue available at all times;
 - 14 (C) all toilet fixtures shall be easily cleanable and in good repair;
 - 15 (D) handwashing areas shall have soap and paper towels or other drying devices available at
16 all times;
 - 17 (E) diapering surfaces shall be smooth, intact, nonabsorbent and easily cleanable; and
 - 18 (F) potty chairs and diapering surfaces shall be cleaned after each use.
- 19 (5) use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet.
20 The operator shall:
 - 21 (A) gather all supplies before placing a child on the diapering surface;
 - 22 (B) wash his or her hands before, as well as after, diapering each child;
 - 23 (C) ensure the child's hands are washed after diapering the child; and
 - 24 (D) place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;
- 25 (6) use sanitary procedures when preparing and serving food. The operator shall:
 - 26 (A) wash his or her hands before and after handling food and feeding the children; and
 - 27 (B) ensure the child's hands are washed before and after the child is fed;
- 28 (7) wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily
29 fluids;
- 30 (8) handwashing procedures shall include:
 - 31 (A) using liquid soap and water;
 - 32 (B) rubbing hands vigorously with soap and water for 15 seconds;
 - 33 (C) washing all surfaces of the hands, to include the backs of hands, palms, wrists, under
34 fingernails and between fingers;
 - 35 (D) rinsing well for 10 seconds;
 - 36 (E) drying hands with a paper towel or other hand drying device; and
 - 37 (F) turning off faucet with a paper towel or other method without recontaminating hands;

- 1 (9) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain
2 a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor
3 the temperature;
4 (10) have a house that is free of rodents;
5 (11) screen all windows and doors used for ventilation; and
6 (12) store garbage in waterproof containers with tight fitting covers.

7 (b) If reusable, cloth diapers are used, place soiled cloth diaper, after disposing of feces in toilet without rinsing, in a
8 tightly closed plastic bag or other equivalent container approved by the Division, stored out of reach of children and
9 sent daily to the child's home to be laundered or to a laundry service.

10 ~~[(e)]~~ (c) The operator shall not force children to use the toilet and the operator shall consider the developmental
11 readiness of each child when toilet training. The operator shall provide assistance to each child to ensure proper
12 hygiene, as needed.

13 ~~[(f)]~~ (d) The operator shall ensure that clean clothes are available in the event that a child's clothes become wet or
14 soiled. The change of clothing may be provided by the operator or by the child's parents.

15
16 *History Note: Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;*
17 *Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1726

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given .0608, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers?

Please see the technical change requests and questions for Rule .0608 and incorporate them for 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: August 1, 2017

10A NCAC 09 .1726 is as published in 31:20 NCR 1999 as follows:

10A NCAC 09 .1726 **PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA**

(a) The operator of a family child care home licensed to care for children up to five years of age shall develop and adopt policies to assist staff in preventing shaken baby syndrome and abusive head trauma. For purposes of this Rule, “staff” includes the operator, additional caregivers, substitute providers, and uncompensated providers. The policy shall include:

- (1) How to recognize, respond to, and report the signs and symptoms of shaken baby syndrome and abusive head trauma. Signs and symptoms include: irritability, difficulty staying awake, difficulty breathing, inability to lift the head, seizures, lack of appetite, vomiting, and bruises;
- (2) Strategies to assist staff in coping with a crying, fussing, or distraught child;
- (3) Strategies to ensure staff members understand how to care for infants;
- (4) Strategies to ensure staff understand the brain development of children up to five years of age;
- (5) A list of prohibited behaviors that staff shall follow in order to care for children in a developmentally appropriate manner. Prohibited behaviors shall include, but not be limited to, shaking a child, tossing a child into the air or into a crib, chair, or care seat, and pushing a child into walls, doors, and furniture; and
- (6) Resources to assist staff and families in preventing shaken baby syndrome and abusive head trauma.

(b) A copy of the policy shall be given and explained to the parents of children up to five years of age on or before the first day the child receives care at the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain the following:

- (1) The child’s name;
- (2) The date the child first attended the home;
- (3) The date the operator’s policy was given and explained to the parent;
- (4) The parent’s name;
- (5) The parent’s signature; and
- (6) The date the parent signed the acknowledgment.

The operator shall obtain the parent’s signature and the acknowledgement shall be kept in the child’s file.

(c) If an operator changes the policy at any time, the operator shall give written notice of the change to the child’s parent 14 days prior to the implementation of the new policy and the parent shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. The center shall obtain the parent’s signature and this statement shall be kept in the child’s file.

(d) The operator shall review the policy with staff prior to the individual providing care to children. The acknowledgement of this review shall contain the following:

- (1) The individual’s name;
- (2) The date the operator’s policy was given and explained to the individual;

1 (3) The individual's signature; and

2 (4) The date the individual signed the acknowledgment.

3 The operator shall retain the acknowledgement in the staff member's file.

4 (e) If an operator changes the policy at any time, the operator shall review the revised policy with staff 14 days prior
5 to the implementation of the new policy. The individual shall sign a statement that attests that a copy of the new policy
6 was given to and discussed with him or her. This statement shall be kept in the staff member's file.

7
8 History Note: Authority G.S. 143B-168.3;

9 Temporary Adoption Eff. September 23, 2016;

10 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1727

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given Rule .1804, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule.

In (b), is the requirement that parents sign, or is the directive to the operator? I believe that the directive is actually to the operator and should read something like "the operator shall obtain a statement signed by the parent that attests..."

In (b), line 6, please change "which" to "that"

In (c) and (d) please change "must" to "shall"

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: August 1, 2017

1 **10A NCAC 09 .1727 is adopted as published in 31:20 NCR 1999 as follows:**

2
3 **10A NCAC 09 .1727 DISCIPLINE POLICY**

4 (a) The operator shall provide a written copy of and explain the operator's discipline practices to each child's parent
5 at the time of enrollment.

6 (b) Each parent must sign and date a statement which attests that a copy of the written discipline policy was given to,
7 and discussed with him or her.

8 (c) That statement must include the following:

9 (1) the child's name;

10 (2) the date of enrollment; and

11 (3) if different, the date the parent signs the statement.

12 The signed, dated statement must be in the child's record and must remain on file as long as the child is enrolled.

13 (d) If an operator changes the discipline policy at any time, the operator must give written notice of such a change to
14 the child's parent, guardian, or full-time custodian 14 days prior to the implementation of the new policy and the
15 parent, guardian or full-time custodian must sign a statement that attests that a copy of the new policy was given to
16 and discussed with him or her. This statement shall be kept in the child's file.

17
18 History Note: Authority G.S. 110-85; 110-91(8), (11); 143B-168.3;

19 Eff. September 1, 2017.

10A NCAC 09 .1728 is adopted as published in 31:20 NCR 1999 as follows:

10A NCAC 09 .1728 OVERNIGHT CARE

(a) A safe and comfortable bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick and a fitted sheet shall be provided for each child who remains in the home after midnight. The top of bunk beds shall be used by school-age children only.

(b) A supply of clean linen 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.

(c) An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep, provided:

(1) the operator and the children in care, excluding the operator's own children, are on ground level;

(2) the operator can hear and respond to the children; and

(3) a battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

History Note: Authority G.S. 110-85; 110-88;110-91(6);

Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1729

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given rules with similar content why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule. Please incorporate any technical change requests for similar rules.

In (a)(8), must this training be completed even if there are no infants in care?

In (a)(10), what does "reviewed appropriate requirements" mean? Please delete or define "appropriate."

In (a), line 19, what is "required information"?

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: August 1, 2017

1 **10A NCAC 09 .1729 is adopted with changes in 31:20 NCR 2000 as follows:**

2
3 **10A NCAC 09 .1729 ADDITIONAL CAREGIVER AND SUBSTITUTE PROVIDER QUALIFICATIONS**

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

- 5 (1) be at least 21 years old;
- 6 (2) have a high school diploma or GED;
- 7 (3) have completed a [~~pediatric~~] First Aid and [~~pediatric~~] cardiopulmonary resuscitation (CPR) course
- 8 as described in Rule .1708(c)(3) and (4) of this Section;
- 9 (4) have completed a health questionnaire;
- 10 (5) have proof of negative results of a tuberculosis test completed within 12 months prior to the first
- 11 day of providing care;
- 12 (6) have submitted criminal records check forms as required in Rule .2703 of this Chapter;
- 13 (7) have documentation of annual on-going training as described in Rule .1705(d) of this Section after
- 14 the first year of employment;
- 15 (8) have completed ITS-SIDS training;
- 16 (9) have completed Recognizing and Responding to Suspicions of Child Maltreatment training; and
- 17 (10) have documentation that the operator reviewed appropriate requirements found in this Chapter,
- 18 including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7.

19 While the individual provides care at a family child care home, copies of required information shall be on file in the

20 home available for review by the Division.

21 (b) An individual who provides care for less than five hours in a week during planned absences of the operator shall

22 be literate and meet all requirements listed in Paragraph (a) of this Rule, except the requirements for annual training

23 and a high school diploma or GED.

24 (c) The operator shall conduct 16 hours of orientation with any caregivers, including substitute providers, and

25 volunteers who are providing care prior to the individual caring for children. The orientation shall include an overview

26 of the following topics, specifically focusing on the operation of the facility:

- 27 (1) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S.
- 28 110-105.4 and G.S. 7B-301;
- 29 (2) review of the home's operational policies, including the written plan of care, safe sleep policy,
- 30 transportation policy, identification of building and premises safety issues, the emergency medical
- 31 care plan and the Emergency Preparedness and Response Plan;
- 32 (3) adequate supervision of children in accordance with Rule .1711(a) of this Section;
- 33 (4) information regarding prevention of shaken baby syndrome, abusive head trauma, and child
- 34 maltreatment;
- 35 (5) prevention and control of infectious diseases, including immunization;
- 36 (6) firsthand observation of the home's daily operations;
- 37 (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) 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;
- (13) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations; and
- (14) prevention of and response to emergencies due to food and allergic reactions.

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 available for review by the Division.

(d) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be at least 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. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1730

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Given Section .1403, why is this Rule necessary? Is it because you all deem it necessary to make this Rule specific to home providers? If so, please make that clear within the body of the Rule. Please incorporate any technical change requests for similar rules.

In (b)(4), is your regulated public familiar with what a "portable wading pool" is? Is this a baby pool? If not, are baby pools included in water play activities? I just want to be sure that I understand what is being covered by this Rule.

In (d), given that "adequate supervision" is defined elsewhere, do you mean "for purposes of this Rule, adequate supervision means..."?

In (f), are parents required to provide written permission or are centers required to obtain written permission prior to a child participating in aquatic activities?

In (g) please delete "at least"

In (j) and (k), please change "are permitted" to "shall be permitted"

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: August 1, 2017

10A NCAC 09 .1730 is adopted with changes as published in 31:20 NCR 2000-2001 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.

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

~~[(f)]~~ (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 specific field trip and transportation policies; and
- (5) that children shall be directed to exit the water during an emergency.

~~[(g)]~~ (f) Parents must provide written permission 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.

~~[(h)]~~ (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.

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

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

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

12 ~~[(4)]~~ (j) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation are
13 permitted. ~~[permitted around bodies of water. However, if children will be in the water for any part of the activity,~~
14 ~~Paragraphs (a) through (g) of this Rule shall apply.]~~

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

18
19 *History Note:* Authority G.S. 110-88; 110-91(1), (3), (6); 143B-168.3;
20 Temporary Adoption Eff. September 23, 2016;
21 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1801

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a)(1), please delete or define "immediate"

In (a), please delete or define "brief periods of time"

In (a), please consider either providing the records requirements or cross-referencing .2318.

In (b), please change "complies" to "shall comply"

In (b), please delete "at least"

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: August 1, 2017

1 10A NCAC 09 .1801 is adopted as published in 31:20 NCR 2001 as follows:

2
3 **SECTION .1800 - ~~DISCIPLINE~~ STAFF/CHILD INTERACTIONS AND BEHAVIOR MANAGEMENT**

4
5 **10A NCAC 09 .1801 SUPERVISION**

6 (a) Children shall be adequately supervised at all times. Adequate supervision shall mean that:

- 7 (1) staff must be positioned in the indoor and outdoor environment to maximize their ability to hear or
8 see the children at all times and render immediate assistance;
9 (2) staff must interact with the children while moving about the indoor or outdoor area;
10 (3) staff must know where each child is located and be aware of the children's activities at all times;
11 (4) staff must provide supervision appropriate to the individual age, needs, and capabilities of each
12 child; and
13 (5) staff must be able to see and hear children aged birth to five years old while the children are eating.

14 All of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is
15 impossible for brief periods of time. Documentation of emergencies shall be maintained and available for review by
16 Division representatives upon request.

17 (b) For groups of children aged two years or older, the staff/child ratio during nap time complies with the requirements
18 of this Chapter if at least one person remains in the room, all children are visible to that person, and the total number
19 of required staff are on the premises and within calling distance of the rooms occupied by children.

20
21 History Note: Authority G.S. 110-85; 110-91(7); 143B-168.3;
22 Eff. September 1, 2017.

1 **10A NCAC 09 .1802 (recodified from .0501) is readopted as published in 31:20 NCR 2001-2001 as follows:**

2
3 **10A NCAC 09 ~~.0501~~ .1802 STAFF/CHILD INTERACTIONS**

4 Staff shall ~~relate to~~ interact with children in positive ways by helping them feel welcome and comfortable, treating
5 them with respect, listening to what they say, responding to them with acceptance and ~~appreciation~~ appreciation, and
6 participating in ~~many~~ activities with the children. For example, staff shall:

- 7 (1) make ~~Make~~ eye contact when speaking to a child;
- 8 (2) engage ~~Engage~~ children in conversation to share experiences, ~~ideas~~ ideas, and opinions;
- 9 (3) help ~~Help~~ children develop problem-solving skills; and
- 10 (4) facilitate ~~Facilitate~~ learning by providing positive reinforcement, encouraging ~~efforts~~ efforts, and
11 recognizing accomplishments.

12
13 *History Note: Authority G.S. 110-85; 110-91(8),(11); 143B-168.3;*

14 *Eff. July 1, ~~2010~~; 2010;*

15 *Prior to readoption of September 1, 2017 this language was located in Rule .0501;*

16 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1803

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please change "applies" to "shall apply"

In (b), how is the appropriateness of discipline to be determined?

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: August 1, 2017

10A NCAC 09 .1803 (recodified from .1801) is readopted as published in 31:21 NCR 2002 as follows:

10A NCAC 09 ~~.1801~~ .1803 PROHIBITED DISCIPLINE POLICY

~~(a) The person who conducts the enrollment conference shall provide a written copy of and explain the center's discipline practices to each child's parents, legal guardian, or full time custodian at the time of enrollment. Each parents, legal guardian, or full time custodian must sign a statement which attests that a copy of the center's written discipline policies were given to and discussed with him or her. That statement must bear the child's name, the date of enrollment, and if different, the date the parent, legal guardian, or full time custodian signs the statement. The signed, dated statement must be in the child's record and must remain on file in the center as long as the child is enrolled. If a center changes its discipline policy at any time, it must give written notice of such a change to the child's parent, guardian, or full time custodian 30 days prior to the implementation of the new policy and the parent, guardian, or full time custodian must sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the child's file.~~

~~(b)~~(a) No child shall be subjected to any form of corporal punishment by the owner, operator, director, or staff of any child care facility. For purposes of this Rule, "staff" shall mean any regular or substitute caregiver, any volunteer, and any auxiliary personnel, ~~such as including~~ cooks, secretaries, janitors, maids, ~~or vehicle drivers, etc.:~~ drivers. The following applies at all child care facilities:

- ~~(1) No~~ (1) No child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or ~~spanking.~~ spanking;
- ~~(2) No~~ (2) No child shall ~~ever~~ be placed in a locked room, closet, or ~~box,~~ box or be left alone in a room separated from ~~staff.~~ staff;
- ~~(3) No~~ (3) No discipline shall ~~ever~~ be delegated to another ~~child.~~ child;
- ~~(4) Discipline shall in no way be related to food, rest or toileting; no food shall be withheld as punishment or given as a means of reward;~~
~~(A) — No food shall to be withheld, or given, as a means of discipline.~~
~~(B)~~(5) ~~No~~ No child shall ~~ever~~ be disciplined for ~~lapses in toilet training, toileting~~ accidents;
- ~~(C)~~(6) ~~No~~ No child shall ~~ever~~ be disciplined for not sleeping during rest ~~period.~~ period;
- ~~(5)~~(7) ~~No~~ No child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning ~~bathrooms~~ bathrooms, ~~or~~ floors, or emptying diaper ~~pails.~~ pails;
- (8) physical activity, such as running laps and doing push-ups, shall not be withheld as punishment or required as punishment;
- (9) no child shall be yelled at, shamed, humiliated, frightened, threatened, or bullied; and
- (10) no child shall be restrained as a form of discipline unless the child's safety or the safety of others is at risk. For purposes of this Rule, "restraining" shall mean that a caregiver physically holds a child in a manner that restricts the child's movement, for a minimum amount of time necessary to ensure a safe environment. Notwithstanding any other provision of this Rule, no child shall be restrained

1 through the use of heavy objects, including a caregiver's body, or any device such as straps, blankets,
2 car seats, or cribs.

3 ~~(6)(b)~~ Discipline practices shall be age and developmentally appropriate.
4

5 *History Note: Authority G.S. 110-85; 110-91(10); 143B-168.3;*

6 *Eff. January 1, 1986;*

7 *Amended Eff. April 1, 2001; November 1, 1989;*

8 *Prior to readoption of September 1, 2017 this language was located in Rule .0801;*

9 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1804

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please change (a)(1) to (b) as there is no lead in contained in (a) for (a)(1) and it appears as though (a)(1) would be appropriate for its own Paragraph. Please then move (a)(2) to the end of (b) and change (a)(2)(A) through (C) to (b)(1) through (3).

In (a)(1), doesn't the definition of "parent" include legal guardian and full-time custodian in .0102?

In (a)(1), please delete "shall sign" after "full-time custodian."

In (b), please change "must" to "shall."

In (b), please delete "at least"

In (b), are all discipline policy statements required to be kept on file or is the original statement to be replaced with any superseding statement? Please clarify.

Please ensure consistency with Rule .2318.

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: August 1, 2017

1 **10A NCAC 09 .1804 is adopted as published in 31:20 NCR 2002 as follows:**

2
3 **10A NCAC 09 .1804 DISCIPLINE POLICY**

4 (a) The person who conducts the enrollment conference shall provide a written copy of and explain the center's
5 discipline practices to each child's parents, legal guardian, or full-time custodian at the time of enrollment.

6 (1) The child care center shall obtain from each parent, legal guardian, or full-time custodian shall
7 sign a statement that attests that a copy of the center's written discipline policies was given to and
8 discussed with him or her.

9 (2) That statement must include the following:

10 (A) the child's name;

11 (B) the date of enrollment; and

12 (C) if different, from the enrollment date the date the parent, legal guardian, or full-time
13 custodian signed the statement.

14 (b) The signed, dated statement must be in the child's record and shall remain on file in the center as long as the child
15 is enrolled. If a center changes its discipline policy at any time, it must give written notice of such a change to the
16 child's parent, guardian, or full-time custodian at least 14 days prior to the implementation of the new policy. The
17 parent, guardian, or full-time custodian shall sign a statement that attests that a copy of the new policy was given to
18 and discussed with him or her. This statement shall be kept in the child's file as long as the child is enrolled.

19
20 *History Note:* Authority G.S. 110-85; 110-91(8),(11); 143B-168.3;
21 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1901

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please repeal this Rule in accordance with 26 NCAC 02C .0108(6)(a)(iii)

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: August 1, 2017

1 **10A NCAC 09 .1901 is repealed through readoption as published in 31:20 NCR 2002-2003 follows:**

2
3 **SECTION .1900 - SPECIAL PROCEDURES CONCERNING ABUSE/NEGLECT IN CHILD CARE**

4
5 **10A NCAC 09 .1901 NOTIFICATION TO COUNTY DEPARTMENTS OF SOCIAL SERVICES**

6 ~~Any allegation of abuse or neglect received by the Division shall be referred to the county department of social services~~
7 ~~within 24 hours of receipt of the complaint or on the next working day. Even if the county department of social~~
8 ~~services determines the allegation does not warrant investigation according to G.S. 7B-302, the complaint shall be~~
9 ~~investigated by the Division.~~

10
11 *History Note: Authority G.S. 110-88(5); 143B-168.3;*

12 *Eff. January 1, 1986;*

13 *Amended Eff. April 1, 2001; November 1, ~~1989~~ 1989;*

14 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1903

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please repeal this Rule in accordance with 26 NCAC 02C .0108(6)(a)(iii)

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: August 1, 2017

1 10A NCAC 09 .1903 is repealed through readoption as published in 31:20 NCR 2003 as follows:

2
3 10A NCAC 09 .1903 INVESTIGATION PROCEDURES

4 ~~(a) The investigation shall include interviews with the operator, staff, parents, or any other adult who has information~~
5 ~~regarding the allegation. Reports from law enforcement officers and other professionals, as well as photographs and~~
6 ~~other investigative tools, may be used as appropriate.~~

7 ~~(b) The Division's representative may interview the child or children about the allegations of abuse or neglect only in~~
8 ~~those cases where the county department of social services does not conduct an investigation.~~

9 ~~(c) The Division shall share information related to investigations with departments of social services, as~~
10 ~~appropriate. However, any information subject to confidentiality laws or regulations shall be handled so as to preserve~~
11 ~~the confidential nature of the material.~~

12 ~~(d) At any time during the investigation, the representative of the Division may conduct an evaluation for compliance~~
13 ~~with all applicable requirements.~~

14 ~~(e) The Division shall make a written report to the operator and the county department of social services when the~~
15 ~~investigation is completed. The Division may also report to law enforcement officers and other professionals that~~
16 ~~were involved in the investigation. This report shall explain the Division's findings and what further action will be~~
17 ~~taken, if any.~~

18 ~~(f) The final written report of findings and further action shall be made within 90 days of receipt of the allegation. If~~
19 ~~the investigation is not complete at that time, an interim report explaining the status of the investigation shall be made~~
20 ~~to the operator 90 days after receipt of the allegation and every 30 days thereafter until the final report is made. The~~
21 ~~county department of social services shall be sent a copy of each interim report.~~

22
23 *History Note: Authority G.S. 7B-301; 110-88(5); 110-105; 143B-168.3;*

24 *Eff. January 1, 1986;*

25 *Amended Eff. April 1, 2001; October 1, 1991; July 1, 1988; January 1, 1987; 1987;*

26 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2101

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please consider putting the requirements of the letter in list form.

In (a), is "if known" applicable? Wouldn't the prospective operator know this information?

In (a), line 9, please add a comma after "date"

In (a), line 9, what is "required criminal history checks"? Is there a cross-reference available?

In (a), line 12, what are the "applicable requirements and procedures"? Are the applicable requirements those found within this Rule?

In (b), what is to be required in the pre-licensing form?

In (d), please add a comma after "a fire inspection"

In (e), how is compliance determined? Is it based upon the documents submitted and the center visits?

In (e), please change "is" to "shall be"

In (e), please verify the cross-references. If I recall correctly, .0505 is being repealed and .0506 and .0507 are reserved for future codification.

In (e), page 2, line 1, please delete "at least"

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .2101 has been readopted with changes as published in 31:20 NCR 2003 as follows:

SECTION .2100 - RELIGIOUS-SPONSORED CHILD CARE CENTER REQUIREMENTS

10A NCAC 09 .2101 CENTERS OPERATING UNDER G.S. 110-106

(a) At least 30 days prior to the first day of operation of a new religious-sponsored child care center, the prospective operator shall send a "Letter of Intent to Operate" to the Division. That letter shall include the name, address, and telephone number of the operator and the center, if known; the proposed number and age range of children to be served; ~~and the center's scheduled opening date.~~ date and required criminal history records check documentation for the prospective operator and all known staff members. A representative of the Division shall contact the prospective operator no later than seven calendar days after the Letter of Intent is received to advise the prospective operator of the applicable requirements and procedures.

(b) A prospective operator who has not previously operated a religious-sponsored child care center in North Carolina shall attend a pre-licensing workshop provided by the Division before the center's opening date. Prospective operators shall download, complete, and submit the pre-licensing registration form to the Division. The Division provides regularly scheduled pre-licensing workshops for potential operators. A schedule of these workshops may be found online at http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf. The pre-licensing form can be found online at http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf.

(c) The Division shall conduct an announced pre-licensing visit prior to the opening of the center, an unannounced visit within 30 days after the facility opens, and unannounced visits annually thereafter in order to ensure compliance with applicable requirements in G.S. 110, Article 7 and this Section of these Rules.

(d) Within 30 days of opening, the prospective operator shall submit reports indicating that the facility meets the minimum standards for facilities as specified in G.S. 110-91 regarding local ordinances, including a building inspection, a fire inspection and a sanitation inspection.

(e) The Division shall send a Notice of Compliance letter to the prospective operator when compliance with minimum standards for facilities as specified in G.S. 110, Article 7 has been determined. The Notice of Compliance letter is issued instead of a star rated license. The Notice of Compliance is not required to be posted at the child care facility.

~~(b)(f)~~ Religious-sponsored child care centers shall comply with all child care center requirements in this Chapter except as follows: for the rules regarding age appropriate activities in Rules .0505 through .0511(a) and .2508; and staff qualifications and training requirements in Paragraphs (d) through (f) of Rule .0703, Rules .0704, .0707 through .0711, and Paragraphs (a) through (d) of Rule .0714. For staff working with school aged children only, 10A NCAC 09 .2510 does not apply.

<u>Age Appropriate Activities</u>	<u>Rules .0505 through .0510 and .2508</u>
<u>Staff Qualifications and Training Requirements</u>	<u>Rules .0703(d) [and] through (f), .0704, .0714(a) through (d) and .1101, [1102], 1102(a), (b), (e), and (g), and .1103 through .1106.</u>

<u>Staff Qualifications if working with school aged children only</u>	<u>Rule .2510</u>
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Compliance shall be documented at least annually using the same forms and in the same manner as for all other centers.

~~(e)~~(g) The Division shall notify the prospective operator in writing as to whether the ~~center~~ facility complies or does not comply with the requirements.

History Note: Authority G.S. 110-85; 110-88; 110-106; 143B-168.3.

Eff. January 1, 1986;

Amended Eff. August 1, 2011; April 1, 2001; April 1, 1992; January 1, 1991; November 1, 1989;

July 1, ~~1988~~ 1988;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2102

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a)(2), please delete or define "clearly"

In (b), please add a comma after "what type of punishment is used"

In (e), please provide a cross-reference to

Please add 110-106 to your History Note.

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: August 1, 2017

1 **10A NCAC 09 .2102 is adopted as published in 31:20 NCR 2003-2004 as follows:**

2
3 **10A NCAC 09 .2102 USE OF CORPORAL PUNISHMENT**

4 (a) Corporal punishment may be used in religious-sponsored child care facilities in accordance with G.S. 110-91(10),
5 if:

6 (1) the religious-sponsored child care facility files a notice with the Division stating that corporal
7 punishment is part of the religious training of its program; and

8 (2) the religious-sponsored child care facility clearly states in its written policy of discipline that
9 corporal punishment is part of the religious training of its program.

10 (b) The discipline policy shall state when corporal punishment is used, what type of punishment is used and who will
11 be administering the punishment.

12 (c) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall
13 provide parents a copy of the policy for their records.

14 (d) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change
15 becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the
16 effective date of the revised policy.

17 (e) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint
18 alleging inappropriate discipline of a child or child maltreatment.

19
20 *History Note: Authority G.S. 110-91(10);*

21 *Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2214

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please consider changing the format of this Rule – (a) says that the “following penalties” may be assessed, but the penalties are not contained in (a). You may want to consider changing this Rule into Items rather than Paragraphs. If you did this, you would have an introductory Paragraph that is not numbered, and you would begin your penalties with (1).

Penalties may be assessed against family child care homes as defined in G.S. 110-86(3)(b) as follows:

- (1) A civil penalty in an amount of up to one thousand...*
 - a. When the Division has determined that child maltreatment occurred...*
- (2) A civil penalty in an amount up to...*
 - a. Non-compliance with the applicable Statutes and Rules regarding:*
 - i. Licensing capacity*
 - ii. Supervision of children*

G.S. 110-103.1 requires that the Commission establish a schedule of civil penalties. Is that the intent of this Rule?

In (b), how will the Division determine that child maltreatment has occurred? I assume that this is addressed elsewhere in Rule or Statute?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (b)(2), what is meant by “willful, repeated pattern”? What is meant by “extended period of time”? Is this language necessary? Wouldn’t this come into play when evaluating the amount of the penalty under 110-103(b) in looking at consistency of evaluations and/or probability of reoccurrence pursuant to 110-88(6a)?

Practically speaking, how do (b)(2) and (c) and (d) go together? Are (b) and (c) intended to be first violations, but then after that, something can be elevated to a \$1000 penalty under (b)(2)?

In (c), (d), and (e), by “standards”, do you mean the applicable Rules and statutes? I realize that “standards” is a statutory term, but I want to be sure that this term is clear.

In (b), (c), (d), and (e),, how will it be determined whether and a penalty will be imposed and what the amount of the penalty will be? Is it based upon the severity of the incident, the probability of reoccurrence, the extent of harm, and the consistency of violations? Please provide some additional information.

In (d)(1)(G) and (d)(1)(H), do you mean “posting of current license” and “maintenance of accurate records”? I’m not sure that you need “failure” given the lead in language.

In (d)(3), please delete or define “authorized representative.” Please capitalize “department”

In (e), what are considered to be “other standards”? Also, wouldn’t all of these penalties be assessed according to the “effect or potential effect of the violation on the safety and well-being of a child”? This goes to my note above as to how these penalties will be determined.

In the History Note, should 105.6 be included for authority regarding child maltreatment in (b)?

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

10A NCAC 09 .2214 has been adopted with changes as published in 31:20 NCR 2004 as follows:

10A NCAC 09 .2214 SCHEDULE OF CIVIL PENALTIES FOR FAMILY CHILD CARE HOMES

(a) The following penalties may be assessed against family child care homes as defined in G.S. ~~[440-86(3)]~~ 110-86(3) for each violation documented.

(b) A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed for the following violations:

(1) When the Division has determined that child maltreatment occurred while a child was in care at the family child care home; or

(2) Willful, repeated pattern of non-compliance with any requirement over extended period of time.

(c) A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:

(1) Non-compliance with the standards for:

(A) Licensed capacity;

(B) Adequate supervision of children;

(C) Administration of medication to children;

(D) Emergency medical care plan;

(E) Discipline of children;

(F) Transportation of children; or

(G) Use of swimming pools and other swim areas;

(2) Disapproved fire safety, building or sanitation inspection reports;

(3) Relocation of the family child care home without prior notification to the Division;

(d) A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:

(1) Non-compliance with the standards for:

(A) Staff health requirements;

(B) Staff qualifications;

(C) Staff training;

(C) Children's health requirements;

(D) Proper nutrition;

(E) Sanitation and personal hygiene practices;

(F) Age-appropriate activities;

(G) Failure to post current license; ~~[or]~~

(H) Failure to maintain accurate records; or

(I) Safe environment;

(2) Failure to comply with a corrective action plan; and

(3) Denial of entry to an authorized representative of the department or Division.

(e) Violation of other standards may result in the assessment of a penalty according to the effect or potential effect of the violation on the safety and well-being of the child.

1 *History Note: Authority G.S. 110-85; 110-86(3); 110-88(1),(5),(6a); 110-91; 110-98;*
2 *110-103.1; 110-105; 110-105.2; 110-106; 143B-168.3; 150B-23;*
3 *Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2215

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a)(8), please add a semi-colon in between "110-105.5" and "or"

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: August 1, 2017

1 **10A NCAC 09 .2215 is adopted as published in 31:20 NCR 2004-2005 as follows:**

2
3 **10A NCAC 09 .2215 DENIAL OF A LICENSE**

4 (a) The Secretary may deny an application for a child care facility license or the issuance of any permit to operate a
5 child care facility under the following circumstances:

- 6 (1) if the applicant owned or operated a licensed child care facility that was issued a denial, revocation,
7 or summary suspension by the Division;
- 8 (2) if the applicant owned or operated a licensed child care facility against which the Division initiated
9 denial, revocation, or summary suspension proceedings and the applicant voluntarily relinquished
10 the license prior to the issuance of a final action;
- 11 (3) during the pendency of an appeal of a denial, revocation, or summary suspension of any other
12 licensed child care facility license owned or operated by the applicant;
- 13 (4) if the applicant owned or operated a facility that received a sanction for fraudulent misrepresentation
14 pursuant to 10A NCAC 10 .0308 of the Subsidized Child Care Rules;
- 15 (5) if the applicant owned or operated a facility that was issued a Notice of Termination and
16 Disqualification by the Child and Adult Care Food Program (CACFP);
- 17 (6) if the Division determines that the applicant has a relationship with an operator or former operator
18 who owned or operated a regulated child care facility as described in Subparagraphs (1) through (5)
19 of this Paragraph. As used in this Rule, an applicant has a relationship with a former operator if the
20 former owner or operator would be involved with the applicant's child care facility in one or more
21 of the following ways:
- 22 (A) would participate in the administration or operation of the facility;
- 23 (B) has a financial interest in the operation of the facility, as evidenced by, among other things,
24 a familial relationship with the former owner or operator, employment at the new facility,
25 and ownership of the building or property where the facility is located; or entering into a
26 lease for the building;
- 27 (C) provides care to children at the facility, even as a volunteer;
- 28 (D) resides in the facility;
- 29 (E) has an ownership interest in the facility as defined in 0A NCAC 09 .0102(33); or
- 30 (F) would serve on the facility's board of directors, be a partner of the corporation, or otherwise
31 have responsibility for the administration of the business;
- 32 (7) based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110,
33 Article 7, 10A NCAC 10, or this Chapter;
- 34 (8) based on the operator's non-compliance with the requirements of G.S. 110, Article 7, 10A NCAC
35 10, or this Chapter, during a temporary licensure period;
- 36 (9) if abuse or neglect or child maltreatment has been substantiated against the applicant pursuant to
37 G.S. 7B-101 or GS. 110-105.5 or

1 (10) if the applicant is a disqualified child care provider or has a disqualified household member residing
2 in the child care facility pursuant to G.S. 110-90.2.

3 (b) In determining whether denial of the application for a license is warranted pursuant to Paragraph (a) of this Rule,
4 the Division shall consider:

5 (1) any documentation provided by the applicant that describes the steps the applicant will take to
6 prevent reoccurrence of noncompliance with the requirements of G.S. 110, Article 7, 10A NCAC
7 10, or this Chapter;

8 (2) training certificates or original transcripts for any coursework from a nationally recognized
9 regionally accredited institution of higher learning related to providing quality child care, and that
10 was taken subsequent to any prior administrative action against a license previously held by the
11 applicant. "Nationally recognized" means that every state in this nation acknowledges the validity
12 of the coursework taken at higher education institutions that meet the requirements of one of the
13 accrediting bodies;

14 (3) proof of employment in a licensed child care facility and references from the administrator or
15 licensee of the child care facility regarding work performance;

16 (4) documentation of collaboration or mentorship with a licensed child care provider to obtain
17 additional knowledge and experience related to operation of a child care facility; or

18 (5) documentation explaining relationships with persons meeting the criteria listed in Subparagraph
19 (a)(6) of this Rule.

20 (c) Operators who held a child care facility license or permit that was denied, revoked, subject to a cease
21 operation order, or summarily suspended within the past five years shall be ineligible to apply for a new
22 child care license.

23
24 History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91; 110-92; 110-93; 110-99;
25 Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2318

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please show changes to the Rule Name.

In (2), please delete or define "commonly used."

In (3), please delete "at least"

In (5), please add a comma after "sanitation" and "and pool"

In (6), since all of the records contained in this Item require that the record be maintained in the child's file while they are enrolled and for 1 year after the child is no longer enrolled, why is this separated out in the chart? Would it be more clear to simply say something like "The child care center shall retain the following records in each child's file for as long as the child is enrolled and for one year after the child is no longer enrolled:

(A)child medical report as required by Rule .0302...

I will certainly defer to you as to what your regulated public will best understand, but the way that it is currently set up makes it appear as though there are different requirements for each record.

Overall, there appears to be a contradiction between what the cross-referenced Rules require and this chart. For example, Rule .1804(b) only requires that the discipline practice information be maintained for as long as the child is enrolled, with no mention of requiring the information to be kept for 1 year after the child is no longer enrolled. This is an issue elsewhere throughout this Rule. Please ensure that the requirements are consistent.

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

Also, please verify that all cross-references are correct. For example, for the documentation of emergency situations, .1801(a)(6) does not exist.

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: August 1, 2017

10A NCAC 09 .2318 is readopted with changes as published in 31:20 NCR 2005-2009 as follows:

10A NCAC 09 .2318 CARE CENTER RECORD RETENTION

All records required in this Chapter shall be maintained for review by representatives of the Division as specified in G.S. 110-91(9), 10A NCAC 09 .0304(g), and as follows:

- (1) The records shall be available at the center during the hours of operation listed on the child care license.
- (2) 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 commonly used graphic format.
- (3) Records regarding administration of medications required by Rules .0302(f)(7) and .0803(13) of this Chapter shall be maintained during the time period the medication is being administered and for at least six months after the medication is administered.
- (4) All building inspections as referenced in G.S. 110-91, and in Rule .0302 of this Chapter shall remain on file at the center for as long as the license remains valid.
- (5) All fire, sanitation and pool inspections as referenced in G.S. 110-91, and Rules .0302 and .1403 of this Chapter shall remain on file at the center for a minimum of three years.
- (6) Each child care center shall retain records for children as follows:

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

<u>Type of Child Record</u>	<u>In each child's file, for as long as the child is enrolled</u>	<u>For 1 year after the child is no longer enrolled</u>
<u>Notice of Amendment to Safe Sleep Policy</u> <u>Rule .0606(d)</u>	<u>X</u>	<u>X</u>
<u>Safe Sleep Waiver</u> <u>Rule .0606(e)</u>	<u>X</u>	<u>X</u>
<u>Child Medical Action Plan</u> <u>Rule .0801(a)</u>	<u>X</u>	<u>X</u>
<u>Incident Report</u> <u>Rule .0802(e)</u>	<u>X</u>	<u>X</u>
<u>Parental Permission for Administration of Medication</u> <u>Rules .0803(3), (4), (6) through (9) and (11)</u>	<u>X</u>	<u>X</u>
<u>Supplemental Food "Opt Out" Statement</u> <u>Rule .0901(d)</u>	<u>X</u>	<u>X</u>
<u>Parental Permission for Transportation</u> <u>Rules .1003(i) and (j),</u> <u>.1005(b)(3) and (4), and .2509</u>	<u>X</u>	<u>X</u>
<u>Parental Permission for Aquatic Activities</u> <u>Rule .1403(i)</u>	<u>X</u>	<u>X</u>
<u>Discipline Practices</u> <u>Rule .1804(a)</u>	<u>X</u>	<u>X</u>
<u>Notice of Change to Discipline Practices</u> <u>Rule .1804(b)</u>	<u>X</u>	<u>X</u>

1
2
3

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

<u>Type of Personnel Record</u>	<u>For at least 1 year after employee is no longer employed</u>	<u>For 1 Year After Record Created</u>	<u>Until the record is superseded by a new statement</u>	<u>In each personnel file or designated emergency preparedness file</u>
<u>Application for Employment</u> <u>Rule .0302(f)(1)</u>	<u>X</u>			
<u>Staff Medical Statement</u> <u>Rules .0302(f)(1) and .0701(a)</u>	<u>X</u>			
<u>Health Questionnaire</u> <u>Rules .0302(f)(1) and .0701(a)</u>	<u>X</u>			
<u>Proof of Tuberculosis Test</u> <u>Rules .0302(d)(1) and .0701(a)</u>	<u>X</u>			
<u>Staff Emergency Medical Care Information</u> <u>Rules .0302(d)(1) and .0701(a)</u>	<u>X</u>			
<u>Evaluation of Emotional and Physical Fitness (as applicable)</u> <u>Rules .0302(d)(1) and .0701(b)</u>	<u>X</u>			
<u>Verification of Age</u>	<u>X</u>			

<u>Type of Personnel Record</u>	<u>For at least 1 year after employee is no longer employed</u>	<u>For 1 Year After Record Created</u>	<u>Until the record is superseded by a new statement</u>	<u>In each personnel file or designated emergency preparedness file</u>
<u>Rules .0302(d)(1), .0701, .0703, and .0704</u>				
<u>Criminal Record Check Information</u> <u>Rules .0302(d)(1) and .0703(b)</u>	<u>X</u>			
<u>Education and Equivalency Forms Rules .0302(d)(1), .0703, .0704 and .2510</u>	<u>X</u>			
<u>Record of In-Service Training</u> <u>Rules .0302(d)(1) and .0709</u>	<u>X</u>			
<u>Documentation of Staff Orientation</u> <u>Rules .0302(d)(1), .0707(a) and (b)</u>	<u>X</u>			
<u>Documentation of Emergency Preparedness and Response in Child Care Training</u> <u>Rule .0607(b)</u>				<u>X</u>
<u>Documentation of Review of Emergency Preparedness and Response Plan</u> <u>Rules .0607(e), (f) and (g)</u>				<u>X</u>

<u>Type of Personnel Record</u>	<u>For at least 1 year after employee is no longer employed</u>	<u>For 1 Year After Record Created</u>	<u>Until the record is superseded by a new statement</u>	<u>In each personnel file or designated emergency preparedness file</u>
Documentation of <u>[pediatric]</u> First Aid training if applicable Rule <u>.1102(b)</u> <u>[.0705(b)]</u>	<u>X</u>			
Documentation of CPR training if applicable Rule <u>.1102(d)</u> <u>[.0705(d)]</u>	<u>X</u>			
Documentation of Playground Safety Training if applicable Rule <u>.1102(e)</u> <u>[.0705(e)]</u>	<u>X</u>			
Documentation of ITS-SIDS Safe Sleep Training if applicable Rule <u>.1102(f)</u> <u>[.0705(f)]</u>	<u>X</u>			
Documentation of Aquatic Activities Policy Receipt Rule <u>.1403(i)</u>		<u>X</u>	<u>X</u>	
Documentation of BSAC training if applicable Rule <u>.2510</u>	<u>X</u>			

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

<u>Type of Program Record</u>	<u>As long as the license remains valid</u>	<u>A minimum of 30 days after record revised or replaced</u>	<u>A minimum of 1 year after record created, revised or replaced</u>
<u>Attendance</u> <u>Rule .0302(d)(3)</u>			<u>X</u>
<u>Daily record of arrival and departure times for children</u> <u>Rule .0302(d)(4)</u>			<u>X</u>
<u>Fire Drill Log .0604(r)</u> <u>Rule .0302(d)(5)</u>			<u>X</u>
<u>Playground Inspection</u> <u>Rules .0302(d)(6) and .0605(q)</u>			<u>X</u>
<u>Lockdown or Shelter-In-Place Drill Record</u> <u>Rules .0302(d)(8) and .0604(s)</u>			<u>X</u>
<u>Daily Schedule</u> <u>Rule .0508(a)</u>			<u>X</u>
<u>Activity Plan</u> <u>Rule .0508(a)</u>		<u>X</u>	
<u>Manufacturer's Instructions for equipment and furnishings</u> <u>Rules .0601(b) and .0605(b)</u>	<u>X</u>		
<u>Fire Evacuation Procedures</u> <u>Rule .0604(o)</u>	<u>X</u>		

<u>Type of Program Record</u>	<u>As long as the license remains valid</u>	<u>A minimum of 30 days after record revised or replaced</u>	<u>A minimum of 1 year after record created, revised or replaced</u>
<u>Written plan for evacuation in centers that do not meet institutional building code</u> <u>Rule .0604(p)</u>			<u>X</u>
<u>Safe Arrival and Departure Procedures</u> <u>Rule .0604(t)</u>			<u>X</u>
<u>Safe Sleep Policy</u> <u>Rule .0606(a)</u>	<u>X</u>		
<u>SIDS Sleep Chart/Visual Check</u> <u>Rule .0606(a)(7)</u>		<u>X</u>	
<u>Emergency Preparedness and Response Plan</u> <u>Rules .0607(c) and (d)</u>			<u>X</u>
<u>Emergency Medical Care Plan</u> <u>Rule .0802(a)</u>			<u>X</u>
<u>Incident Log</u> <u>Rule .0802(f)</u>			<u>X</u>
<u>Menu</u> <u>Rule .0901(b)</u>		<u>X</u>	
<u>Allergy Postings</u> <u>Rule .0901(g)</u>		<u>X</u>	
<u>Infant Feeding Schedule</u> <u>Rule .0902(a)</u>		<u>X</u>	

<u>Type of Program Record</u>	<u>As long as the license remains valid</u>	<u>A minimum of 30 days after record revised or replaced</u>	<u>A minimum of 1 year after record created, revised or replaced</u>
<u>Identifying Information for Children being Transported</u> <u>Rule .1003(d)</u>			<u>X</u>
<u>List of children being transported</u> <u>Rules .1003(l) and .1005(b)(6)</u>			<u>X</u>
<u>Schedule of Off Premise Activities</u> <u>Rule .1005(b)(5)</u>			<u>X</u>
<u>Aquatic Activity Policies</u> <u>Rule .1403</u>	<u>X</u>		
<u>Documentation of emergency situation that necessitated a lack of direct supervision</u> <u>Rule .1801(a)(6)</u>	<u>X</u>		
<u>Discipline Practices</u> <u>Rules .1803 and .1804</u>	<u>X</u>		

Each child care center operator must retain records as follows:

- (1) All children's records as required in this Chapter, except the Medication Permission Slip as referenced in Rule .0803(13) of this Chapter, shall be maintained on file for at least one year from the date the child is no longer enrolled in the center.
- (2) All personnel records as required in this Chapter shall be maintained on file for at least one year from the date the employee is no longer employed.
- (3) Current program records shall be maintained on file for as long as the license remains valid. Prior versions shall be maintained based on the time frame in the following charts:
 - (a) A minimum of 30 days from the revision or replacement date:

Record	Rule
--------	------

Activity Plan	.0508(d)
Allergy Postings	.0901(f)
Feeding Schedule	.0902(a)
Menu	.0901(b)
SIDS Sleep Chart/Visual Check	.0606(a)(7)

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

Record	Rule
Attendance	.0302(d)(3)
Daily Schedule	.0508(a)
Emergency Medical Care Plan	.0302(c)(3) and .0802(a)
Lockdown or Shelter in-Place Drill Log	.0302(d)(8)
Emergency Preparedness and Response Plan	.0607(c);
Field Trip/Transportation Permission	.2507(a) and .0512(b)(3)
Fire Drill Log	.0302(d)(5)
Evacuation plan for non-mobile children in Centers not meeting institutional building code	.0604(p)
Incident Log	.0802(e)
Playground Inspection	.0605(n)
Safe Arrival and Departure Procedures	.1003(b)

- (4) All building, fire, sanitation and pool inspections as referenced in G.S. 110-91, and Rules .0302 and .1403 of this Chapter shall remain on file at the center for as long as the license remains valid.
- (5) Records may be maintained in a paper format or electronically, except that records that require a signature of a staff person or parent shall be maintained in a paper format.
- (6) All records required in this Chapter shall be available for review by the Division.

1 *History Note:* *Authority G.S. 110-85; 110-91(9); 143B-168.3;*
2 *Eff. January 1, 1986;*
3 *Amended Eff. July 1, 2015; July 1, 2010; July 1, ~~2008~~; 2008;*
4 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2401

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Throughout this Section, the phrase "mildly ill" is used; however the 90-88(11) uses "mildly sick." Please be consistent in the terms, unless there is a reason not to do so.

Overall, is the intent of this Section to enable child care providers to provide care for children with a fever over 101 degrees or children who have those conditions set forth in (a)(1) through (a)(12)? It would be helpful to say exactly what this Rule is regarding. I will note that even after reading .0804, it is unclear to me exactly what is considered to be a "mildly ill child." Please consider adding a definition for this to .2402.

On line 4, please capitalize "rules"

On line 4-5, what is "mildly ill"

On lines 5-7, what is meant by "Care may be provided as a component of a child care center that provides child care to well children, or may be provided as a separate stand alone program"? Please delete "separate" or "stand alone." Both are not needed.

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: August 1, 2017

1 **10A NCAC 09 .2401 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2401 SCOPE**

4 The ~~regulations~~ rules in this Section apply to all child care centers offering short term care to children who are mildly
5 ill and who would otherwise be excluded from care as required by Rule .0804(a) of this ~~Subchapter~~. Chapter. Care
6 may be provided as a component of a child care center that provides child care to well children, or may be provided
7 as a separate stand alone program. All rules in this Chapter shall apply except as provided in this Section.

8
9 *History Note: Authority G.S. 110-88(11); 143B-168.3;*

10 *Eff. July 1, 1988;*

11 *Amended Eff. April 1, 2003; November 1, ~~1989~~, 1989;*

12 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2402

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please consider adding a definition for "mildly ill child" to this Rule.

In (a), what is "short term illness" and "short term disability"? What do you mean by "as indicated in Rule .2404"? These terms are not used in .2404.

In (a), please delete or define "regular" on lines 5 and 6.

In (b)(2), what is meant by "the physician's authorized agent who is currently approved...?"

In (b)(2), what is a "comparable certifying board"?

In (b)(4), is there a cross-reference available for this requirement?

In (c), is there additional information elsewhere in Rule regarding the doctor's note? If not, what if a doctor's note is obtained on the 4th day?

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: August 1, 2017

1 **10A NCAC 09 .2402 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2402 DEFINITIONS**

4 (a) "Child care for mildly ill children" is defined as the care of children with short term illness, or symptoms of illness,
5 or short term disability as indicated in Rule .2404 of this Section, who are not able to attend their regular school or
6 child care arrangement due to inability to participate in regular activities.

7 (b) "Health care professional" is defined as:

8 (1) a licensed physician;

9 (2) the physician's authorized agent who is currently approved by the North Carolina Medical Board,
10 or comparable certifying board in any state contiguous to North Carolina;

11 (3) a certified nurse practitioner;

12 (4) a nurse rostered with the Office of Public Health Nursing and Professional Development as required
13 by the Division of Medical Assistance;

14 (5) a registered nurse (RN); or

15 (6) a certified physician assistant.

16 (c) "Short term care" is defined as attending for no more than three consecutive days, or for more than three
17 consecutive days with written permission from a physician which was obtained prior to the fourth consecutive day of
18 attendance.

19
20 *History Note: Authority G.S. 110-88(11); 143B-168.3;*

21 *Eff. April 1, ~~2003~~, 2003;*

22 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2403

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please delete "readoption without substantive changes" in the title.

In (a), what is the process for the approval? How is the approval decision made? Is there a cross-reference available?

In (a), please delete or define "easily."

In (b), please define "regularly." Is the intent of this simply to say that child care centers shall not allow mild ill children who do not otherwise receive care by that center?

In (c), what is the process to obtain this license? What is the process for this program? How is the approval decision made? Is there a cross-reference available?

In (d)(1) through (d)(4), please begin all Subparagraphs with lower-case letters.

In (d)(2), please change "inclusion/exclusion" to "inclusion and exclusion." How are these to go with the requirements of .2404?

In (d)(3), what are "preadmission health procedures"

In (d), what are the policies to be reviewed for?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .2403 is readopted as published in 31:20 NCR 2010 as follows:

10A NCAC 09 .2403 SPECIAL PROVISIONS FOR LICENSURE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

(a) A center that enrolls mildly ill children as a component of a child care center shall have approval for short term care for mildly ill children indicated on their license. A copy of the license shall be posted in the area used by mildly ill children so that it is easily seen by the public.

(b) A center that enrolls mildly ill children as a component of a child care center may admit mildly ill children only who regularly attend the center.

(c) A child care center operated as a separate stand alone program shall be issued a license restricting services to short term care for mildly ill children.

(d) Any center that enrolls mildly ill children shall develop written policies that contain the following:

- (1) Admission requirements;
- (2) Inclusion/Exclusion criteria;
- (3) Preadmission health assessment procedures; and
- (4) Plans for staff training and communication with parents and health care professionals.

These policies shall be reviewed by a child care health consultant or other health care professional prior to licensure.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2404

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is meant by "enroll"? .2401 refers to centers who offer short term care. .0804 refers to providing care. Is there a difference in "enroll", "offer", and provide care? It seems to me as though there is a difference. When I see "enroll", I think initial enrollment with the center, not day to day care. Please clarify and please be consistent in your terms.

(a)(1)(A) speaks to mildly ill children over three months while .0804 speaks to children younger than two months. How do these go together?

(a)(1) and (a)(2) speak to levels of symptoms, but it is unclear as to what significance these levels have. Can children with one set of symptoms do something that children with other symptoms can't? Please clarify.

In (a)(1)(A), please delete or define "fully" and "routine" in "fully in routine group activities."

In (a)(1)(A), how is it to be determined whether the children are in need of increased rest time or less vigorous activities"? Is this based upon the observations of the caregiver? The parents?

In (a)(2)(A), please delete "much"

In (a)(2)(C) and (D), what are "signs of dehydration"?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (a)(2)(E), there is a reference to “on-site health care professional.” In (b)(6), there is a reference to “onsite administrator.” They appear to be used in the same way for the same purpose. Was this intentional? If so, please hyphen “onsite.”

In (b)(4), how is it to be determined whether there has been a “major change”?

In (b)(6), I understand that there is a need for a catch-all here, but please list some examples or factors that are to be used by the administrator (if that is what was intended.)

In (b)(7), what is meant by a child’s “mental status”? This does not seem to be a “symptom” as referenced in (b). How is a child’s mental status to be evaluated?

In (c), please delete “at least.”

In (c), by “inclusion criteria”, do you mean “as set forth in this Rule”?

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

10A NCAC 09 .2404 is readopted as published in 31:20 NCR 2010 as follows:

10A NCAC 09 .2404 INCLUSION/EXCLUSION REQUIREMENTS

(a) Centers may enroll mildly ill children over three months of age who meet the following inclusion criteria:

(1) Centers may enroll children with Level One symptoms as follows:

(A) children who meet the guidelines for attendance in 10A NCAC 09 .0804, except that they are unable to participate fully in routine group activities and are in need of increased rest time or less vigorous activities; or

(B) children with fever controlled with medication of 101° or less axillary or 102° or less orally;

(2) Centers may enroll children with Level Two symptoms as follows:

(A) inability to participate in much group activity while requiring extra sleep, clear liquids, light meals, and passive activities such as stories, videos or music, as determined by a health care professional;

(B) fever controlled with medication of 103° maximum orally, or 102° maximum axillary, with a health care professional's written screening;

(C) vomiting fewer than three times in any eight hour period, without signs of dehydration;

(D) diarrhea without signs of dehydration and without blood or mucus in the stool, fewer than five times in any eight hour period; or

(E) with written approval from a child's physician and preadmission screening by an on-site health care professional prior to the current day's attendance unless excluded by Subparagraphs (b)(1), (2), (3), (4), (6), or (7) of this Rule.

(b) Any child exhibiting the following symptoms shall be excluded from any care:

(1) temperature unresponsive to control measures;

(2) undiagnosed or unidentified rash;

(3) respiratory distress as evidenced by an increased respiratory rate and unresponsiveness to treatment, flaring nostrils, labored breathing, or intercostal retractions;

(4) major change in condition requiring further care or evaluation;

(5) contagious diseases required to be reported to the health department, except as provided in Part (a)(2)(E) of this Rule;

(6) other conditions as determined by a health care professional or onsite administrator; or

(7) mental status.

(c) Once admitted, children shall be assessed and evaluated at least every four hours, or more frequently if warranted based on medication administration or medical treatment, to determine if symptoms continue to meet inclusion criteria.

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

Eff. April 1, 2003;

Amended Eff. December 1, ~~2014~~. 2014;

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2405

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is meant by "admission" of a mildly ill child? Is the intent of this Paragraph to say that if the center is going to care for the child, the parent must provide written permission at the time of drop off? Then, the allowance for permission over the telephone is if the child becomes ill while in the care of the center throughout the day? Is this speaking to admission of the mildly ill area?

In (b), please change "which" to "that."

In (c), please change "shall have the authority to" to "may."

In (c), do you mean "onsite health care professional"? Assuming so, by whom is the "written medical evaluation" to be performed by? An outside health care professional as defined by .2402?

In (c), please change "such" to "the."

In (d), please change "must" to "shall."

In (d), what "health assessment" and "individualized plan of care" is being referenced? Is this a requirement set forth elsewhere? If it is not, please reword to make this an actual requirement. Also, what is to be included in either?

In (d), how will it be determined whether a child is "approved for attendance"?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

1 **10A NCAC 09 .2405 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2405 ADMISSION REQUIREMENTS**

4 (a) Written permission from a parent is required for admission of a mildly ill child. If a child is assessed to need care
5 because he or she is mildly ill, permission may be given by telephone and documented if a child is to be moved from
6 the well child component of the center to the mildly ill area, as long as written permission is received prior to the
7 second day of attendance.

8 (b) Each parent shall sign a statement which attests that a copy of the policies described in Rule .2403(d) of this
9 Section were given to and discussed with him or her prior to a mildly ill child's attendance.

10 (c) The onsite administrator or health care professional shall have the authority to require a written medical evaluation
11 for a child to include diagnosis, treatment and prognosis, if such evaluation is necessary to determine the
12 appropriateness of a child's attendance prior to admission or upon worsening of the child's symptoms.

13 (d) A parent must remain on the premises until the preadmission health assessment and individualized plan of care
14 has been completed by center staff who have completed the training described in Rule .2408(a)(3), and the child has
15 been approved for attendance.

16 (e) No child shall be admitted unless staff who meet the qualifications in Rule .2408 of this Section are on site and
17 available to provide care.

18
19 *History Note: Authority G.S. 110-88(11); 143B-168.3;*
20 *Eff. April 1, ~~2003~~; 2003;*
21 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2406

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Based upon your scope Rule, I assume that this Rule sets for the child to staff ratio for mildly ill children? Please consider making this clear within this Rule. I would suggest something like "The staff to child ratio and group size of mildly ill children shall be determined..."

Please consider changing the format of the chart – it's unclear what the requirements are. What if there are five one year-olds? The chart is unclear as to whether there will only be 1 required staff person or 2.

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: August 1, 2017

10A NCAC 09 .2406 is readopted as published in 31:20 NCR 2010 as follows:

10A NCAC 09 .2406 STAFF/CHILD RATIOS

The staff/child ratio and group size shall be determined based on the age of the youngest child in the group and shall be as follows:

Age of Child	No. of Children	No. of Staff	Max. Group Size	No. of Staff
3 Months to 2 Years	3	1	6	2
2 to 5 Years	4	1	8	2
5 Years and older	5	1	10	2

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2407

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Based upon the scope Rule, I assume that this Rule specifically applies to space that is used by mildly ill children. If that is correct, please consider specifying that in both the title and the Rule. Upon quick glance, the requirements could be confusing when read with .1401 and .2809.

In (a), please delete "at least."

In (a), is "per child present at any one time" necessary? Wouldn't this be accounted for in determining how many children a facility can provide care for during the licensing process?

In (a), please change "will not" to "shall not"

In (a), please consider putting what will not be included in the measurement of space into a list.

In (b)(1), by "is shared by both components", do you mean "shared by well and mildly ill children"? If so, please say "if the outdoor play area is shared by both well and mildly ill children, ensure that there are separate areas of play." This language probably needs some additional finessing.

In (b)(2), please consider changing "shall be physically separate" to "is separated by an interior or exterior entrance."

In (c), please change "is not" to "shall not be"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (c), please delete “appropriate”

In (c), is the mildly ill child to have contact with well children on the 4th day?

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: August 1, 2017

1 **10A NCAC 09 .2407 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2407 SPACE REQUIREMENTS**

4 (a) There shall be at least 45 square feet of inside space per child present at any one time. When space is measured
5 the following will not be included: closets, hallways, storage areas, kitchens, bathrooms, utility areas, thresholds,
6 foyers, space or rooms used for administrative activities or space occupied by adult-sized desks, cabinets, file cabinets,
7 etc.; any floor space occupied by or located under equipment, furniture, or materials not used by children; and any
8 floor space occupied by or located under built-in equipment or furniture.

9 (b) A center that enrolls mildly ill children as a component of a child care center shall:

10 (1) ensure that if the outdoor play area is shared by both components, well and mildly ill children do
11 not use the area at the same time; and

12 (2) ensure that the indoor area used by the mildly ill children shall be physically separate, including a
13 separate interior or exterior entrance.

14 (c) An outdoor play area is not required for children who are mildly ill. If a child is in care for more than three
15 consecutive days, however, he or she must have the opportunity to go outside for appropriate play or leisure activities.

16
17 *History Note: Authority G.S. 110-88(11); 143B-168.3;*

18 *Eff. April 1, 2003; 2003;*

19 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2408

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please cite to the specific cross-reference rather than saying "requirements in this Chapter." Also, please be sure to be consistent in terminology (i.e. "preservice training, on-going training..."). It very well may already be, but without the specific cross-references. I cannot verify.

In (a)(2), please delete "or may not"

In (a)(3), are the staff orientation requirements not included in "all requirements of this Chapter pertaining to preservice training"? If so, please delete "in addition to staff orientation requirements in Section .1100 of this Chapter." If you need this language for whatever reason, please delete the comma after .1100. If it's not included in the preservice training, you may want to add this requirement to (a).

In (a)(3), please change "must" to "shall." Also, by whom is the training to be done? How are caregivers to "demonstrate competency."

In (a)(3)(F), please add an "and" in between "output" and "communication..."

In (a)(3)(G), please delete or define "temporarily." Also, intake of what? Medication?

In (a)(4), please add a comma in between "skills" and "or equipment"

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (a)(4), please define or delete “appropriate” and “when applicable”

In (a)(5), rather than “above training”, please say “of the training required by (a)(3) of this Rule.

In (a)(6), what is meant by “enroll”? This may have already been addressed in Rule .2404.

In (a)(7), must administrators have their credentials regardless of whether it is a center exclusively enrolling mildly ill children? If so, why is this subparagraph necessary?

Page 2, line 4, please end (b) with a colon, rather than a period.

In (b), please delete “at least” on page 2, line 9.

How do the numbers set forth in (b) go with .2406? They seem to provide different requirements.

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

10A NCAC 09 .2408 is readopted as published in 31:20 NCR 2010 as follows:

10A NCAC 09 .2408 STAFF QUALIFICATIONS

(a) All staff working with the mildly ill children shall complete all requirements in this ~~Subchapter~~ Chapter pertaining to preservice training, ~~inservice~~ on-going training and staff records. 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, Paragraphs (a),~~ .0705(a), (b), and (d). This may or may not be the same individual referenced in Subparagraph (a)(1) of this Rule.
- (3) In addition to staff orientation requirements in Section ~~.0700,~~ .1100, of this Chapter prior to assuming care giving duties all caregivers must complete 10 hours of training and demonstrate competency on how to perform 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, communication with family and physicians;
 - (G) recognizing when to temporarily stop, increase, or decrease oral intake;
 - (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) Any caregiver caring for a child whose illness requires special knowledge, skills or equipment shall have appropriate training and equipment when applicable prior to caring for the child.
- (5) Completion of the above training may count toward meeting one year's annual on-going training requirements in Section .0700 of this ~~Subchapter.~~ Chapter.
- (6) When a center enrolls mildly ill 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).
- (7) In a center exclusively enrolling mildly ill children, the administrator shall have a North Carolina Early Childhood Administration Credential or equivalent prior to assuming administrative duties.

(b) In addition to the staffing requirements listed in Subparagraphs ~~(a)(1)-(5)~~ (a)(1) through (a)(5) of this Rule, if children with Level Two symptoms as described in Parts ~~(a)(2)(A) — (a)(2)(E)~~ (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	At least an RN, or a LPN with a health care professional in the immediate vicinity
10 to 20	At least an RN
20 to 40	At least an RN and an additional LPN

Each medical staff shall have at least 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~~. 2003;
Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2409

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Rather than saying "required in G.S. 110 and this Chapter", please provide the specific cross-reference.

Please end (a)(1) through (a)(4) with semi-colons and add an "and" at the end of (a)(3).

In (a)(2), please add a comma in between "sleeping" and "and toileting"

In (a)(3), please change "parts" to "subparagraphs"

In (a)(4), please change "each" to "the." Add a comma in between "sleeping" and "and toileting patterns"

In (a)(4), is this truly in the discretion of the caregiver? Are there any examples that you can give to provide some additional meaning?

In (b), what is meant to "prior to attending"? Do you mean "prior to admittance of the mildly ill child to the mildly ill area"?

In (b), would it be appropriate to add "other" before "records may be maintained in the well child area"? I assume that this is at the discretion of the Center?

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: August 1, 2017

1 **10A NCAC 09 .2409 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2409 CHILDREN'S RECORDS**

4 (a) In addition to all other children's records required in G.S. 110 and this Chapter, the following shall be completed
5 for the children admitted to the mildly ill area:

- 6 (1) Preadmission health assessment which includes documentation of health status, current symptoms,
7 baseline temperature and respiratory rate, and any medications administered in the last 24 hours.
8 (2) General admission information which includes information about the child's typical behavior,
9 activity level, patterns of eating, sleeping and toileting.
10 (3) An individualized plan of care describing how the child's needs shall be met, based upon Parts (a)(1)
11 and (a)(2) of this Rule, shall be developed by the parent and a staff member who has completed
12 training described in Subparagraph (a)(3) of Rule .2408 of this Section.
13 (4) A daily written record shall be maintained and a copy given to parents of each child's eating, sleeping
14 and toileting patterns; medications administered; activity levels; changes in symptoms; and any
15 additional information that the provider deems relevant.

16 (b) All records shall be on file in the mildly ill area prior to attending. If a child is enrolled in the well child care
17 component of a child care center, records may be maintained in the well child care area, along with a copy of the
18 child's enrollment application as required in Rule .0801 of this ~~Subchapter.~~ Chapter. The records specified in
19 Subparagraphs ~~(a)(1) — (a)(4)~~ (a)(1) through (a)(4) of this Rule shall be kept in the mildly ill area.

20
21 *History Note: Authority G.S. 110-88(11); 143B-168.3;*
22 *Eff. April 1, 2003. 2003;*
23 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2410

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please consider adding language that specifies that this Rule is only applicable to mildly ill children.

In (a), please change "are not" to "shall not be"

In (b), how are these to be individually determined"? Is this based upon the plan of care?

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: August 1, 2017

1 **10A NCAC 09 .2410 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2410 CHILDREN'S ACTIVITIES**

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

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

9 (c) Daily outdoor time shall be available for children with Level One symptoms who are present more than three
10 consecutive days unless deemed inappropriate by the child's attending health care professional.

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

13 *Eff. April 1, ~~2003~~, 2003;*

14 *Readopted Eff. September 1, 2017.*

1 **10A NCAC 09 .2411 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2411 NUTRITION REQUIREMENTS**

4 Meals and snacks shall be provided in accordance with Section .0900 of this ~~Subchapter~~ Chapter unless a child's
5 individualized plan of care specifies otherwise.

6
7 *History Note: Authority G.S. 110-88(11); 143B-168.3;*

8 *Eff. April 1, ~~2003~~, 2003;*

9 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2501

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please delete "readoption without substantive changes" in the title.

On live 4, please capitalized rules.

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: August 1, 2017

1 **10A NCAC 09 .2501 is readopted as published in 31:20 NCR 2010 as follows:**

2
3 **10A NCAC 09 .2501 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

4 The rules in this Section apply to all child care centers offering care to three or more school-age children exclusively
5 or as a component of any other program. All rules in this Chapter pertaining to care for school-age children apply
6 except as provided in this Section.

7
8 *History Note: Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3;*

9 *Eff. July 1, 1988;*

10 *Amended Eff. July 1, 2010; July 1, 2000; September 1, ~~1990~~ 1990;*

11 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2502

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (b), please add a comma following "home base"

In (b)(1), line 10, please delete or define "routinely." Please also delete "at least"

Please end (b)(1) with a semi-colon and "or." Please also begin (b)(1) and (2) with lowercase letters.

Is the intent of (b)(2) to require summer day camps to provide 10 square feet of primary space indoors, even if it does so through contracts or agreements with other facilities? If so, please say that – as written, this rule is missing this requirement.

In (c), line 18, please say "shall apply"

Please end (c) with a semi-colon.

Please begin (c)(1) through (c)(3) with lower case letters, end (c)(1) and (c)(2) with semi-colons, and end (c)(2) with "or"

In (e), have these Rules already been incorporated by reference elsewhere? If not, please incorporate by reference in accordance with G.S. 150B-21.6.

In (f), what is BSAC training? Under what circumstances will staff be required to complete BSAC training? Is there a cross-reference available?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .2502 is readopted as published in 31:20 NCR 2010-2011 as follows:

10A NCAC 09 .2502 SPECIAL PROVISIONS FOR LICENSURE SUMMER DAY CAMPS

(a) A center providing care for school-age children exclusively on a seasonal basis between May 15 and September 15 shall be licensed as a summer day camp. ~~A track-out program that operates all four tracks for more than four hours per day must be licensed.~~

(b) A facility licensed as a summer day camp shall have a permanent structure located at the home base which is the primary site of the summer day camp activities. The permanent structure may be a building or permanent roofed shelter with overhang. The summer day camp shall meet one of the following space requirements:

(1) When activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day, a minimum of 10 square feet per child of indoor space, exclusive of kitchens, hallways, restrooms, closets, and storage areas, shall be provided.

(2) When the camp's home base does not provide 10 square feet of primary space indoors, the camp shall provide notarized copies of all letters, agreements, or contracts with other facilities to the Division which guarantee that children will be accommodated comfortably indoors in the event of inclement weather.

(c) For the purpose of carrying out the provisions of G.S. 110-91(4) for summer day camps not covered by 10A NCAC 09 .2503(a)(1), the following North Carolina Building Codes apply to the structure described in Paragraph (b) of this Rule.

(1) When the authorized capacity of the facility is less than 30 children, the structure shall meet the requirements for residential occupancy as prescribed in the North Carolina Building Code. Children may use only those floors which have at least one grade level exit.

(2) When the authorized capacity of the facility is more than 29 children, but less than 100 children, the structure shall meet the North Carolina Building Code requirements for business occupancy.

(3) When the authorized capacity of the facility is more than 99 children, the structure shall meet the North Carolina Building Code requirements for assembly occupancy, or educational occupancy or institutional occupancy.

(d) If a summer day camp maintains its master records for children and staff in a central location, emergency information for each staff person and child shall always be on site. The emergency information on site shall include the name and telephone numbers of the child's parent or other responsible person, the child's or staff person's health care professional or preferred hospital, any chronic illnesses and medication taken for that illness, any allergy and recommended treatment for that allergy, and any other information that has a direct bearing on medical treatment and safe care. The parent's signed permission to obtain medical attention must also be on site with the child.

(e) If food is prepared at the summer day camp, the rules regarding sanitary facilities, food preparation and service for summer camps as adopted by the Commission for Public Health and codified in 15A NCAC 18A .1000 apply.

(f) Staff in summer day camp programs required to complete BSAC training shall do so within four weeks of becoming employed.

1 *History Note:* *Authority G.S. 110-85; 110-88(1); 110-91; 143B-168.3;*
2 *Eff. July 1, 1988;*
3 *Amended Eff. July 1, 2010; July 1, 2000; September 1, ~~1990~~ 1990;*
4 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2503

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), line 4, rather than "adopted by reference", please say "incorporated by reference" Also, given (b), why is this sentence necessary? Alternatively, why is (b) necessary given the reference to .1300?

In (a), please change "which" to "that" on lines 5 and 6.

In (a), line 8, what are "applicable inspection reports"? Those that are required by what or whom?

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: August 1, 2017

10A NCAC 09 .2503 is readopted as published in 31:20 NCR 2011 as follows:

10A NCAC 09 .2503 BUILDING CODE REQUIREMENTS

(a) Building code requirements adopted by reference in Section .1300 of this Chapter apply for a facility providing care to school-age children ~~except in the following situations:~~ that any building which is approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house a facility serving school-age children exclusively. The operator shall obtain and submit copies of all applicable inspection reports to the Division.

~~(1) Any building which is approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house a facility serving school-age children exclusively. The operator shall obtain and submit copies of all applicable inspection reports to the Division.~~

~~(2) For the purpose of carrying out the provisions of G.S. 110-91(4) for summer day camps not covered by Subparagraph (1) of this Rule, the following North Carolina Building Codes apply to the structure described in Rule .2504(b) of this Section:~~

~~(A) When the authorized capacity of the facility is less than 30 children, the structure shall, meet the requirements for residential occupancy as prescribed in the North Carolina Building Code. Children may use only those floors which have at least one grade level exit.~~

~~(B) When the authorized capacity of the facility is more than 29 children, but less than 100 children, the structure shall, meet the North Carolina Building Code requirements for business occupancy.~~

~~(C) When the authorized capacity of the facility is more than 99 children, the structure shall, meet the North Carolina Building Code requirements for assembly occupancy, or educational occupancy or institutional occupancy.~~

~~(b) A copy of the North Carolina Building Code is on file at the Division of Child Development at the address given in Rule .0102 of this Chapter and is available for public inspection during regular business hours. The North Carolina State Building Code is hereby incorporated by reference, inclusive of subsequent amendments. The current Code can be found online at http://www.doi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes.~~

*History Note: Authority G.S. 110-85; 110-88(2); 110-91(4); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. July 1, 2010; September 1, 1990; 1990;
Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2504

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 4, please change "apply" to "shall apply"

On line 5, please change "which" to "that"

On line 6, please delete or define "routinely"

On line 7, do you mean "may" or "shall"? If "may" is correct, how will it be determined whether a gym or other single use room can be included?

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: August 1, 2017

10A NCAC 09 .2504 is readopted as published in 31:20 NCR 2011 as follows:

10A NCAC 09 .2504 SPACE REQUIREMENTS

(a) All space requirements specified in Section .1400 apply when a facility provides care for school-age children and any preschool child is also in care, or when a program which provides care exclusively for school-age children routinely operates indoors in a permanent structure for more than 25 percent of each day. A gymnasium or other single use room may be included in the space measured for licensed capacity when used as primary space.

~~(b) A facility licensed as a summer day camp shall have a permanent structure located at the home base which is the primary site of the summer day camp activities. The permanent structure may be a building or permanent roofed shelter with overhang. The summer day camp shall meet one of the following space requirements:~~

~~(1) When activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day, a minimum of 10 square feet per child of indoor space, exclusive of kitchens, hallways, restrooms, closets, and storage areas, shall be provided.~~

~~(2) When the camp's home base does not provide 10 square feet of primary space indoors, the camp shall provide notarized copies of all letters, agreements, or contracts with other facilities to the Division which guarantee that children will be accommodated comfortably indoors in the event of inclement weather.~~

*History Note: Authority G.S. 110-85; 110-91(3),(6); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. July 1, 2010; September 1, ~~1990~~ 1990;
Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2505

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), line 4, (b), line 16, and (d), line 20, please change "apply" to "shall apply":

Please begin (a)(1) and (2) with lowercase letters.

In (a)(1), line , please change "is not" to "shall not be."

Please end (a)(1) with a semi-colon and "and"

In (a)(2), line 8, please change "does not" to "shall not"

In (c), what is a "licensed track-out program"? I see that track out program has been defined in .0102, but I have not seen licensing requirements specific to track out programs– are these set forth elsewhere in rule or statute?

In (c), what sanitation requirements are being referenced? Those set forth in 15A NCAC 18A .1000? If these have already been incorporated by reference, there's no need to do it again, but please provide the cross-reference.

Please begin (d)(1) and (d)(2) with lowercase letters and end (d)(1) with a semi-colon and "and"

In (d)(1), what is considered to be "sanitary cold storage"? Is this included in the sanitation requirements referenced in (c)?

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (d)(2), what is considered to be “safe drinking water”? I assume this is determined by CPH or some other local entity?

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: August 1, 2017

10A NCAC 09 .2505 is readopted as published in 31:20 NCR 2011-2012 as follows:

10A NCAC 09 .2505 HEALTH REQUIREMENTS FOR CHILDREN

(a) All requirements of Section .0800 of this Chapter apply to school-age child care arrangements with the following exceptions:

- (1) A medical examination report is not required for any child enrolled in a public school or private school as described in G.S. 110-86(2)f.
- (2) Rule .0806 of this Chapter does not apply.
- ~~(3) If a summer day camp maintains its master records for children and staff in a central location, emergency information for each staff person and child shall always be on site. The emergency information on site shall include the name and telephone numbers of the child's parent or other responsible person, the child's or staff person's health care professional or preferred hospital, any chronic illnesses and medication taken for that illness, any allergy and recommended treatment for that allergy, and any other information that has a direct bearing on medical treatment and safe care. The parent's signed permission to obtain medical attention must also be on site with the child.~~

(b) All requirements specified in Section .0900 of this Chapter apply.

~~(c) If food is prepared at the summer day camp, the rules regarding sanitary facilities, food preparation and service for summer camps as adopted by the Commission for Public Health and codified in 15A NCAC 18A .1000 apply. If~~
food is prepared at a licensed track-out program, the sanitation requirements of child care centers must be met.

(d) If food is brought from home by children or catered, the following requirements apply:

- (1) Sanitary cold storage shall be provided for perishable snacks or lunches brought from home.
- (2) Safe drinking water shall be available at all times regardless of where activities are provided.

History Note: Authority G.S. 110-85; 110-91(1), (2); 143B-168.3;
Eff. July 1, 1988;
Amended Eff. July 1, 2010; September 1, ~~1990~~; 1990;
Readopted Eff. September 1, 2017.

10A NCAC 09 .2506 has been readopted with changes as published in 31:20 NCR 2012 as follows:

10A NCAC 09 .2506 GENERAL SAFETY REQUIREMENTS

(a) **Pediatric** First aid-Aid equipment shall be available regardless of where activities are provided.

(b) All ~~regulations-requirements~~ in Rule .1403 of this Chapter regarding ~~swimming pools-activities involving water~~ shall apply.

(c) Potentially hazardous items, such as archery equipment, hand and power tools, nails, chemicals, or propane stoves, shall be used by children only when adult supervision is provided. Such potentially hazardous items, whether or not intended for use by the children, shall be stored in locked areas or with other safeguards, or shall be removed from the premises.

(d) All children shall be adequately supervised. Adequate supervision means staff shall be with the group of children and able to hear or see each child in his or her care, except:

(1) Children who are developmentally able may be permitted to go to the restroom independently, provided that:

(A) staff members' proximity to children assures immediate intervention to safeguard a child from harm;

(B) individuals who are not staff members may not enter the restroom area while in use by any child; and

(C) children up to nine years of age are supervised by staff members who are able to hear the child. Children nine years of age and older are not required to be directly supervised, however, staff members shall know the whereabouts of children who have left their group to use the restroom;

(2) Adequate supervision for children nine years of age and older means that staff are with the group of children and able to hear or see each child in his or her care. A staff member shall accompany any children who leave the group to go indoors or outdoors; and

(3) When emergencies necessitate that direct supervision is impossible for brief periods of time.

(e) Children riding bicycles must wear safety helmets.

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

Eff. July 1, 1988;

Amended Eff. March 1, 2014; July 1, 2010; July 1, 1998; September 1, ~~1990~~ 1990;

Readopted Eff. September 1, 2017.

1 10A NCAC 09 .2507 is repealed through readoption as published in 31:20 NCR 2012 as follows:

2
3 10A NCAC 09 .2507 OPERATING POLICIES

4 (a) ~~Written permission from parents shall be obtained before transporting children on field trips or leaving the~~
5 ~~premises.~~

6 (b) ~~Blanket permissions from parents for field trips or leaving the premises are acceptable only when a schedule of~~
7 ~~activities to be conducted off the premises is posted in a conspicuous place for review by parents and staff in advance~~
8 ~~on a weekly basis. The schedule shall include the location, purpose, time and date, person in charge, and telephone~~
9 ~~number or method for contacting the person in charge.~~

10 (c) ~~Cots, beds, or mats with linens shall not be required for school age children. However, provision shall be made~~
11 ~~for children who wish to rest or who are sick to rest in a comfortable place.~~

12
13 *History Note: Authority G.S. 110.91; 143B-168.3;*

14 *Eff. July 1, ~~1988~~, 1988;*

15 *Repealed Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2508

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please change "which" to "that" on line 4. Please also add a comma in between "needs" and "and interests" on line 5.

In (c), lines 7 and 8, please change "which" to "that." Please also delete "at least" on lines 7 and 9.

Please make begin (c)(1) through (c)(13) and (d)(1) through (5) with lowercase letters.

In (e), to what "developmental goal" is this referring?

In (e)(4), please delete "and shall be" in "shall be available"

(e)(5) does not seem to go with "it shall be" on line 27 – please consider ending (e)(3) with "and" and ending (e)(4) with a period, then keep (e)(5) as is.

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: August 1, 2017

10A NCAC 09 .2508 is readopted as published in 31:20 NCR 2012-2013 as follows:

10A NCAC 09 .2508 AGE APPROPRIATE ACTIVITIES

(a) Child care facilities which provide care to school-age children shall provide a balance of teacher directed and free choice activities appropriate to the age, needs and interests of the children.

(b) Opportunities must be provided for children to participate in the planning and the implementation of activities.

(c) Facilities which operate a school-age component for three or fewer hours per day shall make at least three of the following activities available daily; those which operate a school-age component for more than three hours per day shall make at least four of the following activities available daily:

- (1) Career development activities;
- (2) Community awareness activities;
- (3) Creative arts activities;
- (4) Cultural activities;
- (5) Games or manipulatives;
- (6) Hands-on academic enrichment activities including language, math, science, social studies, or foreign language activities;
- (7) Health education or wellness activities;
- (8) Homework with assistance available as needed from center personnel;
- (9) Reading activities;
- (10) Sand or water play;
- (11) Social skills, life skills or problem-solving activities;
- (12) Structured or unstructured physical activities; or
- (13) Technology skill-building activities.

(d) All equipment and materials used by school-age children shall be appropriate for the age and size of the children using the items.

(e) When screen ~~time~~ time, including, television, videos, video games, and computer usage, is provided on any electronic device with a visual display, it shall be:

- (1) Offered as a free choice activity;
- (2) Used to meet a developmental goal;
- (3) Limited to a maximum of 30 minutes per day and no more than two and a half hours per week, per child; ~~and~~
- (4) ~~When children are in care for four hours or less per day limited to a maximum of 30 minutes per child, per day.~~ Documented on a cumulative log or activity plan, and shall be available for review by a representative of the Division; and
- (5) Usage time periods may be extended for school assigned homework.

~~Usage time periods may be extended for specific special events, projects, or occasions such as a current event, homework, on site computer classes, researching topics, holiday, or birthday celebration.~~

1 (f) Cots, beds, or mats with linens shall not be required for school-age children. However, provision shall be made
2 for children who wish to rest or who are sick to rest in a comfortable place.

3
4 *History Note: Authority G.S. 110-85; 110-91(6),(12); 143B-168.3;*
5 *Eff. July 1, 1988;*
6 *Amended Eff. July 1, 2010; October 1, 1991; September 1, ~~1990~~, 1990;*
7 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2509

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Overall, why is this Rule necessary given the Rules in Section .1000? Aren't centers that provide school age care already included in those Rules? Is it because you want to make it clear to your regulated public that care for school aged children that these Rules apply to them? If so, please make it clear within your rule that this is applicable to centers that care for school aged children.

In (a), please delete or define "routinely"

Please consider moving the contents of the plan contained within (e) to (b). I would suggest also turning this into a list. Suggested language would be something like "The facility shall develop a plan of activities including the location, purpose, time and date of the activity, person in charge, and telephone number or method for contacting the person in charge. The plan shall be posted for review by parents at the home base or given to parents in advance.

Alternatively, please delete or define "conspicuous" and "current" in (b).

In (e), please change "are acceptable" to "shall be acceptable"

In (e), please delete or define "a conspicuous place"

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: August 1, 2017

10A NCAC 09 .2509 is readopted as published in 31:20 NCR 2013 as follows:

10A NCAC 09 .2509 ACTIVITIES: OFF PREMISES

(a) The requirements of this Rule and Section .1000 of this Chapter shall apply when activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day.

(b) The facility shall develop a schedule plan of activities which is posted in a conspicuous place in the home base or given to the parents. The plan shall be current and shall contain the information listed in Subparagraph (e) of this Rule.

~~(c) The schedule shall be current and shall contain the information listed in Rule .2507(b).~~

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

(d) Written permission from parents shall be obtained before transporting children on field trips or leaving the premises.

(e) Blanket permissions from parents for field trips or leaving the premises are acceptable only when a plan of activities to be conducted off the premises is posted in a conspicuous place for review by parents and staff in advance on a weekly basis. The plan shall include the location, purpose, time and date, person in charge, and telephone number or method for contacting the person in charge.

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

Eff. July 1, 1988;

Amended Eff. September 1, ~~1990~~, 1990;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2510

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Overall, why is this Rule necessary given the Rules in Section .700 and .1100? Aren't centers that provide school age care already included in those Rules? Is it because you want to make it clear to your regulated public that care for school aged children that these Rules apply to them? If so, please make it clear within your rule that this is applicable to centers that care for school aged children.

Please delete "at least" throughout this Rule.

In (a)(1), please delete or define "verifiable"

In (a)(1), please consider putting this information into list form as follows:

- (A) 400 hours of experience working with school age children in a licensed child care program;*
- (B) 600 hours of experience working with school-age children in an unlicensed school-age care or camp setting; or*
- (C) have an undergraduate, graduate, or associate degree, with 12 semester hours in school-age care related coursework; and*

In (b)(1) and (c), what is meant by "or its equivalent" By whom and how is this determined?

In (b)(2), please provide a cross-reference to the requirements for administrators and lead teachers. I would suggest moving the cross-reference for administrators in (e) to (b)(2) since it is the first time it is

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

referenced. If you think it makes more sense where it is, no problem, but please provide the cross-reference for lead teachers.

In (b)(2), what is the BSAC training? Is this something offered by the division?

In (b)(3), please define “part day” and “full day” Please note that if full time is defined in .0102, there is no need to address this issue again here.

In (b)(3), line 20, please change “must” to “shall”

In (b)(3), line 20-21, what is meant by “This includes times when the individual is off-site due to illness or vacation”? Is this to be counted as on-site time for purposes of this Rule? Please clarify.

In (e), line 29, please provide the specific cross-reference to the appropriate Rule as Section .0700 speaks to more than just the requirements of administrators.

In (g), line 33, please change “counts” to “shall count”

In (g), line 34, please provide the specific cross-reference to the on-going training requirements. Section .1100 speaks to more than just 5 hours of on-going training requirements. Do you mean .1103? If so, there are some circumstances that .1103 requires more than just 5 hours. Why not simply say something like “Completion of the BSAC training course, or its equivalent, counts shall count toward meeting five hours of one year’s annual the on-going training requirements set forth in Rule .1103 in Section .0700 [.1100] of this Chapter.

In (i), by “required to complete the BSAC training”, do you mean in accordance with this Rule?

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

10A NCAC 09 .2510 is readopted with changes as published in 31:20 NCR 2013-2014 as follows:

10A NCAC 09 .2510 STAFF QUALIFICATIONS

(a) The individual who is responsible for ensuring the administration of the program, whether on-site or off-site, shall:

- (1) Prior to employment, have at least 400 hours of verifiable experience working with school-age children in a licensed child care program or 600 hours of verifiable experience working with school-age children in an unlicensed school-age care or camp setting; or have an undergraduate, graduate, or associate degree, with at least 12 semester hours in school-age care related coursework; and
- (2) Meet the requirements for a child care administrator in G.S. 110-91(8).

(b) At least one individual who is responsible for planning and ensuring the implementation of daily activities for a school-age program (program coordinator) shall:

- (1) Be at least 18 years old and have a high school diploma or its equivalent prior to employment;
- (2) Have completed two semester credit hours in child and youth development and two semester credit hours in school-age programming. Each individual who does not meet this requirement shall enroll in coursework within six months after becoming employed and shall complete this coursework within 18 months of enrollment. An individual who meets the staff requirements for administrator or lead teacher shall be considered as meeting the requirements for program coordinator, provided the individual completes Basic School-Age Care (BSAC) training, ~~or its equivalent~~; and
- (3) In a part day program be on site when children are in care. For a full day program, the program coordinator must be on site for two thirds of the hours of operation. This includes times when the individual is off site due to illness or vacation.

(c) Staff who are responsible for supervising groups of school-age children (group leaders) shall be at least 18 years of age and have a high school diploma or its equivalent prior to employment, and shall complete the BSAC training, ~~training, or its equivalent~~.

(d) Staff who assist group leaders (assistant group leaders) shall be at least 16 years of age and shall complete the BSAC training, ~~training, or its equivalent~~.

(e) The individual who is on-site and responsible for the administration of the school-age component of a center which also provides care to preschool-age children, shall meet the requirements for child care administrator in G.S. 110-91(8) and Section .0700 of this Chapter.

(f) When an individual has responsibility for both administering the program and planning and ensuring the implementation of the daily activities of a school-age program, the individual shall meet the staff requirements for an administrator and shall complete the BSAC training, ~~training, or its equivalent~~.

(g) Completion of the BSAC training course, ~~or its equivalent~~, counts toward meeting five hours of one year's annual on-going training requirements in Section ~~.0700~~ .1100 of this Chapter.

(h) As used in this Rule, the term "experience working with school-age children" means experience working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher, or aide.

(i) All staff shall receive on-site training and orientation as follows:

(1) Within the first two weeks of assuming responsibility for supervising a group of children, each employee shall complete at least six clock hours of training on:

(A) ~~the recognition of the signs and symptoms of child abuse or neglect and in the employee's duty to report suspected abuse and neglect;~~ recognizing, responding to, and reporting child abuse, neglect or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;

(B) ~~the center's operational policies;~~ policies, including the **transportation policy, identification of building and premises safety issues,** Emergency Preparedness and Response Plan and the emergency medical care plan;

(C) adequate supervision of children, taking into account their age, emotional, physical, and cognitive development; and

(D) prevention and control of infectious diseases, including immunization; and

(2) Within the first six weeks of assuming responsibility for supervising a group of children, each employee shall complete at least three additional clock hours of training on:

(A) maintaining a safe and healthy environment and developmentally appropriate activities for school-age ~~children~~ children;

(B) firsthand observations of the program's daily operations and instruction in the employee's assigned duties;

(C) instruction in the administration of medication to children in accordance with 10A NCAC 09 .0803;

(D) successfully complete **[pediatric]** CPR and **[pediatric]** First Aid **[trainings]** **training appropriate for the ages of children in care;**

(E) prevention of and response to emergencies due to food and allergic reactions;

(F) review of the program's handling and storage of hazardous materials and the appropriate disposal of **[bio-contaminants]** **biocontaminants;** and

(G) review of child care licensing law and rules, including an explanation of the role of State and local government agencies in the regulation of child care and the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations.

(j) Staff in part-time, full day, or track-out school-age care programs required to complete BSAC training ~~or its equivalent,~~ shall do so within three months of becoming employed. ~~Staff in summer day camp programs required to complete BSAC training shall do so within four weeks of becoming employed.~~

History Note: Authority G.S. 110-85; 110-91(8),(11); 143B-168.3;

Eff. July 1, 1988;

Amended Eff. August 1, 2010; November 1, 2007; July 1, 2000; July 1, 1998; January 1, 1992;

September 1, ~~1990.~~ 1990;

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2512

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 5-6, please change "are deemed to be in compliance" to "shall be in compliance"

On line 6, please change "this Section" to "this Chapter"?

Have you considering providing this information in the Developmental Day Center section in .2900?

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: August 1, 2017

1 10A NCAC 09 .2512 (recodified from .0505) is readopted with changes as published in 31:20 NCR 2014 as
2 follows:

3
4 10A NCAC 09 .0505 **[.2511] .2512** DEVELOPMENTAL DAY CENTERS

5 Child care centers which meet the criteria for developmental day centers, as defined in 10A NCAC 09 .2901, are
6 deemed to be in compliance with the provisions of Rules. 0508 through .0511 of this Section by complying with the
7 requirements for activities for developmental day centers set forth in 10A NCAC 09 .2904.

8
9 *History Note:* Authority G.S. 110-85; 110-88(14); 110-91(2),(12); 143B-168.3;

10 *Eff. January 1, 1987;*

11 *Amended Eff. July 1, 2010; July 1, 1998; July 1, ~~1988~~, 1988;*

12 *Prior to readoption of September 1, 2017 this language was located in Rule .0505;*

13 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2901

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please end (a)(1) with a semi-colon, rather than a comma.

In (a)(2), please change "which" to "that."

Please end (b)(1) through (b)(4) with semi-colons, rather than commas.

What is the overall intent of (c)? Is this directing the team of professionals to put a plan of care in place or is this general information? If this is general information, why is it relevant to and necessary for these Rules?

In (c), please add a comma in between "developmental disabilities" and "or atypical development." Also, what is atypical development? I don't see that this is defined like developmental delay. Is your regulated public familiar with what this means?

Please considering making the last two sentences in their own Paragraph.

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: August 1, 2017

10A NCAC 09 .2901 is readopted as published in 31:20 NCR 2014 as follows:

SECTION .2900 - DEVELOPMENTAL DAY SERVICES

10A NCAC 09 .2901 SCOPE

(a) The rules in this Section apply to all certified Developmental Day Centers, or to all child care centers requesting to be certified as a Developmental Day Center. A Developmental Day Center offers specialized developmental day services to children who:

- (1) are diagnosed with developmental delays or developmental disabilities, or
- (2) have been identified with a diagnosed physical or mental condition which has a high probability of resulting in a developmental delay as defined in 10A NCAC 43G .0110(e)-.0110(b).

(b) The diagnosis or identification shall be completed by a licensed professional through a comprehensive clinical assessment. Developmental day services are designed to meet individualized needs of children in the following skill areas:

- (1) Self-help,
- (2) Physical (gross/fine motor),
- (3) Language and speech, and
- (4) Cognitive and psychosocial skills.

(c) A team of health and education professionals puts a plan of care in place for each child who is diagnosed with, or at risk for, a developmental delay, developmental disabilities or atypical development. The goal is to assist exceptional children in preparing for ~~ongoing~~ on-going growth and learning in less restrictive, inclusive environments. All rules in this Chapter apply except as provided in this Section. Nothing in this Section precludes the enrollment of typically developing children in a Developmental Day Center.

*History Note: Authority G.S. 110-85; 110-88(14);
Eff. July 1, ~~2010~~ 2010;
Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2902

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please delete "readoption without substantive changes" in the title.

Just to be clear, is it correct that this Rule is only applicable to child care centers that also are certified as developmental day centers?

Please end (a)(1) with a semi-colon and "or" Please also begin (a)(1) and (2) with lower-case letters.

In (c), is there a cross-reference available, specifically to the rated licensing information and to what constitutes an "appropriate environment rating"?

What is the overall process to obtain certification as a Developmental Day Center? I think that (d) may touch upon it, but the overall process is not clear.

In (d), is the application information set forth elsewhere in Rule or Statute – please note that provided an appropriate cross-reference in (c) will likely address this issue.

In (d), lines 21 and 22, by "receive," do you mean "obtain"?

In (e), what is the intent of this Paragraph? To what license is being referred?

In (g), please delete "a minimum of"

In (h), please change "does not" to "shall not"

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

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: August 1, 2017

10A NCAC 09 .2902 is readopted as published in 31:20 NCR 2014 as follows:

10A NCAC 09 .2902 LICENSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

(a) Developmental Day services shall be available for preschool children for a minimum of 8 hours per day, 5 days per week, Monday through Friday, and 12 months per year except in the following circumstances:

(1) In counties where no Community-Based Developmental Day Center operates, a Developmental Day program operated by the Local Education Agency may provide services for the 10 month school year (as defined by the State Board of Education).

(2) If a Community-Based Developmental Day center opens in a county where Developmental Day services are only provided by a Developmental Day program operated by the Local Education Agency, the Developmental Day program operated by the Local Education Agency shall ~~may~~ continue to provide services for the 10 month school year until the end of the following school year. At the end of the following school year, all Developmental Day services in the county shall be available as described in Paragraph (a) of this Rule.

(b) For purposes of this Rule, a "Community-Based Developmental Day Center" means a Developmental Day Center not operated by the Local Education Agency.

(c) Developmental Day Centers shall maintain a four or five star rated license with an average score of 5.0 on the appropriate environment rating scale in each classroom evaluated.

(d) A child care center with a temporary license may receive certification status if all rules in this Section are met, except for Paragraph (c) of this Rule, and an application for a two to five star rated licensed has been submitted. At the end of the temporary license period the child care center shall receive a four or five star rated license as specified in Paragraph (c) of this Rule. Failure to receive a four or five star rated license shall result in the removal of certification status as a Developmental Day Center.

(e) The license shall indicate certification as a Developmental Day Center.

(f) The center shall comply with the staff-child ratio and maximum group size as follows:

MAXIMUM

AGE	RATIO STAFF/CHILDREN	GROUP SIZE
0-12 Months	1/4	8
1 to 2 Years	1/5	10
2 Years and Older	1/6	18

(g) A minimum of two staff members shall be on site at all times while children are in attendance at the facility.

(h) A child care center may appeal the removal of certification status in accordance with G.S. 110-94; however, an appeal does not preclude a Local Education Agency from removing contracted children from the program before a final decision on the appeal is reached.

History Note: Authority G.S. 110-85; 110-88(5); 110-88(10); 110-88(14);

- 1 *Eff. July 1, 2010;*
- 2 *Amended Eff. August 1, ~~2016~~ 2016;*
- 3 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2903

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please delete "a minimum of"

In (a), line 7, please delete the "or" before "a NC Preschool..." Please consider setting forth the information contained on lines 5-8 in list form.

In (b), please add a space in between "185" and "day"

In (d), what requires a teacher to hold a NC B-K Continuing or Initial License? Is there a cross-reference available? Also, how is a teacher to "enroll with the Division"? What is the process? Is there a form?

In (e) and (f), please delete "at least." Please note that this is used multiple times throughout these Paragraphs.

In (f), please consider deleting "as specified by Rule .2902(a) of this Section" since this was addressed in (e). I will certainly defer to you, but it seems bulky.

In (g), please delete or define "verifiable"

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: August 1, 2017

10A NCAC 09 .2903 is readopted as published in 31:20 NCR 2013-2014 as follows:

10A NCAC 09 .2903 STAFF QUALIFICATIONS

(a) Each center serving children ages birth to three years shall have a minimum of one staff who holds ~~an Infant Toddler Family Specialist certification issued from the North Carolina Division of Public Health; a NC Birth-through-Kindergarten (B-K) Standard Professional I licensure; provisional licensure in B-K issued from the Department of Public Instruction. Continuing or Initial License; or a NC Provisional Preschool Add-on License; or a NC Lateral Entry B-K License issued by the North Carolina Department of Public Instruction.~~ 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 185day school year (as defined by the State Board of Education), each child aged ~~three years old~~ 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 I licensure or provisional licensure in B-K, or Preschool Add-on licensure issued from the Department of Public Instruction.

(c) Children who turn ~~three years old~~ 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 ~~with a B-K licensed teacher.~~ by a teacher who holds a NC B-K Continuing or Initial License; or a NC Provisional Preschool Add-on License; or a NC Lateral Entry B-K License.

(d) Teachers who are required to hold a NC B-K Continuing or Initial License shall be enrolled with the Early Educator Support, Licensure & Professional Development Unit of the Division of Child Development and Early Education.

~~(d)~~(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.

~~(e)~~(f) For centers operating for 10 months as specified by Rule .2902(a) of this Section, during the ~~10-month~~ 10-month school year, (as defined by the State Board of Education), each group of school-age children shall have at least one teacher who holds State certification as a Special Education Teacher. 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 school-age children shall have at least one teacher who has completed at least two semester hours of school-age care related coursework and has completed or is enrolled in at least two additional semester hours of school-age related coursework.

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

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

Eff. July 1, 2010;

- 1 *Amended Eff. August 1, 2016; March 1, ~~2014~~ 2014;*
- 2 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2904

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is meant by "typically developing"? This may be addressed elsewhere already, but I want to be sure that this is understood by your regulated public.

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: August 1, 2017

1 **10A NCAC 09 .2904 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .2904 PROGRAM REQUIREMENTS**

4 (a) Children shall participate in daily activities outlined in a plan of care such as an Individualized Family Service
5 Plan (IFSP), Individualized Education Program (IEP), Person Centered Plan (PCP), or for children who are typically
6 developing, an activity plan developed by the center. Activities shall allow children to participate in whole group, as
7 part of a group, or independently.

8 (b) In addition to the restrictions specified in 10A NCAC 09 .0713 regarding ages and grouping of children, preschool
9 children aged three and older shall not be grouped with school aged children except for special events or activities
10 such as birthday, holiday, or cultural celebrations and special presentations such as puppet or magic shows, a special
11 story teller, or a discussion of safety practices by a fireman or nurse. Children aged birth to five years may be cared
12 for in groups with older children for the first and last operating hour of the day provided the staff/child ratio for the
13 youngest child in the group is maintained.

14 (c) In addition to operational policies required by 10A NCAC 09 .2805(a), Developmental Day Center policies shall
15 also include a description of the ways that children with special needs have opportunities for inclusion with children
16 who are typically developing.

17
18 *History Note: Authority G.S. 110-85; 110-88(14);*
19 *Eff. July 1, 2010;*
20 *Amended Eff. July 1, ~~2012~~; 2012;*
21 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .2905

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 4 and in Item (2), please delete "at least"

In Item (3), please add a comma after "progress reports"

In Item (5), please add a comma after "field trips"

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: August 1, 2017

1 **10A NCAC 09 .2905 is readopted as published in 31:20 as follows:**

2
3 **10A NCAC 09 .2905 FAMILY SERVICES**

4 The center shall facilitate family involvement as evidenced by meeting at least four of the following six activities:

- 5 (1) Providing quarterly parent education sessions;
6 (2) Holding parent/teacher conferences at least twice a year;
7 (3) Communicating on an individual basis with parents via daily notes, progress reports or surveys;
8 (4) Having parents as members of a center advisory board;
9 (5) Providing opportunities for parent volunteers to assist with special classroom activities, field trips
10 and other learning experiences for children; or
11 (6) Providing parents with referral information about other community programs and resources serving
12 young children.

13
14 *History Note: Authority G.S. 110-85; 110-88(14);*
15 *Eff. July 1, ~~2010~~ 2010;*
16 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3001

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On lines 6 and 8, please capitalize "rules"

On lines 8-9, what is meant by "All rules in this Chapter shall apply except as provided in this Section"? Please delete this or provide some clarifying language either here or in the appropriate 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: August 1, 2017

1 **10A NCAC 09 .3001 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **SECTION .3000 NC PRE-KINDERGARTEN SERVICES**

4
5 **10A NCAC 09 .3001 SCOPE**

6 The rules in this Section apply to all licensed programs that serve children in the North Carolina Pre-Kindergarten
7 (NC Pre-K) ~~program.~~ Program. The NC Pre-K ~~program~~ Program is intended to provide high-quality educational
8 experiences to enhance school readiness for at-risk-four-year olds. All rules in this Chapter shall apply except as
9 provided in this Section.

10
11 *History Note:* Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a)-(f);

12 *Eff. November 1, ~~2012.~~ 2012;*

13 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3002

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), is there a cross-reference available for "four or five star rated license"?

In (b), is the Early Childhood Environment Rating Scale already incorporated by reference somewhere on your Rules? If not, please do so in accordance with 150B-21.6.

In (b), line 9, please change "will" to "shall."

Was the language in (c) moved from elsewhere or is this new language introduced following publication?

(c) requires 45 minutes of outdoor time, but .0508 requires 30 minutes or 1 hour, depending upon how long the child is in care. Is the intention that pre-k programs have a different requirement than other centers?

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: August 1, 2017

10A NCAC 09 .3002 is readopted with changes as published in 31:20 NCR 2015 as follows:

10A NCAC 09 .3002 FACILITY REQUIREMENTS

(a) Programs serving NC Pre-K children shall maintain a four or five star rated license.

(b) All NC Pre-K licensed programs shall have an assessment completed every three years using the Early Childhood Environment Rating Scale-Revised Edition assessment tool as a part of the rated license reassessment process. Classrooms that score below ~~the "good level," as defined by the tool, 5.0,~~ shall be reassessed the following year and a minimum ~~"good level"~~ score of 5.0 must be achieved in order to continue to be approved as a NC Pre-K site. At least one NC Pre-K classroom will be chosen for an assessment during the reassessment process.

(c) During the NC Pre-K day, classrooms serving NC Pre-K children shall provide outdoor time, either as part of a small group, whole group, or individual activity, for no less than 45 minutes per day when weather conditions permit.

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

Eff. November 1, ~~2012~~, 2012;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3003

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 5, what does it mean to “determine the child’s participation status”?

On line 6, what are “specified decisions”?

On line 8, how is it determined whether additional actions may be needed to maintain the child’s attendance?

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: August 1, 2017

1 **10A NCAC 09 .3003 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .3003 PROGRAM ATTENDANCE POLICY**

4 When a child is absent for more than three consecutive days, the site-level administrator shall contact the family and
5 determine the child's participation status. The site-level administrator ~~must~~ shall document attempts to contact the
6 family and any specified decisions regarding the child's continued participation in the program. The site-level
7 administrator shall contact the local NC Pre-K contractor to share information related to the child's absence and to
8 determine what further actions may be necessary to maintain the child's attendance in the program.

9
10 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

11 *Eff. November 1, ~~2012~~; 2012;*

12 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3005

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), please change "is required to be" to "shall be"

Please begin (a)(1) through (5) with lowercase letters.

In (b), what are site-level administrators reviewing the health assessments for? What results are they sharing with the families?

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: August 1, 2017

1 **10A NCAC 09 .3005 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .3005 CHILD HEALTH ASSESSMENTS**

4 (a) A health assessment is required to be on file at the NC Pre-K site within 30 days after a child enters the NC Pre-
5 K program and the assessment may be no more than 12 months old at the time of program entry. The health assessment
6 ~~must~~ shall include the following:

- 7 (1) Physical examination;
8 (2) Updated immunizations;
9 (3) Vision screening;
10 (4) Hearing screening; and
11 (5) Dental screening.

12 (b) Site-level administrators shall review all health assessment results and shall share results with families.

13
14 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

15 *Eff. November 1, ~~2012~~ 2012;*

16 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3006

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), what is a “developmental screening” and what is it testing for? It is in accordance with the developmental domains in accordance with .0508?

In (a), line 6, who are those “trained in administering the screening? Is this something that occurs within the pre-k program?

In (a) line 7, please delete “solely”

In (a), line 8, please change “who should be” to “to be”

In (b), what are site-level administrators reviewing the screenings for? What results are they sharing with the families?

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: August 1, 2017

1 **10A NCAC 09 .3006 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .3006 DEVELOPMENTAL SCREENING**

4 (a) All children enrolled in the NC Pre-K program ~~must~~ shall receive a developmental screening, unless the child has
5 an existing Individualized Education Program (IEP). The developmental screening shall be conducted by a person
6 trained in administering the screening. Children ~~must~~ shall be screened within 90 days after the first day of attendance
7 in the program or within six months prior to the first day of attendance. The screenings shall be used solely for the
8 purpose of identifying children who should be referred for further evaluation and testing based on concerns in one or
9 more developmental domains.

10 (b) Site-level administrators shall review all developmental screening results and shall share results with families.

11
12 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

13 *Eff. November 1, ~~2012~~ 2012;*

14 *Readopted Eff. September 1, 2017.*

1 **10A NCAC 09 .3007 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .3007 EARLY LEARNING STANDARDS AND CURRICULA**

4 (a) NC Pre-K programs shall use North Carolina's Early Learning and Development Standards (and subsequent
5 editions), as developed by a group of state and national early childhood experts. The Early Learning and Development
6 Standards can be found on the Division of Child Development and Early Education's website at
7 ~~http://www.ncchildcare.net.~~ http://ncchildcare.dhhs.state.nc.us/providers/py_foundations.asp.

8 (b) Each NC Pre-K classroom shall use a curriculum as defined in 10A NCAC 09 .0102.

9
10 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

11 *Eff. January 1, ~~2013~~. 2013;*

12 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3008

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 4, please change "are required" to "shall be required"

What is meant by "on-going formative assessments"? Is this to evaluate the teachers or the children? What exactly is to be assessed for these purposes?

On line 6, how is a program to request approval 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: August 1, 2017

1 **10A NCAC 09 .3008 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .3008 FORMATIVE ASSESSMENTS**

4 Classroom staff are required to conduct on-going formative assessments to gather information about each child's
5 growth and skill development, as well as inform instruction. All formative assessments used by the NC Pre-K ~~program~~
6 Program shall be approved by the NC Child Care Commission based on the assessment tool's ability to collect
7 information on children's behaviors, development, skills, knowledge, strengths, needs and interests across all domains
8 of development.

9
10 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a),(b);*

11 *Eff. March 1, ~~2013~~. 2013;*

12 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3009

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

*I'm not sure that I understand this – are one teacher and one teacher assistance always required, even if there are only 9 children in the class?
Please clarify.*

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: August 1, 2017

1 **10A NCAC 09 .3009 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .3009 STAFF-TO-CHILD RATIO AND CLASS SIZE**

4 The classroom shall not exceed a maximum staff-to-child ratio of one to nine with a maximum class size of 18 children,
5 with at least one teacher and one teacher assistant ~~teacher~~ per classroom.

6
7 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

8 *Eff. November 1, ~~2012~~ 2012;*

9 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3010

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 4, "pre-kindergarten programs" is used while everywhere else, it appears to be "pre-k" Please be consistent.

On line 4, please delete or define "comprehensive."

On line 6, please delete "meaningful"

On line 6, please delete "but are not limited to."

On line 5, please delete either "develop partnerships with families" or "build reciprocal relationships" the language appears to be duplicative by implementing the same requirement with different language.

There seems to be a bridge missing between the plan references on line 4 and opportunities referenced on line 6. Please consider revising this to say something like "NC Pre-K programs shall develop a plan for family engagement consisting of strategies designed to develop partnerships with families that promote shared decision making opportunities. These opportunities include:"

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: August 1, 2017

1 **10A NCAC 09 .3010 is readopted as published in 31:20 NCR 2015 as follows:**

2
3 **10A NCAC 09 .3010 FAMILY ENGAGEMENT**

4 NC Pre-Kindergarten programs shall develop a comprehensive plan for family engagement consisting of strategies
5 designed to develop partnerships with families and build reciprocal relationships that promote shared decision-making.
6 Examples of meaningful opportunities for families to be engaged in their child's education include, but are not limited
7 to:

- 8 (1) Allowing Pre-K program teachers the opportunity for home visits;
- 9 (2) Formal and informal parent/teacher conferences;
- 10 (3) Classroom visits and options for parents and families to participate in classroom activities;
- 11 (4) Parent education;
- 12 (5) Allowing family members the opportunity for involvement in decision making about their own child
13 and about their child's early childhood program; and
- 14 (6) Opportunities to engage families outside of the regular ~~service~~ school day.

15
16 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*
17 *Eff. November 1, ~~2012~~ 2012;*
18 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3011

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

For purposes of maintaining consistency and clarity, please consider looking at .3011, .3012, .3013, and .3014 as they each address similar material (for different positions), but are all set forth in different ways – some of them are more clear than others.

In (a)(2), (2)(A), (2)(B), and (b) what is meant by “or its equivalent”? How is this determined?

Please begin (a)(2)(A) and (B) with lower case letters.

What is the intent of (a)(2)(B)? Is this requiring that the person with the level I or II must take at least 6 semester hours toward earning the Level III? Semester hours of what?

In (b), what is meant by “unable to work”? Does this include disability, occasional sick leave? Appointments? I assume that this is intended to capture long-term leave, not random vacation or sick days? Some additional information needs to be provided as this is unclear. I realize that you deleted (c), but some version of this may be helpful to incorporate into (b).

(b) appears to be missing the underlying requirement of an approval request. Please consider adding some language to provide this requirement. Something like “a program may request additional time... Upon request, the agency may grant approval...” See .3014(c) for some additional language (though 3014(c) is also missing the link)

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

In (b), please delete “but not limited to”

Please begin (b)(1) through (3) with lower case letters.

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: August 1, 2017

10A NCAC 09 .3011 is readopted as published in 31:20 NCR 2015 as follows:

10A NCAC 09 .3011 NC PRE-K SITE-LEVEL ADMINISTRATOR QUALIFICATIONS

(a) Administrators of NC Pre-K sites ~~must~~ shall have either:

(1) A NC ~~Principal~~ Principal's License, or

(2) A North Carolina Early Childhood Administrator Credential (NCECAC) Level ~~III~~ III or its equivalent. If the site-level administrator has not yet earned the NCECAC Level III, the following shall apply:

(A) Provisional approval shall be given for four years from the time the site began participation with the NC Pre-K program for the administrator with NCECAC I or II to obtain the NCECAC Level ~~III~~ III or its equivalent; and

(B) Progress toward NCECAC Level III or its equivalent shall be considered a minimum of six documented semester hours per year.

(b) When the site administrator is unable to work, an interim director with at least a Level I Administrator Credential or its equivalent or a Principal's License shall be employed not to exceed 12 weeks. In determining whether to approve an extension of the 12-week vacancy, the Division shall consider reasons, including, but not limited to:

(1) Maternity leave;

(2) Death, disability, or illness; and

(3) Natural or man-made disasters.

~~(b)(c)~~ Administrators of NC Pre-K sites shall not serve as the NC Pre-K teacher or teacher assistant.

~~(e) Long term vacancies shall not exceed 12 weeks.~~

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

Eff. November 1, ~~2012~~ 2012;

Readopted Eff. September 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3012

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (a), are these licenses issued through DPI?

In (a), should there be some reference to an initial license here. I see that "initial licenses" are referenced in (b) and (c), but without a reference in (a), I'm not sure how they fit.

Please begin (a)(1) through (a)(4) with lower case letters and delete "or" at the end of (a)(1) and (a)(2).

In (a)(3), what is meant by "another North Carolina or another state's license"? What kind of license? Any license?

Is the BA/BS degree referenced on line 6, different than the one in (a)(4)? The way that I read this, line 6 allows for any BA/BS degree, but (a)(4) requires one in childhood development? I just wanted to verify.

In (a)(4), since you have already said that birth-kindergarten is (B-K), why not use the abbreviation?

In (b) and (c), under what circumstances will the pre-k teacher need to make progress toward the B-K continuing license? Are these the requirements that the teachers must do if they are not already holding the continuing or add-on license? If so, that appears to be covered by (a)(1) through (a)(4). Please consider changing the format and potentially the order of this Rule for purposes of clarity. I will note that the format of .3013 is much more clear as to the requirements.

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

*In (b)(1) and (c)(1), what is an “approved teacher education program”
Approved by whom?*

*In (b)(3) and (c)(3), how does one achieve the Initial or Continuing license?
Is this through DPI?*

*In (d), when would the Division have the opportunity to approve less than
the minimum amount? Is this upon request from the teacher? How would
the teacher go about making this request? Overall, it is unclear as to when
it would be appropriate for this request and how it is to be made.*

*In (d), what is the minimum amount? 6 hours as set forth in (b)(2) and
(b)(3)?*

In (d), line 31, please delete “but not limited to”

Please begin (d)(1) through (d)(3) with lower-case letters.

*In (e), what is the “required standard”? Do you mean in accordance with
this Rule?*

*For how long must the documentation be maintained? Is this included in
the records Rule?*

In (f), please delete “shall”

*In (f), is there a cross-reference available that gives more information as to
the enrollment requirements for the Early Educator Support, Licensure &
Professional Development Unit of the Division of Child Development?*

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

10A NCAC 09 .3012 is readopted as published in 31:20 NCR 2015-2016 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) ~~Standard Professional II or Preschool Add-on licensures.~~ Continuing License or B-K or Preschool Add-on License. Teachers working toward the required education and license shall hold a minimum of a BA/BS degree and the following requirements:

- (1) NC ~~Initial Provisional~~ Lateral Entry B-K ~~License, License;~~ License; or
- (2) A North Carolina K-6 license and a ~~provisional~~ Provisional Preschool Add-on ~~license, license;~~ license; or
- (3) Another North Carolina or ~~other~~ another state's license and ~~an a~~ a NC Provisional B-K ~~license, license;~~ license; or
- (4) A BA/BS degree in birth-through-kindergarten, child development, early childhood education, child development, or a or an early childhood education related field, and be eligible for a NC ~~Initial Provisional~~ Lateral Entry B-K License.

(b) Pre-K teachers with a NC Lateral Entry B-K License shall make progress toward the B-K Continuing License by:

- (1) Obtaining a Plan of Study issued by an accredited college or university with an approved 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; and
- (3) Achieving the NC B-K Initial or Continuing License within three years.

(c) Pre-K teachers with a ~~BA/BS degree~~ NC Provisional B-K or Preschool Add-on License shall make progress toward the B-K Continuing License by: ~~B-K licensure by completing a minimum of six documented semester hours per year, and achieve the B-K license within three years. The site level administrator shall maintain documentation available for review by the Division, of the progress toward the required standard.~~

- (1) Obtaining a Plan of Study issued by an accredited college or university with an approved 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; and
- (3) Achieving the NC B-K Initial or Continuing License within five years.

(d) In determining whether to approve less than the minimum required semester hours, the Division shall consider reasons, including, but not limited to:

- (1) Maternity or family leave;
- (2) Death, disability, or illness; and
- (3) Natural or man-made disasters.

(e) The site-level administrator shall maintain documentation available for review by the Division, of the progress toward the required standard.

1 ~~(b)~~(f) All NC Pre-K lead teachers employed by nonpublic schools must shall be enrolled with the Early Educator
2 Support, Licensure & Professional Development Unit of the Division of Child Development and Early Education.

3
4 *History Note:* Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);

5 *Eff. November 1, ~~2012~~ 2012;*

6 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3013

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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 (1), line 5, please delete "a minimum of"

In (2), what is the "No Child Left Behind" legislation? Is this still current law? It appears that NCLB has been replaced.

In (2), what are the employment requirements of this Rule? Please provide some additional, specific information regarding the employment requirements.

Please begin (2)(a) and (2)(b) with lower case letters.

On line 15, for how long must the records be maintained? Is this included in your records Rule?

On line 16, what is the "required standard"? Do you mean "in accordance with 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: August 1, 2017

1 **10A NCAC 09 .3013 is readopted as published in 31:20 NCR 2016 as follows:**

2
3 **10A NCAC 09 .3013 NC PRE-K TEACHER ASSISTANT EDUCATION AND CREDENTIALS**

4 All teacher assistants shall:

- 5 (1) have a high school diploma or GED and shall hold, or be working toward, a minimum of an
6 Associate Degree in birth-through-kindergarten, child development, early childhood education,
7 ~~education or child development (ECE/CD)~~ or an early childhood education related field or a Child
8 Development Associate (CDA) credential. Teacher assistants working toward the minimum of an
9 Associate Degree or CDA shall make progress by completing a minimum of six documented
10 semester hours per year; or
11 (2) meet the employment requirements outlined by the federal "No Child Left Behind" (NCLB)
12 legislation, and have one of the following:
13 (a) Six documented semester hours of coursework in early childhood education, or
14 (b) Two years of work experience in an early childhood setting.

15 The site-level administrator shall maintain documentation available for review by the Division of the progress toward
16 the required standard.

17
18 *History Note:* Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);

19 *Eff. November 1, ~~2012~~ 2012;*

20 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3014

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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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:

In (a), what is meant by “unable to work”? Does this include disability, occasional sick leave? Appointments? I assume that this is intended to capture long-term leave, not random vacation or sick days? Some additional information needs to be provided as this is unclear.

In (a), what is meant by “able to implement the program in accordance with this Section”? How and by whom is this determined?

*Please consider rewording (a)(1) as follows: **Requirements for short-term vacancies**, when teachers are absent from the Pre-K classroom for 15 or fewer days, **include the following: substitute staff shall:***

In (a)(1)(A), please delete “at least”

*Please consider rewording (a)(2) as follows: **Requirements for long-term vacancies**, when teachers are absent from the Pre-K classroom for 16 or more attendance days, **are for** substitute staff **to hold at least** an Associate's Associate Degree **or equivalent** in birth-through-kindergarten, child development, early childhood education or an early childhood education related field. **early childhood education/child development a four year degree in a related field.***

In (a)(2), please delete or define “or equivalent”

In (b), please delete “a minimum”

In (c), please delete or define “long term”

Amber May
Commission Counsel
Date submitted to agency: August 1, 2017

(c) appears to be missing a link between a vacancy exceeding 12 months and a requirement of an approval for an extension. Please provide this underlying requirement in Rule. How is an extension request to occur?

Please begin (c)(1) through (c)(6) with lower case letters.

In (c)(3), what is considered a “good faith effort”?

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

10A NCAC 09 .3014 is readopted as published in 31:20 NCR 2016-2017 as follows:

10A NCAC 09 .3014 NC PRE-K SUBSTITUTE STAFF

(a) When a member of the NC Pre-K teaching staff is unable to work, a substitute staff person ~~must~~ shall be provided to maintain the staff-to-child ratio as specified in Rule .3009 of this Section and ~~must~~ shall be able to implement the program in accordance with this Section. Substitute staff ~~must~~ shall be at least 18 years of age and meet the following minimum qualifications:

(1) Requirements for short-term vacancies, when teachers are absent from the Pre-K classroom for 15 or fewer days, include the following:

(A) Nonpublic Schools (Private Child Care/Pre-K Settings): Substitutes in private settings ~~must~~ shall have at least a high school diploma or a GED, and completed at least one course in early childhood education or child development, such as the North Carolina Early Childhood Credential; or

(B) Public School Settings: Substitutes ~~must~~ shall meet the requirements of the substitute policy consistent with the local education agency (LEA).

(2) Requirements for long-term vacancies, when teachers are absent from the Pre-K classroom for 16 or more attendance days, are for substitute staff to hold at least an ~~Associate's~~ Associate Degree or equivalent in birth-through-kindergarten, child development, early childhood education or an early childhood education related field. ~~early childhood education/child development a four year degree in a related field.~~

(b) Substitutes for teacher assistants ~~must~~ shall be at least 18 years of age and have a minimum of a high school diploma or a GED.

(c) Long term vacancies shall not exceed 12 weeks. In determining whether to approve an extension of a long term vacancy, the Division shall consider:

(1) The number of children and families who may lose services if the affected classroom is not approved for the extension, including the availability of unfilled Pre-K slots for placement of affected children;

(2) The effect upon children and families if children are relocated to another Pre-K site, including transportation to and from the new Pre-K site, sibling care, and wrap-around care for the Pre-K child and the child's siblings;

(3) Whether the Pre-K program has demonstrated a good faith effort to secure a permanent teacher for the vacancy;

(4) Availability of funding sources other than Pre-K funds to support affected children;

(5) Pre-K instructional staff turnover; and

(6) Reasons for the vacancy, including, but not limited to:

(A) maternity leave;

(B) death, disability, or illness; and

1 (C) natural or man-made disasters.

2

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

4 *Eff. November 1, ~~2012~~ 2012;*

5 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3015

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Is the requirement 32.5 hours per week or 6.5 hours per day of direct contact? Please be consistent.

On line 4, what is considered to be "instructional staff"? Is this defined elsewhere in rule or statute?

On line 4, please define "direct contact"

On lines 7-8 what are "required professional development activities"? Are they set forth in Rule .3016 of this Section?

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: August 1, 2017

1 **10A NCAC 09 .3015 is readopted as published in 31:20 NCR 2017 as follows:**

2
3 **10A NCAC 09 .3015 INSTRUCTIONAL STAFF STANDARDS**

4 Instructional staff shall work in direct contact with children in the Pre-K program for at least a ~~32.5-hour~~ 32.5-hour
5 work week. In addition to these direct, day-to-day instructional experiences, the Pre-K program ~~must~~ shall provide
6 adequate additional time for the instructional staff for related instructional activities, including time for planning,
7 scheduling and conducting home visits, meeting with children's families, or attending required professional
8 development activities. These related activities shall take place outside of the ~~six-and-a-half-hour~~ six-and-a-half-hour
9 day of direct teacher-child contact.

10
11 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

12 *Eff. November 1, ~~2012~~ 2012;*

13 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3016

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

Please delete (a) as there is no longer a (b).

On line 7, incorporate the policy by reference in accordance with G.S. 150B-21.6.

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: August 1, 2017

1 **10A NCAC 09 .3016 is readopted as published in 31:20 NCR 2017 as follows:**

2
3 **10A NCAC 09 .3016 PROFESSIONAL DEVELOPMENT REQUIREMENTS**

4 (a) ~~Licensed Administrators, Teachers, and Teacher Assistants in non public and public~~ North Carolina licensed
5 administrators, teachers, and teacher assistants employed by public and nonpublic schools shall participate in
6 professional development consistent with the NC State Board of Education policy, the level of education and type of
7 educator licensure required for employment. The policy can be found on the NC Department of Public Instruction's
8 website at <http://www.ncpublicschools.org/profdev/>.

9 ~~(b) Administrators, Teachers, and Teacher Assistants in non public school settings, working toward Pre K~~
10 ~~qualifications shall participate in a minimum of six documented semester hours per year.~~

11
12 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

13 *Eff. November 1, ~~2012~~ 2012;*

14 *Readopted Eff. September 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3017

DEADLINE FOR RECEIPT: Friday, August 11, 2017

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:

On line 4, please delete or define "persistent challenging"

Please begin (1)(a) through (1)(e) with lower case letters

In Item (2), line 19, please add a comma in between "state resources" and "such as"

Is the coordinated plan in (2) the same as the support plan in (3)? If not, is requiring Items (1),(2), AND (3) as set forth in Items (4) and (5) correct? Should this be or, rather than "and"?

In Item (4), line 26, please change "suspended, or be expelled" to "suspended or expelled"

In Item (4), please make shift the requirement to the operator, rather than the child. A suggestion would be something like "An operator shall not suspend or expel a child from a NC Pre-K program until the Operator has completed the requirements of Items (1), (2), and (3).

In Items (4) and (5), is the operator the same as the site administrator? If so, please be consistent in your terms. Please also make sure that this is addressed in any other rule using the term "operator"

Please reword Item (5) to make the requirement of the operator clear. As written, the Rule is requiring the child to complete the steps.

In Item (5), line 28, please define "full"

Amber May

Commission Counsel

Date submitted to agency: August 1, 2017

In Item (5), line 30, please change “themselves” to “himself or herself”

In Item (5), what factors is the operator to use in determining whether a child poses a risk of harm to him or herself or others?

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

10A NCAC 09 .3017 is adopted with changes as published in 31:20 NCR 2017 as follows:

10A NCAC 09 .3017 CHILDREN WITH UNIQUE NEEDS AND CHALLENGING BEHAVIORS

When a child demonstrates persistent challenging behaviors that prevent his or her progress in any developmental domain as referenced in the "North Carolina Foundations for Early Learning and Development" impeding the child's access to and participation in the assigned NC Pre-K classroom learning activities, the following shall apply:

- (1) The Site Administrator shall notify the NC Pre-K Contract Administrator and the local school system's Preschool Exceptional Children Program for assistance if a child's cognitive, language and communication, emotional, social, health and physical needs exceed the program's capacity to address as indicated by one or more of the following:
 - (a) Developmental needs assessments;
 - (b) Home visits;
 - (c) Consultations with the family members;
 - (d) Daily recorded classroom teacher observations; and
 - (e) Modified instructional plans and differentiated lessons based on the child's individual goals.
- (2) The NC Pre-K Contract Administrator, Site Administrator, teacher, and family members in consultation with the school system's Preschool Exceptional Children Program and other available community and state resources such as Birth-through-Kindergarten licensed mentors, evaluators, Healthy Social Behavioral specialists, child care health consultants, mental health specialists, social workers, and other local child developmental experts, shall develop a coordinated plan to support the NC Pre-K child's placement and participation in the NC Pre-K Program.
- (3) The Division of Child Development and Early Education shall be notified when support plans recommended by the local school system's Exceptional Children Program require an alternative placement and support services for a child.
- (4) No child shall be suspended, or be expelled from a NC Pre-K Program without the operator having completed the requirements of Items (1), (2), and (3) of this Rule.
- (5) No child shall receive less than the full NC Pre-K school day without completing the requirements of Items (1), (2), and (3) of this Rule, unless the operator determines the child poses a risk of harm to themselves or others.

*History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);
Eff. September 1, 2017.*