

## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .0302

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

***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:

Delete the page number for page 1.

Line 4 should delete "who will be" and "which." Consider re-writing as follows:

"An individual that is legally responsible for the operation of the center, including assuring compliance..."

Lines 5 through 6 references "the form provided by the Division." Where is this form located and how does an individual obtain the form? G.S. 110-88(8) requires the Department to develop a procedure to furnish forms as may be required for implementation of this Article. What is the procedure?

Line 9, delete or define "approved" and "appropriate." To clarify, you may consider making "inspection report" and "inspector" plural to reflect there are multiple reports.

Line 10 references a "provisional classification" and Rule. 0401(1) of this Chapter. First, is the citation correct or should it be Rule .0401(a)? Second, the referenced Rule deals with provisional licenses and provides information on when they may be issued. The sentence is more correctly written as follows:

"A provisional license may be issued..."

Additionally, the sentence beginning on line 10 should be moved to line 13. Consider combining the two sentences, or simply deleting the sentence on line 10.

Line 11, delete "appropriate."

Line 18, delete "will" and replace with "shall"

Line 19, add in a reference to Article 7 after "G.S. 110"

Abigail M. Hammond  
Commission Counsel

Line 29 is ambiguous. Consider re-writing as follows:

“The applicant shall demonstrate to the Division representative that the following information shall be available for review in the center’s files:”

For Paragraph (d), Subparagraphs (1) through (7) should begin with lowercase letters, as the clause are not complete sentences, but are part of a list.

Line 32 references “previous.” The term seems unnecessary and should be deleted, as the goal is to capture all education, which by default includes previous.

Page 2, line 2, delete “each drill is held” and “of day”. Re-write the sentence as follows:

“date and time of each drill,”

Page 2, lines 13 and 15, add in a reference to Article 7 after “G.S. 110”

Page 2, line 15, add “Division” before “representative.”

Page 2, line 19, is this sentence necessary as it appears to restate the statutory requirement set forth in G.S. 110-99(a1)?

Page 2, Paragraph (g), the term “person” and “applicant” are used interchangeably. The correct term should be “applicant.” Replace “that person” with “the applicant.” Delete the clause “When a person applies for a child care center license” so that the sentence begins with “The Secretary may...”

Page 2, lines 22, 24, and 27, add a comma after revoked or revocation

Page 2, line 24, delete the extra space before “if” and delete “has”

Page 2, line 27, add “other” between “any child” and delete “previously” on line 28.

Page 2, line 30, add an “s” on “Subparagraph” to make it plural

Page 3, line 3, add in a reference to Article 7 after “G.S. 110”

Page 3, line 4, should the “and” be an “or”?

Page 3, line 6, replace the “is” with “if the applicant”

Page 3, lines 9 and 10, delete “which” and replace with “that”

Page 3, line 13, delete “which” and replace with “that”. To clarify the sentence, consider re-writing as follows:

“original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was...”

Page 3, line 14, delete the second “taken”

Page 3, line 15, if the phrase nationally recognized is a term that is being defined, then place the term in quotation marks

Page 3, lines 16 and 17, delete the phrase "six regional"

Page 3, line 25, add G.S. 110-86 to your statutory authority, as it defines a "child care center" and "operator."

Page 3, line 27, add the year to the amended effective date in the history note

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .1702

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

***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:

Delete the page number for page 1.

Lines 4 through 5 references "the form provided by the Division." Where is this form located and how does an individual obtain the form? G.S. 110-88(8) requires the Department to develop a procedure to furnish forms as may be required for implementation of this Article. What is the procedure?

Line 5, delete "which" and replace with "that." Move the clause "that complies with the following" after "to the Division"

Lines 6 through 7 appear to be a list and should begin with lowercase letters, line 6 should end with a semicolon followed by "and."

Line 8, delete "When" and replace with "If." Delete "will" and add a "s" to "operate."

Line 16 refers to the North Carolina Building Code for family care homes. What portion of the Building Code? Please incorporate a specific reference to this information.

Lines 21 through 22 refer to the manufactured/mobile home regulations. What regulations? Please incorporate a specific reference to this information. Clarify whether the information adopted by the Department of Insurance are regulations, not captured in statute or the code, or rules that are captured in the code.

In lines 23 through 24, exceptions and notes should be used sparingly in rules. Delete the word "Exception" and make this sentence an indented part of Subparagraph (2).

Line 30, delete "which and replace with "that". Also, this sentence refers to the heating sources approved by the Department of Insurance. Please incorporate a specific reference to this information. For lines 32 through 33, what occurs if the heating sources approved by the Department of Insurance includes "unvented fuel burning heaters and portable electric space heaters?"

Line 36, delete “which” and replace with “that.”

Page 2, line 1, delete “are provided,” add a comma and an “and” after “bathroom,” and place a period after “public,” deleting the remainder of the sentence.

Page 2, line 6, qualification letter is not defined and this is the first mention in this Rule to the term. Make a reference to 10A NCAC 09 .2707. Also, delete the period after “letter” and replace with a semicolon

Page 2, line 19, the clause “unless the applicant meets the criteria in Paragraph (g) of this Rule” is cumbersome. Remove the clause and create a new sentence that states the following:

An announced visit is not required by a Division representative if the applicant is subject to the circumstances in Paragraph (g) of this Rule.

Page 2, line 22, add in a reference to Article 7 after “G.S. 110”

Page 2, lines 23 and 27, add “of G.S. 110, Article 7 and this Section” after “requirements.”

Page 2, line 23, add a comma after “met.”

Page 2, line 30 contains a split infinitive. Consider deleting “temporarily”

Page 2, line 32, delete the comma after “relocate”; delete the semicolon after “relocation”; and place a comma after “relocation”

Page 2, line 33, the term “person” and “applicant” are used interchangeably. The correct term should be “applicant.” Replace “A person” with “An applicant.”

Page 2, Paragraph (g), the term “person” and “applicant” are used interchangeably. The correct term should be “applicant.” Replace “that person” with “the applicant.” Delete the clause “When a person applies for a child care center license” so that the sentence begins with “The Secretary may...”

Page 3, lines 1, 3, and 6, add a comma after revoked or revocation

Page 3, line 3, delete the extra space before “if” and delete “has”

Page 3, line 6, add “other” between “any child” and delete “previously” on line 7.

Page 3, line 9, add an “s” on “Subparagraph” to make it plural

Page 3, line 20, should the “and” be an “or”?

Page 3, lines 21 through 22, delete “if abuse or neglect was substantiated against”

Page 3, line 23, replace the “is” with “if the applicant. Spell out the term “FCCH” as this is the only location of it within this Chapter.

Page 3, line 27, delete “which” and replace with “that” To clarify the sentence, consider re-writing as follows:

“original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was...”

Page 3, line 31, delete the second “taken”

Page 3, line 32, if the phrase nationally recognized is a term that is being defined, then place the term in quotation marks

Page 3, lines 33 and 34, delete the phrase “six regional”

Page 4, lines 9 through 10, is this sentence necessary as it appears to restate the statutory requirement set forth in G.S. 110-99(a1)?

Page 4, line 12, the term “whenever” is ambiguous. Is there no specify time frame?

Page 4, line 12, delete “which” and replace with “that”

Page 4, line 14, add G.S. 110-86 to your statutory authority, as it defines a “family child care home.”

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2506

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

**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:

Line 4, delete "always."

Line 5, add "of this Chapter" after "Rule .1403."

Line 12 appears to have an additional space before "Children." Please delete.

Parts (A) through (C) of Subparagraph (1) more accurately reflects a list. Each part should begin with a lowercase letter

On lines 19 and 22, there is a reference to children nine and older. The language is not consistent. Delete "ages nine" on line 22 and replace with "nine years of age"

On line 21, change the period to a semicolon

On line 24, delete "that" and replace with "who." Also, add a semicolon and an "and" at the end of the line.

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Abigail M. Hammond  
Commission Counsel

## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2701

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

**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:

Space the lines at 1.5. See 26 NCAC 02C .0108.

Consider re-writing the last sentence to an affirmative statement, as follows:

An individual may work or be present in any child care facility during the time the individual holds a valid qualification letter after the Division's determination that the individual is a qualified child care provider.

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Abigail M. Hammond  
Commission Counsel



## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2702

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

***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:

Delete the page number for page 1.

Lines 10 through 11 appear to reference G.S. 110-90.2(a)(3) specifically. Please add (a)(3) to the citation.

Lines 12 through 15 restate the statute and are unnecessary. Please rewrite Sub-Items (b) through (d) as follows:

“(b) is classified within the prohibited list provided in G.S. 110-90(a1);”

Based upon those changes, Sub-Items (e) through (g) should be re-lettered.

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Abigail M. Hammond  
Commission Counsel

## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2703

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

***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:

The title is not consistent with 10A NCAC 09 .2702 or G.S. 110-90. The statute specifically amended the phrase to be "criminal history record check" Please consider adding the term "History" to "Criminal Record Check" in the title.

Delete the page number for page 1.

Line 5, delete the comma after ".1702" and add the comma back in after "Chapter"

Line 10, delete the "and" at the end of the line

Line 12, delete the period, add a semicolon and add an "and" at the end of the line

Lines 13 through 14, create as Subparagraph (3) to Paragraph (a). Un-capitalize the term "If" and delete the clause "along with items listed in Subparagraphs (a)(1) and (2) of this Paragraph."

Page 1, line 13, hyphenate "out of state"

Line 22, delete the phrase "in accordance with G.S. 110-90.

Lines 23 and 24, the terms "under deferred prosecution, has received a Prayer for Judgment, or is on probation for a crime" does not track the statutory authority found in G.S. 110-90(a)(3). If the language is necessary, please define "conviction" and "pending indictment of a criminal or criminal charge" in 10A NCAC 09 .2702. The definition should include the terms set forth in lines 23 and 24.

Line 27, the terms "under deferred prosecution, has received a Prayer for Judgment, or is on probation for a crime" does not track the statutory authority found in G.S. 110-90(a)(3). If the language is necessary, please define "conviction" and "pending indictment of a criminal or criminal charge" in 10A NCAC 09 .2702. The definition should include the terms set forth in line 27.

Line 32, delete “crime” and replace with “offense”

Line 36, delete “individual” and replace with “prospective child care provider”

Page 2, lines 1 and 4, references “as defined by G.S. 110-86(7).” Delete these clauses and place the reference in the Authority portion of the History Note.

Page 2, lines 3 and 6, references 10A NCAC 09 .2101(c). A review of the Administrative Code reflects that the correct citation may be 10A NCAC 09 .0301(c). Please correct.

Page 2, line 11, delete “When” and replace with “if”

Page 2, line 12, delete “also”

Page 2, line 23-24, is the second sentence that begins “Child care providers found to be...” in the correct location? It seems that this sentence should be Paragraph (i) [*please see the technical change made on page 3, lines 15 through 16*] and all current subsequent paragraphs shifted downwards.

Page 2, lines 34 and 35, the term “operator” is defined in G.S. 110-86(7) and includes the terms “owner” and “director.” Delete those terms in Paragraph (k).

Page 2, line 35, add “or” between “days before” and add a comma after “work” so that the sentence reads as follows:

within five business days or before returning to work, whichever comes first.

Page 3, line 4, move Paragraph (m) before Paragraph (l).

Page 3, line 1, delete “of”

Page 3, lines 2 through 3, delete the sentence beginning “Out of state residence...” as this language is redundant of Paragraph (a).

Page 3, Paragraph (n), the term “criminal record check” is not consistent with 10A NCAC 09 .2702 or G.S. 110-90. The statute specifically amended the phrase to be “criminal history record check” Please add the term “history” to “criminal record check” on lines 5, 8, and 10.

Page 3, Paragraph (n) is unclear and may be re-written as follows:

After a child care provider has been qualified, the Division may complete a new criminal history record check at any time when there has been an investigation conducted by the Department of Social Services or the Division of Child Development and Early Education and the investigation references the child care provider. If the Division requests a new criminal history record check, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days of the Division’s request.

Page 3, Paragraph (p), is this the correct location? It seems that this sentence should be Paragraph (h) and all current subsequent paragraphs shifted downwards.

Page 3, line 17, delete “owners or directors” and replace with “operators”

Page 3, line 20, the Authority within the History Note references a Session Law from 1995. It would appear that the recent changes in 2012-160, s. 1. would be controlling. Delete the reference to the Session Law from 1995.

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2704

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

***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:

The title is not consistent with 10A NCAC 09 .2702 or G.S. 110-90. The statute specifically amended the phrase to be "criminal history record check" Please consider adding the term "History" to "Criminal Record Check" in the title.

Delete the page number for page 1.

Line 10, delete the "and" at the end of the line

Line 12, delete the period, add a semicolon and add an "and" at the end of the line

Lines 15 through 16, create as Subparagraph (3) to Paragraph (a). Un-capitalize the term "If" and delete the clause "along with items listed in Subparagraphs (a)(1) and (2) of this Paragraph."

Line 15, hyphenate "out of state"

Line 16, delete "their" and replace with "his or her"

Line 18, delete "also includes" and replace with "applies to."

Line 19, add "the" between "after initial"

Lines 20 through 21 should be re-written as follows:

The individual shall submit the items in this Paragraph to the local..."

Line 22 allows five business days and Line 30 allows 10 business days. Are these numbers inconsistent for a justifiable reason?

Paragraphs (b) and (c), the term "criminal record check" is not consistent with 10A NCAC 09 .2702 or G.S. 110-90. The statute specifically amended the phrase to be

Abigail M. Hammond  
Commission Counsel

“criminal history record check” Please add the term “history” to “criminal record check” on lines 25, 26, and 29.

Line 32, delete the phrase “in accordance with G.S. 110-90.

Line 33, “non-licensed” is hyphenated for the first and only time in this Rule. Delete the hyphen.

Lines 34 and 35, the terms “under deferred prosecution, has received a Prayer for Judgment, or is on probation for a crime” does not track the statutory authority found in G.S. 110-90(a)(3). If the language is necessary, please define “conviction” and “pending indictment of a criminal or criminal charge” in 10A NCAC 09 .2702. The definition should include the terms set forth in lines 34 and 35.

Page 2, line 6, what provider is being referred to for determination of qualifications? It is “a prospective nonlicensed home provider”?

Page 2, line 9, delete “crime” and replace with “offense”

Page 2, line 13, delete “individual” and replace with “prospective nonlicensed home provider”

Page 2, line 17 through 18, the sentence references a file being maintained. Please clarify who is keeping this file. Is it the local purchasing agency?

Page 2, line 21, should the “may” be a “shall”?

Page 2, line 28, add a comma after “nonlicensed home provider” and delete “only”

Page 2, line 29, add the phrase “in the civil action” after “determination”

Page 2, line 30, add “uncompensated” between “the care”; delete “that was provided”; and replace it with “provided during the proceedings.”

Page 2, Paragraph (j), the term “criminal record check” is not consistent with 10A NCAC 09 .2702 or G.S. 110-90. The statute specifically amended the phrase to be “criminal history record check” Please add the term “history” to “criminal record check” on lines 33 and 35.

Page 2, Paragraph (j) is unclear and may be re-written as follows:

After a child care provider or household member, including family members and non-family members over 15 years old who use the home on a permanent or temporary basis as their primary residence, has been qualified, the Division may complete a new criminal history record check at any time when there has been an investigation conducted by the Department of Social Services or the Division of Child Development and Early Education and the investigation references the child care provider. If the Division requests a new criminal history record check, the child care provider or household member shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days of the Division’s request.

Page 3, line 8, delete “of”

Page 3, line 9, is the correct term “may” or should the term be “shall”?

Page 3, lines 9 through 11, what is the purpose of this sentence? This is a deviation from the prior rule and seems unnecessary.

Page 3, line 14, move Paragraph (l) before Paragraph (k).

Page 3, line 25, the Authority within the History Note references a Session Law from 1995. It would appear that the recent changes in 2012-160, s. 1. would be controlling. Delete the reference to the Session Law from 1995.

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

## REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2903

DEADLINE FOR RECEIPT: **Friday, January 10, 2014**

**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:

Line 5, add a semicolon after "Public Health"

Line 5, delete "or" after "Public Health"

Line 6, add a semicolon after "Professional I licensure"

Line 9 references a definition set by the State Board of Education. Reference and incorporate the definition into this Rule.

Line 15, add a new paragraph for the sentence beginning with "Children who turn three..." Also, on line 17, add a new paragraph for the sentence beginning with "During a time when..." Re-letter Paragraphs (c) and (d).

Line 16, provide the term for the acronym IEP, as provided in 10A NCAC 09 .2903

Line 19, add a comma after "development"

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

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Abigail M. Hammond  
Commission Counsel