Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: 2026 11 09 - CCC - Return of Rule.pdf

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, November 9, 2026 11:22 AM
To: Tackett, Sarah <stackett@ncdoj.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thanks, Sarah. Per your request, we are returning this amended rule. Please see the attached letter.

Let me know if you have any questions.

Regards,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: Response to RRC Objection Rule 10A NCAC 09 .2102 (Nov. 5, 2026).pdf

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Friday, November 6, 2026 2:57 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Mr. Miller,
Hope you are doing well. Wanted to follow up with you now that the Child Care Commission (CCC) has had a minute to discuss the Rules Review Commission's continued objection to the proposed rule amendments in 10A NCAC 09 .2102. To that end, please find attached the CCC's response.

Thanks and have a great weekend,
Sarah

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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JEFF JACKSON
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE
C/O DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION
2201 MAIL SERVICE CENTER
RALEIGH, NC 27699-2201
(919) 814-6376

SARAH N. TACKETT
ASSISTANT ATTORNEY GENERAL

November 6, 2026

Via email submission: oah.rules@oah.nc.gov

Rules Review Commission
North Carolina Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, North Carolina 27609

Re: Response to RRC's August 27, 2026 Objection to 10A NCAC 09 .2102

Dear Chair Parker and Commission Members:

At its November 2, 2026 meeting, the Child Care Commission ("CCC") reviewed the RRC's August 27, 2026 Objection to Rule 10A NCAC 09 .2102 for lack of statutory authority and ambiguity. It is my understanding that, in accordance with N.C. Gen. Stat. § 150B-21.12, the CCC has decided not to change the rule.

Sincerely,

Sarah N. Tackett

Sarah N. Tackett
Assistant Attorney General/Counsel for the Division of Child Development and Early Education

Enclosure

cc: Christoper S. Miller, Rules Review Commission Counsel
Cheryl Johnson, DCDEE Rulemaking and Title VI Coordinator
Ashley Council, Counsel for the Child Care Commission

Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Friday, August 28, 2026 2:47 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Sounds good, thanks and have a great weekend.

Sarah

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, August 28, 2026 2:46 PM
To: Tackett, Sarah <stackett@ncdoj.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, Ashley <acouncil@NCDOJ.GOV>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Your understanding is correct. If the amended rule is returned to the agency, the existing rule codified at 10A NCAC 09 .2102 would still remain in place and in effect.

Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Friday, August 28, 2026 2:39 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Thank you Mr. Miller, we will forward this to the Child Care Commission for consideration at its next regularly scheduled meeting on November 2, 2026.

As a point of procedural clarification, my understanding is that the Rules Review Commission is only objecting to the proposed amendments to Rule 10A NCAC 09 .2102, such that if the Child Care Commission decides to submit a written response indicating that it has decided not to change the rule in accordance with NCGS 150B-21.12(2), the rule would be returned to the agency, and the existing permanent rule would remain in effect. Is this correct?

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Friday, August 21, 2026 2:36 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Thanks Chris, we understand your position and appreciate the heads up.

Have a great weekend,
Sarah

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: 08 2026 - CCC - Staff Opinion - Final with Draft Rule.pdf

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, August 21, 2026 2:29 PM
To: Tackett, Sarah <stackett@ncdoj.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good afternoon,

As mentioned, please find attached a courtesy copy of the Staff Opinion.

Let me know if you have any questions.

Regards,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: The NC Child Care Commission

RULE CITATION: 10A NCAC 09 .2102

RECOMMENDATION DATE: August 21, 2026

RECOMMENDED ACTION:

	No action
	Approve, but note staff's comment
X	Object, based on:
X	Lack of statutory authority
X	Unclear or ambiguous
	Unnecessary
X	Failure to comply with the APA
	Extend the period of review

COMMENT:

The captioned rule was reviewed by the Rules Review Commission ("RRC") at the May 2026 meeting. The RRC objected to the rule based on lack of statutory authority, ambiguity, and necessity. The Child Care Commission then submitted a revised rule to Staff on August 13, 2026, to address the RRC's objections. The RRC is now tasked with reviewing the revised rule to determine whether the changes satisfy the Commission's objections and whether the changes are substantial.[1]

In Staff Counsel's opinion, the changes fail to address the RRC's objections because the revised rule still goes beyond the Child Care Commission's statutory authority and contains unclear provisions. The changes also include revisions that rise to the level of "substantial changes" and would require republication in the Register.[2]

[1] *See* G.S. 150B-21.12(c).

[2] *See* G.S. 150B-21.2(g).

Christopher S. Miller
Rules Review Commission Counsel

Statutory Authority

G.S. 110-91(10) explicitly states:

> *The use of corporal punishment as a form of discipline is prohibited in child care facilities and may not be used by any operator or staff member of any child care facility, except that corporal punishment may be used in religious sponsored child care facilities as defined in G.S. 110-106, only if (i) the religious sponsored child care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the religious sponsored child care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of nonreligious sponsored child care facilities shall clearly state the prohibition on corporal punishment.*

In relevant part, paragraph (b) of the revised rule states:

> *. . . Corporal punishment shall be administered by the administrator, other designated staff, or the child's parent. An additional staff member shall be present when corporal punishment is administered.*

The Child Care Commission deleted some of the problematic language, but the revised rule still limits the manner in which corporal punishment is administered by these religious sponsored child care facilities. Staff does not believe that this type of restriction by rule is permissible under the cited statutory authority.

Clarity

*As noted above, in paragraph (b), the revised rule adds "the child's parent" as a person that may administer the corporal punishment. However, it is unclear how that language interplays with other sections of the rule. For example, the next sentence of the rule states that an "**additional staff member** shall be present when corporal punishment is administered (emphasis added)." It is not clear to Staff whether this witness requirement would apply if the punishment was indeed administered by the child's parent. It is also unclear whether the facility would be required to give the parent the option of administering the corporal punishment based on the updated rule language.*

Substantial Changes (G.S. 150B-21.2(g))

Staff believes the revised rule contains two provisions that substantially differ from the published proposed rule. Both provisions are likely to produce an effect that could not reasonably have been expected based on the proposed text of the rule.

- *In paragraph (b), line 21, the revised rule adds "the child's parent" as a person that may administer the corporal punishment. The published version of the proposed rule stated that corporal punishment "shall be administered by the administrator or other designated staff member."*

- *Paragraph (c) of the revised rule requires a "corporal punishment log," specifies the required information for the log, mandates log maintenance for a period of three years, and permits review of the log by Division staff. The published version of the proposed rule only stated, "The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility."*

Conclusion

Staff recommends objecting to the rule changes for the reasons discussed above. If the RRC instead approves the changes, Staff believes that the revised rule would need to be republished and reviewed in accordance with the procedure set forth in G.S. 150B-21.2.

Christopher S. Miller
Rules Review Commission Counsel

10A NCAC 09 .2102 is amended with changes as published in 40:06 NCR 505-506 as follows:

10A NCAC 09 .2102 USE OF CORPORAL PUNISHMENT

(a) Corporal punishment may be used in religious-sponsored child care facilities in accordance with G.S. ~~110-91(10), if:~~ 110-91 (10).

~~(1) the religious-sponsored child care facility files a notice with the Division stating that corporal punishment is part of the religious training of its program; and~~

~~(2) the religious-sponsored child care facility states in its written policy of discipline that corporal punishment is part of the religious training of its program.~~

(b) The facility's discipline policy shall state when corporal punishment is used, what type of punishment is used, ~~and~~ who will be administering the ~~punishment.~~punishment, and that parents will be notified before the corporal punishment is administered and notified in writing by the end of the day that their child received corporal punishment. [~~The discipline policy shall state that parents will be informed before and by the end of the day after their child has received corporal punishment and who will be administering the punishment.~~] The facility shall comply with [~~their~~] its written discipline policy. [~~If administered by facility staff, corporal punishment shall be limited to one swat by the hand on the buttocks of a child over the child's normal mode of dress that does not result in any mark that lasts more than two hours or bruising. A witness shall be present when corporal punishment is administered and shall be administered by the administrator or other designated staff member. A facility shall not administer corporal punishment more than once a day per child. The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility.~~] Corporal punishment shall be administered by the administrator, other designated staff, or the child's parent. An additional staff member shall be present when corporal punishment is administered.

(c) The facility's administrator shall maintain a corporal punishment log anytime corporal punishment is administered at the facility. This log shall be maintained for a period of three years and shall be made available for review by Division staff. This log shall include the following:

(1) the child's name;

(2) the date and time corporal punishment was administered;

(3) the type of corporal punishment administered; and

(4) the name of the person administering the corporal punishment.

~~(c)~~(d) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall provide parents a copy of the policy for their records.

~~(d)~~(e) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the effective date of the revised policy.

~~(e)~~(f) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint by the Department of Health and Human Services, Division of Child Development and Early Education, alleging inappropriate discipline of a child or child maltreatment as specified in G.S 110-105.3.

History Note: *Authority G.S. 110-91(10); 110-106; 110-88; 110-85;*
Eff. October 1, 2017.
Amended Eff. [~~May 1, 2026.~~] September 1, 2026.

Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Thursday, August 20, 2026 1:35 PM
To: Tackett, Sarah <stackett@ncdoj.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Sarah,

Given that we're at the rule review stage where you are responding to an objection from the Commission, there is no mechanism for requesting and granting RRC review extensions. As such, the rule would have to go to the Commission for review as is at the meeting on the 27th (assuming that you are unable to make any further revisions before then).

As mentioned in my previous email, I do not believe the current version of the rule addresses the Commission's objection. I will be drafting a staff opinion reflecting my position, including the following:

- I believe the last two sentences of paragraph (b) still go beyond the Child Care Commission's statutory authority. These two sentences limit the manner in which punishment is administered.
- I believe there is a clarity issue now present in the rule with the addition of "a child's parent" in (b), line 21. Specifically, it is not clear how this interplays with the rest of the rule.
- I also believe you've made substantial changes to the rule that would require republishing. See § 150B-21.2(g) and § 150B-21.12(c).

If the RRC ends up objecting again, this will restart the process and you would have until the Child Care Commission's next meeting + 10 days to respond to the objection.

You could also request return of the rule if you do not want to move forward at this time.

Please let me know how you wish to proceed.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Wednesday, August 19, 2026 2:33 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Chris – yes, that is correct. We made the corrections you noted in item 2 and items 4-9 below in "Other Feedback" but could not address the concerns you raised in items 1 and 3 as these are more substantive, interpretive questions that we believe would require input from the Child Care Commission as these things were not discussed during their last meeting on August 4, 2026.

Apologies for the confusion.

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: 10A NCAC 09 .2102 (amended-2nd submission).docx

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Wednesday, August 19, 2026 1:28 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Mr. Miller,
Thank you for your detailed review and feedback. To the extent possible, we have incorporated the suggested technical changes in the attached amended draft but please let us know if you have additional questions. We understand that many of these proposed revisions will likely be considered "substantial changes" from the previous version of the rule in accordance with § 150B-21.2(g).

With respect to the more substantive/interpretive questions you raised, the Division is unable to provide a response or make changes without input and approval from the Child Care Commission (Commission). In the event we need to request an extension from the Rules Review Commission (RRC) to discuss these concerns with the Commission and resolve any potential ambiguity, please let me know. Otherwise Ms. Council, counsel for the Commission, and I will plan to attend the RRC meeting next week and address these concerns as needed.

Finally, it is my understanding that the Commission continues to rely on its general statutory authority as described in NCGS §§ 110-85, 110-88 and 110-91 as support for these amendments.

Thank you,
Sarah Tackett

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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10A NCAC 09 .2102 is amended with changes as published in 40:06 NCR 505-506 as follows:

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~~(1) the religious-sponsored child care facility files a notice with the Division stating that corporal punishment is part of the religious training of its program; and~~

~~(2) the religious-sponsored child care facility states in its written policy of discipline that corporal punishment is part of the religious training of its program.~~

(b) The facility's discipline policy shall state when corporal punishment is used, what type of punishment is used, ~~and~~ who will be administering the ~~punishment.~~punishment, and that parents will be notified before the corporal punishment is administered and notified in writing by the end of the day that their child received corporal punishment. [~~The discipline policy shall state that parents will be informed before and by the end of the day after their child has received corporal punishment and who will be administering the punishment.~~] The facility shall comply with [~~their~~] its written discipline policy. [~~If administered by facility staff, corporal punishment shall be limited to one swat by the hand on the buttocks of a child over the child's normal mode of dress that does not result in any mark that lasts more than two hours or bruising. A witness shall be present when corporal punishment is administered and shall be administered by the administrator or other designated staff member. A facility shall not administer corporal punishment more than once a day per child. The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility.~~] Corporal punishment shall be administered by the administrator, other designated staff, or the child's parent. An additional staff member shall be present when corporal punishment is administered.

(c) The facility's administrator shall maintain a corporal punishment log anytime corporal punishment is administered at the facility. This log shall be maintained for a period of three years and shall be made available for review by Division staff. This log shall include the following:

(1) the child's name;

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(3) the type of corporal punishment administered; and

(4) the name of the person administering the corporal punishment.

~~(c)~~(d) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall provide parents a copy of the policy for their records.

~~(d)~~(e) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the effective date of the revised policy.

~~(e)~~(f) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint by the Department of Health and Human Services, Division of Child Development and Early Education, alleging inappropriate discipline of a child or child maltreatment as specified in G.S 110-105.3.

History Note: *Authority G.S. 110-91(10); 110-106; 110-88; 110-85;*
Eff. October 1, 2017.
Amended Eff. [~~May 1, 2026.~~] September 1, 2026.

Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Sent: Friday, August 14, 2026 9:22 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good morning,

I am confirming receipt of this email and the requested deadline for response.

Thank you,
CJ

Cheryl "CJ" Johnson, MPA
Rulemaking and Title VI Coordinator
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
Cheryl.Johnson@dhhs.nc.gov

DCDEE Office
1915 Health Services Way
Raleigh, NC 27607

Mailing Address
2201 Mail Service Center
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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Thursday, August 13, 2026 2:40 PM
To: Tackett, Sarah <stackett@ncdoj.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>; Miller, Christopher S

<christopher.miller@oah.nc.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thanks for this, Sarah. Please see my comments and concerns below. Please provide me with your responses **by EOD on August 19th**.

I still have concerns about statutory authority given the RRC's objection. Specifically, the updated rule still limits the manner in which punishment is administered. Please explain why you believe you have statutory authority for the following rule provisions:

- In (b), lines 21-22, you are limiting who can administer the punishment at the facility. Specifically, the rule only permits the administrator, other designated staff, or the child's parent.
- In (b), line 22, you are still requiring a separate staff member to be present during the punishment to serve as a witness.

I also think some of your revisions may constitute substantial changes to the rule under § 150B-21.2(g). Please explain why you believe the following edits do not constitute "substantial changes" from the proposed rule version published at 40:06 NCR 505-506.

- In (b), line 12, you are now requiring *written* notification by the end of the day. The last rule version did not require notification to be in writing.
- In (b), lines 21-22, you have now added "the child's parent" as a person who can administer the corporal punishment.
- In (c), you are now specifying contents of a required "corporal punishment log" and a retention period. Previously, the rule only stated, "The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility." The log seems to be substantially different than the incident report requirement.

Finally, I have some other feedback regarding clarity and formatting:

- In (b), line 12, you state, "… by the end of the day …" Does that mean by the end of the school day? By midnight? Or something else?
- In (b), start of line 15, "its" should also be highlighted.
- In (b), lines 21-22, you have added "the child's parent" as a person who can administer the punishment. How would this work in practice? Would the parent have to come into the facility during the workday and administer the punishment? Would there still need to be a staff witness present? Would this have to be noted in the log?
- In (c), lines 25-26, and in (c)(1), you seem to have included some deletions that you may have made internally during your latest revisions (you have noted them in brackets). Those do not need to be included. Please remove them from the rule text.
- On line 31, "~~(c)~~" should be highlighted and "(d)" should be underlined and highlighted.
- On line 33, "~~(d)~~" should be highlighted and "(e)" should be underlined and highlighted.
- On line 36, "~~(e)~~" should be highlighted and "(f)" should be underlined and highlighted.
- In (f), lines 35 and 36, you seem to have deleted the addition of: "by the Department of Health and Human Services, Division of Child Development and Early Education,". Was this intentional? I think this should still be included in the rule.
- In the History Note, Authority section, you seem to have deleted "110-88; 110-85;". Was this intentional? I think this should still be included in the rule.

Please let me know if you have any questions.

Regards,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Thursday, August 13, 2026 11:23 AM
To: Miller, Christopher S; Johnson, Cheryl L
Cc: Mallady, Kimberly L; Burgos, Alexander N; Rules, Oah; Council, ASHLEY C
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: Response to RRC Objection Rule 10A NCAC 09 .2102.pdf; 10A NCAC 09 .2102 (amended).docx

Follow Up Flag: Follow up
Flag Status: Flagged

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Good morning Mr. Miller,

Please find attached the Child Care Commission's response and revisions to Rule 10A NCAC 09 .2102. Let me know if you need anything else from me.

Thank you,
Sarah

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, June 1, 2026 1:25 PM
To: Tackett, Sarah <stackett@ncdoj.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Correct – within 10 days after that meeting, you need to either (1) change the rule to satisfy the Commission's objection and submit the revised rule to me, or (2) submit a response indicating that the agency has decided not to change the rule.

Thanks,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

NOTICE: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized State officials.

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Monday, June 1, 2026 12:36 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Thanks Chris, we will share this with the Child Care Commission for consideration at their next regularly scheduled meeting on August 3rd. As I read NCGS 150B-21.12(b), the Commission is required to inform RRC within 10 days after that meeting of its intent to either change and revise the proposed rule or not. Am I understanding that timeline correctly?

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, May 29, 2026 1:25 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

You don't often get email from christopher.miller@oah.nc.gov. Learn why this is important

EXTERNAL SENDER: This email originated from outside the organization. Do not click on links or open attachments unless you can validate the sender and the contents are safe.

Good afternoon,

Following up on yesterday's meeting – please see attached an Objection Letter regarding rule 10A NCAC 09 .2102.

Let me know if you have any questions.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Tuesday, May 26, 2026 1:04 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you for this, Cheryl.

I raised your response and the updated rule with the Commissioner, and he had the following thoughts and concerns:

- On line 14, what is meant by a "swat"? Does this term have a special definition or meaning?
- On line 14, what is meant by "normal mode of dress"? This language is potentially unclear and vague.
- For statutory authority, the Commissioner still has concerns over how narrow the new definition is for "corporal punishment" and questions whether the CCC has the authority to define the term in this manner. It seems as if the statute may give some discretion to the facilities to set their own policies.

If the CCC wants to, you can provide me with additional responses and/or rule edits before Thursday's meeting to address these comments. Otherwise, please be prepared to discuss on Thursday.

Let me know if you have any questions.

Regards,
Chris

From: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Sent: Friday, May 22, 2026 10:46 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Subject: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good morning Mr. Miller

Please find attached a written response that addresses the Commissioner's question.

Thanks,
CJ

Cheryl Johnson, MPA
Rulemaking and Title VI Coordinator
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
Cheryl.Johnson@dhhs.nc.gov

DCDEE Office
1915 Health Services Way
Raleigh, NC 27607

Mailing Address
2201 Mail Service Center
Raleigh, NC 27699-2200

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JEFF JACKSON
ATTORNEY GENERAL

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE
C/O DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION
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(919) 814-6376

SARAH N. TACKETT
ASSISTANT ATTORNEY GENERAL

August 13, 2026

Via email submission: oah.rules@oah.nc.gov

Rules Review Commission
North Carolina Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, North Carolina 27609

Re: Response to RRC's May 29, 2026 Objection to 10A NCAC 09 .2102

Dear Chair Parker and Commission Members:

At its August 3, 2026 meeting, the Child Care Commission ("CCC") reviewed the RRC's May 29, 2026 Objection to Rule 10A NCAC 09 .2102 for lack of statutory authority, ambiguity, and lack of necessity. Pursuant to N.C. Gen. Stat. § 150B-21.12, please find enclosed revisions to Rule 10A NCAC 09 .2102 which the CCC believes addresses RRC's objections.

Sincerely,

Sarah N. Tackett
Assistant Attorney General/Counsel for the Division of Child Development and Early Education

Enclosure

cc: Christoper S. Miller, Rules Review Commission Counsel
Cheryl Johnson, DCDEE Rulemaking and Title VI Coordinator
Ashley Council, Counsel for the Child Care Commission

10A NCAC 09 .2102 is amended with changes as published in 40:06 NCR 505-506 as follows:

10A NCAC 09 .2102 USE OF CORPORAL PUNISHMENT

(a) Corporal punishment may be used in religious-sponsored child care facilities in accordance with G.S. ~~110-91(10), if:~~ 110-91 (10).

~~(1) the religious-sponsored child care facility files a notice with the Division stating that corporal punishment is part of the religious training of its program; and~~

~~(2) the religious-sponsored child care facility states in its written policy of discipline that corporal punishment is part of the religious training of its program.~~

(b) The facility's discipline policy shall state when corporal punishment is used, what type of punishment is used, ~~and~~ who will be administering the ~~punishment.~~punishment, and that parents will be notified before the corporal punishment is administered and notified in writing by the end of the day that their child received corporal punishment. [~~The discipline policy shall state that parents will be informed before and by the end of the day after their child has received corporal punishment and who will be administering the punishment.~~] The facility shall comply with [~~their~~] its written discipline policy. [~~If administered by facility staff, corporal punishment shall be limited to one swat by the hand on the buttocks of a child over the child's normal mode of dress that does not result in any mark that lasts more than two hours or bruising. A witness shall be present when corporal punishment is administered and shall be administered by the administrator or other designated staff member. A facility shall not administer corporal punishment more than once a day per child. The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility.~~] [~~An additional staff member shall be present when corporal punishment is administered.~~] Corporal punishment shall be administered by the administrator, other designated staff, or the child's parent. An additional staff member shall be present when corporal punishment is administered.

(c) The facility's administrator shall maintain a corporal punishment log anytime corporal punishment is administered at the facility. This log shall be maintained for a period of three years and shall be made available for review by Division staff. [This log shall be maintained for a period of three years and shall be made available for review by a representative of the Division.] This log shall include the following:

(1) the [~~name of the child;~~] child's name;

(2) the date and time corporal punishment was administered;

(3) the type of corporal punishment administered; and

(4) the name of the person administering the corporal punishment.

~~(c)~~(d) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall provide parents a copy of the policy for their records.

~~(d)~~(e) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the effective date of the revised policy.

~~(e)~~(f) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint alleging inappropriate discipline of a child or child maltreatment as specified in G.S 110-105.3.

History Note: *Authority G.S. 110-91(10); 110-106;*
Eff. October 1, 2017.
Amended Eff. [~~May 1, 2026.~~] September 1, 2026.

Burgos, Alexander N

Subject: FW: Child Care Commission RFC July 2026

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Tuesday, July 28, 2026 4:15 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Keisler, Alison <alison.keisler@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>
Subject: Re: Child Care Commission RFC July 2026

I will recommend that the Commission grant an extension until August.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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From: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Sent: Tuesday, July 28, 2026 4:02 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Keisler, Alison <alison.keisler@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>
Subject: RE: Child Care Commission RFC July 2026

Good afternoon,

Thank you for sharing this Commissioner question. Given the timing of these last-minute changes and potential concerns regarding authority, we respectfully request an extension until August.

Thank You,

CJ

Cheryl Johnson, MPA
Rulemaking and Title VI Coordinator
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
Cheryl.Johnson@dhhs.nc.gov

DCDEE Office
1915 Health Services Way
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Burgos, Alexander N

Subject: FW: Child Care Commission RFC July 2026

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Tuesday, July 28, 2026 2:40 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Keisler, Alison <alison.keisler@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>
Subject: Re: Child Care Commission RFC July 2026

Cheryl,

Thank you for your prompt updates to correct the formatting issues. You have addressed the concerns I raised.

One Commissioner has asked me about the authority to add "volunteer" to the staff orientation requirements in 10A NCAC 09 .1101. They were concerned that the statutes primarily refer to rulemaking authority over staff and child caregivers, and were unsure whether volunteer fit within that authority. This may be a topic of conversation when the Commission considers these rules. You are welcome to respond in writing or just respond to questions that come up at the meeting.

In terms of the extension, I will be prepared to recommend approval of the final revised rules at the July meeting. However, that is contingent on the RRC comisssioners feeling like they had sufficient time to review the rules with the last minute changes. If there are concerns about needing more time for review, I will recommend extension until August.

Let me know if you have any questions.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: Child Care Commission RFC July 2026

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, July 27, 2026 5:19 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Keisler, Alison <alison.keisler@dhhs.nc.gov>
Subject: Re: Child Care Commission RFC July 2026

Cheryl,

Substantively, these changes resolve my concerns. However, there are some formatting issues that need to be addressed.

1. 10A NCAC 09 .1703 is an .rtf file instead of a .docx file. Please resend it as a .docx file to avoid problems with our publication system.
2. Throughout, the post-publication changes need to be highlighted. See the examples here for post-publication here: https://www.oah.nc.gov/rule-format-examples#RuleFormatExamplesforPublicationintheNCAdministrativeCode-6063
3. In 10A NCAC 09 .1703, on p. 3 line 1, you need to indicate that you removed the extra space. That will look like this: "~~toward meeting~~ toward meeting".

If you can get these to me updated by the end of the day tomorrow, I will be able to recommend that they be approved at the July meeting (with the caveat that the Chair or other Commission members may want there to be an extension if they have not had time to review the final rules.) If not, I will recommend these be extended to the August meeting.

Thanks,

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: Child Care Commission RFC July 2026
Attachments: 10A NCAC 09 .1102.docx; 10A NCAC 09 .1101.docx; 10A NCAC 09 .1703.rtf; Child Care Commission RFC July 2026 7.24.26.docx

---

From: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Sent: Friday, July 24, 2026 4:28 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Keisler, Alison <alison.keisler@dhhs.nc.gov>
Subject: RE: Child Care Commission RFC July 2026

Good afternoon

Attached are the requested edits. We appreciate your follow up and we will support your decision regarding this being an agenda item for the July or August RRC meeting.

Thank you,
CJ

Cheryl Johnson, MPA
Rulemaking and Title VI Coordinator
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
Cheryl.Johnson@dhhs.nc.gov

DCDEE Office
1915 Health Services Way
Raleigh, NC 27607

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2201 Mail Service Center
Raleigh, NC 27699-2200

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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1101

DEADLINE FOR RECEIPT: July 17, 2026

***PLEASE NOTE:* This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

I find the table in this rule difficult to read. You can use the table if you want, but I'd consider reformatting to be subparagraphs and parts with the same content. I.e.
"(1) New staff orientation within the first two weeks of employment:
(A) Information regarding…
…
(2) New staff orientation with first six weeks of employment:
(A) Overview of…
…"

If you do decide to keep the table, delete that repeated line at the top of the second page. I spoke with publications, and this should fit on one page in the code in the final version so the repeated header will be confusing.

DCDEE Response: This rule will be coming back to RRC as part of the periodic review of rules so we will consider changing the format to subparagaphs at that time. For now, the repeated line (header of the table) has been deleted.

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

Seth Ascher
Commission Counsel
Date submitted to agency: July 6, 2026

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1102

DEADLINE FOR RECEIPT: July 17, 2026

***PLEASE NOTE:* This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On p. 1 line 15, I think the ".1103" after "completed" is a typo, or something else was inadvertently deleted. Done

On p. 1 line 18, based on your edits, there shouldn't be a colon after requirement. Done

On p. 1 lines 19 through 21, parenthetical numbers also should be deleted. Done

On p. 2, lines 3 and 4, do you still need the two deadlines? Or at this point could it just be "The training shall be completed within 90 days of employment." Edited

On p. 2, line 15, same as previous comment, could this just be "The training shall be completed within 90 days of employment." Edited

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

Seth Ascher
Commission Counsel
Date submitted to agency: July 6, 2026

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .1703

DEADLINE FOR RECEIPT: July 17, 2026

***PLEASE NOTE:* This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On p. 2, lines 3 and 4, it looks like you amended these lines when you removed the subparagraphs on line 5 and 6. Please format to indicate the changes. *Done*

On p. 3, line 1, you appear to have an extra space between "toward" and "meeting". *Deleted*

On p. 4, on lines 9 through 11, this strikes me as an excellent way to handle what you are doing here form-wise. No request for change, just noting it and will likely mention it at the meeting as something other agency's could consider. *Thank you for this feedback!*

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

Seth Ascher
Commission Counsel
Date submitted to agency: July 6, 2026

SECTION .1100 – CONTINUING EDUCATION AND PROFESSIONAL DEVELOPMENT

10A NCAC 09 .1101 is amended as published in NCR 10:14 1198-1200 as follows:

10A NCAC 09 .1101 NEW STAFF ORIENTATION REQUIREMENTS

(a) Each center shall ensure that each new employee and volunteer who is expected to have contact with children receives 16 hours of ~~on site~~ orientation within the first six weeks of employment. As part of this orientation, each new employee and volunteer shall complete six hours of orientation within the first two weeks of employment.

(b) New staff orientation shall include an overview of the following topics, focusing on the operation of the center:

New staff orientation within first two (2) weeks of employment	New staff orientation within first six (6) weeks of employment
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~~ Overview of child development, including the five major domains of learning: Approaches to Play and Learning. Emotional and Social Development, Health and Physical Development, Language Development and Communication, and Cognitive Development.
Review of the center's operational policies, including the center's safe sleep policy for infants, the center's policy for transportation, the center's identification of building and premises safety issues, 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
Firsthand Observation of the center's daily operations	Review of the child care licensing law and rules
	Review of Quality Rating Improvement System standards ~~Section .2800 of this Chapter~~ if the center has a two- through five- star license at the time of employment
	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

~~New staff orientation within first two (2) weeks of employment~~	~~New staff orientation within first six (6) weeks of employment~~
	Review of the center's handling and storage of hazardous materials and the appropriate disposal of biocontaminants

History Note: *Authority G.S. 110-85; 110-91(11); 143B-168.3;*
Eff. October 1, 2017;
Amended Eff. March 1, 2019; August 1, 2026.

10A NCAC 09 .1102 is amended as published in NCR 10:14 1200-1201 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~~ Any administrator or staff member who has completed the health and safety trainings as a result of prior employment, and can show proof of completion, shall not be required to repeat the health and safety trainings, except as required by 10A NCAC 09 .1103. Any administrator or staff who has completed some, but not all, trainings due to prior employment or as part of the ongoing training requirements set forth in 10A NCAC 09.1103(b), and can provide proof of completion, shall not be required to repeat the course already completed.~~1103.~~ ~~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~~ Service providers such as speech therapists, occupational therapists, and physical therapists shall be exempt from this requirement~~:~~ .

~~(1) staff members that do not have 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 biocontaminants;

(7) Precautions in transporting children, if applicable;

(8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;

(9) CPR and First Aid training as required in Paragraphs (c) and (d) of this Rule;

(10) 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 First 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 shall not be permitted for First Aid training. At all times when children are in care at least one staff member present must have successfully completed First Aid training, as evidenced by a certificate or card from an approved training organization. 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 cardiopulmonary resuscitation (CPR) course appropriate to the ages of children in care. At all times when children are in care one staff member present must have successfully completed 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 shall not be permitted for CPR training. 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) 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 shall not be 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, 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. This training shall 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. October 1, 2017.
Amended Eff. August 1, 2026

10A NCAC 09 .1703 is amended as published on NCR 10:14 1201-1203 as follows:

10A NCAC 09 .1703 ON-GOING REQUIREMENTS FOR FAMILY CHILD CARE HOME OPERATORS

(a) After receiving a license, family child care home 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. This request may be based upon factors such as observations by the director or center staff, reports of concern from family, reports from law enforcement or reports from medical personnel. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis when the Division determines that the operator was exposed to a person with active tuberculosis;

(2) Renew First Aid training on or before expiration of the certification appropriate for the ages of children in care;

(3) Renew CPR course on or before the expiration of the 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. This training shall 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) Family child care home operators, additional caregivers and substitutes ~~and staff members~~ shall complete health and safety training within one year of employment. Any family child care home operator or staff member who has completed the health and safety trainings as a result of prior employment and can show proof of completion, shall not be required to repeat the health and safety trainings, except as required by 10A NCAC 09 .1703. Any family child care home operator, additional caregiver or substitute who has completed some, but not all, trainings due to prior employment or as part of the ongoing training requirements set forth in 10A NCAC 09 .1703(d)(2), and can provide proof of completion, shall not be required to repeat the courses already completed, except as required by .1703. ~~unless the operator or staff member has completed the training within the year prior to beginning employment or within the~~

~~year prior to receiving a license.~~ Health and safety training shall be in addition to orientation topics reviewed during the pre-licensing visit and new staff orientation requirements set forth in Rules~~ .1702(d) and~~ .1729(c) of this Section. The following persons shall be exempt from this requirement: service providers such as speech therapists, occupational therapists and physical therapists.

~~(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 biocontaminants;

(7) Precautions in transporting children, if applicable;

(8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;

(9) CPR and First Aid training as required in Rule .1102(c) and (d) of this Chapter;

(10) 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 family child care home operator, and staff who work 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 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 Paragraph (c) of this Rule will have been covered;

(3) cardiopulmonary resuscitation (CPR) and First Aid training shall not be counted toward meeting annual on-going training activities in Subparagraph (d)(1) of this Rule;

(4) 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 Rule 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

(e) 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) For every three hours of countable technical assistance provided, one hour may be counted toward annual training requirements set forth in Subparagraph(d)(1) of this Rule, not to exceed 50 percent of the total required so long as:

(1) the family child care home has a 3-5 star rated license; and

(2) the participating operator or staff member has earned at least 18 semester hours in early childhood education.

(g) For purposes of this Rule, "countable technical assistance" means technical assistance provided to operator or caregiving staff members at a family child care home by a person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider and shall include:

(1) a cycle of observation;

(2) identified goals based on the observation;

(3) a timeline for completion of identified goals;

(4) evaluation and feedback for each participant;

(5) technical assistance time in the family child care home; and

(6) one-on-one consultation with each participant at a time when they are not responsible for a child or group of children.

(h) A combination of college coursework, Continuing Education Units (CEU's), clock hours, or countable technical assistance shall be used to complete the requirements in Subparagraph (d)(1) of this Rule.

(i) The family child care home operator and staff members shall complete a professional development plan within one year of employment and at least 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;

(4) be completed by the operator and staff member in a collaborative manner; and

(5) be maintained in their personnel file.

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.

(j) Each family child care home 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.

(k) Each family child care home operator shall have a record of countable technical assistance in which the operator and each staff member participates, including copies of documentation, observations and evaluations provided by the person who has been endorsed by the NC Institute for Child Development Professionals as a technical assistance provider. That record shall include the dates and times of technical assistance with the operator or staff, names of all participating staff members and the name of the technical assistance provider. This documentation shall be on file and current.

(l) The family child care home 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:

(1) Prior approval from the Division shall not be 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 shall be 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 15 business days prior to the training event that includes the name and qualifications of the trainer, name of training, target audience and content of the training;

(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 shall be 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 shall not be permitted for Cardiopulmonary Resuscitation (CPR) and First Aid.

(m) The Division shall approve training based upon the following factors:

(1) the trainer's education, training, and experience relevant to the training topic;

(2) content that is in compliance with G.S. 110-91(11); and

(3) contact hours for the proposed content and scope of the training session.

(n) 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.

(o) 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.

(p) 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.

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;
Readopted Eff. October 1, 2017 (Transferred from 10A NCAC 09 .1705);
Amended Eff. February 1, 2021; August 1, 2026.

Burgos, Alexander N

Subject: FW: Child Care Commission RFC July 2026

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Friday, July 24, 2026 3:44 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: Child Care Commission RFC July 2026

Cheryl,

I have not heard back from you on these rules yet and the original deadline (July 17th) has passed. Are you planning to request an extension to the period of review (to either the August or September meeting)? If so, I will have no problem recommending that it be granted.

If you are still planning to get me a response before the July meeting, be aware that the Commission may still want to extend the period of review to make sure they have time to review the rules. It is not always possible to adequately review updates that come in the week of the meeting.

Thanks,

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, June 1, 2026 1:25 PM
To: Tackett, Sarah <stackett@ncdoj.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Correct – within 10 days after that meeting, you need to either (1) change the rule to satisfy the Commission's objection and submit the revised rule to me, or (2) submit a response indicating that the agency has decided not to change the rule.

Thanks,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

Subject: FW: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Tackett, Sarah <stackett@ncdoj.gov>
Sent: Monday, June 1, 2026 12:36 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: [External] RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Thanks Chris, we will share this with the Child Care Commission for consideration at their next regularly scheduled meeting on August 3rd. As I read NCGS 150B-21.12(b), the Commission is required to inform RRC within 10 days after that meeting of its intent to either change and revise the proposed rule or not. Am I understanding that timeline correctly?

Sarah N. Tackett
Assistant Attorney General
North Carolina Department of Justice
c/o Division of Child Development and Early Education
2201 Mail Service Center
Raleigh, NC 27699
Phone: 919-814-6378
stackett@ncdoj.gov

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Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting

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From: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Sent: Friday, May 29, 2026 2:26 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you Mr. Miller

We will follow up with a response shortly.

Thanks,
CJ

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, May 29, 2026 1:25:21 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good afternoon,

Following up on yesterday's meeting – please see attached an Objection Letter regarding rule 10A NCAC 09 .2102.

Let me know if you have any questions.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Tuesday, May 26, 2026 1:04 PM
To: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you for this, Cheryl.

I raised your response and the updated rule with the Commissioner, and he had the following thoughts and concerns:

- On line 14, what is meant by a "swat"? Does this term have a special definition or meaning?
- On line 14, what is meant by "normal mode of dress"? This language is potentially unclear and vague.
- For statutory authority, the Commissioner still has concerns over how narrow the new definition is for "corporal punishment" and questions whether the CCC has the authority to define the term in this manner. It seems as if the statute may give some discretion to the facilities to set their own policies.

If the CCC wants to, you can provide me with additional responses and/or rule edits before Thursday's meeting to address these comments. Otherwise, please be prepared to discuss on Thursday.

Let me know if you have any questions.

Regards,
Chris

Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: Rule 10A NCAC .2102 - Statutory Authority.docx

From: Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Sent: Friday, May 22, 2026 10:46 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>
Subject: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good morning Mr. Miller

Please find attached a written response that addresses the Commissioner's question.

Thanks,
CJ

Cheryl Johnson, MPA
Rulemaking and Title VI Coordinator
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
Cheryl.Johnson@dhhs.nc.gov

DCDEE Office
1915 Health Services Way
Raleigh, NC 27607

Mailing Address
2201 Mail Service Center
Raleigh, NC 27699-2200

http://ncchildcare.ncdhhs.gov

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To: All RRC Commissioners
From: Sarah N. Tackett, Counsel for the Division of Child Development and Early Education
In Re: 10A NCAC 09 .2102
Date: May 22, 2026

As set forth in Chapter 10 of Article 7 of the North Carolina General Statutes, our General Assembly has established the State's overarching purpose in regulating child care, that is, to protect the health, safety, and developmental well-being of children in care, and has specifically authorized the North Carolina Child Care Commission ("Commission") to adopt rules necessary to carry out and enforce the child care statutes. *See* N.C.G.S. §§ 110-85; 110-88. Together, these statutes vest the Commission with broad authority to adopt rules that ensure clarity, safety, and consistent regulation across all child care settings.

Pursuant to N.C.G.S. § 110-106, a "religious-sponsored child care facility" may operate pursuant to a notice of intent, instead of a child care license issued by the Division of Child Development and Early Education ("Division"), but must comply with some of the minimum licensing standards established by N.C.G.S. § 110-91. While otherwise prohibited as a form of discipline in licensed child care, corporal punishment may be used in a religious sponsored facility if the facility notifies the Division and states in its written policy that corporal punishment is a part of its religious training. *See* N.C.G.S. § 110-91(10).

While recognizing and respecting the authority of religious-sponsored facilities to use corporal punishment as a form of discipline, the Commission is proposing amendments to 10A NCAC 09 .2102 that directly implement N.C.G.S. §§ 110-85 and 110-88 by defining what constitutes permissible corporal punishment, clarifying who may administer it, and identifying the required elements of written discipline policies for these programs. These revisions are necessary and reasonable to ensure compliance with those statutory requirements and to establish clear procedural safeguards. Adding these clarifications reduces ambiguity, promotes consistent enforcement, and strengthens child safety—especially where physical discipline is permitted under statute. The amendments also support consistent application of related statutory requirements, including investigations into inappropriate discipline or child maltreatment.

As required by N.C.G.S. § 150B-21.9(a), this amendment is within the authority delegated by the General Assembly, is clear and unambiguous, reasonably necessary to implement or interpret other State laws, and has been adopted in accordance with the North Carolina Administrative Procedures Act. For these reasons, the Commission and the Division respectfully request that the Rules Review Commission approve its adoption.

Sincerely,

Sarah Tackett
Assistant Attorney General
North Carolina Department of Justice

Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Monday, May 18, 2026 4:20 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you and we will either send you a written response by EOD this Friday or let you know the agency intends to wait and address in person to the Commission.

Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

DCDEE has moved! Our new physical address is 1915 Health Services Way, Raleigh, NC 27607.

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Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Sunday, May 17, 2026 12:55 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you for the good wishes!

And I also appreciate the additional information about the option to submit information in written response to you in advance of the meeting and will follow up with others about providing this. How far in advance of the May 28 meeting would you need the written response to provide sufficient time for review and to determine if adequate to address the Commissioner's question?

Thank you,

Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, May 15, 2026 1:59 PM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you, Julie! Good luck with the new position.

As an FYI, you all are welcome to submit a written response to me that addresses the Commissioner's question. This type of back-and-forth is pretty common before our meetings, and if your response is deemed to be sufficient, then the Commissioner may not raise anything at the meeting regarding your rule. But you're also welcome to wait and address the question in-person at the meeting on the 28th if that is your preference. Totally up to you.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Friday, May 15, 2026 1:32 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Mallady, Kimberly L <kimberly.mallady@dhhs.nc.gov>; Tackett, Sarah <stackett@ncdoj.gov>; Council, ASHLEY C <acouncil@ncdoj.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good Afternoon, Mr. Miller,

Thank you for reaching out about this and my apologies that I had not yet notified you. Cheryl Johnson will be the new rulemaking coordinator for the Child Care Commission due to my resignation to transition to a position with county government. She is copied on this email (cheryl.johnson@dhhs.nc.gov) and her phone number is 919-814-6392. I am also copying our supervisor, Kimberly Mallady, and Child Care Commission Counsel Ashley Council and Division of Child Development and Early Education Counsel Sarah Tackett for awareness.

We have met and discussed further and will be prepared to address the additional questions from the Rules Review Commission at the May 28 meeting. Ms. Tackett and Commissioner Beth Messersmith will speak on behalf of the Child Care Commission and an expert who spoke to the Child Care Commission concerning the amendments to this rule under consideration, Tom Vitaglione, has indicated he plans to request in advance to

speak to the Rules Review Commission in support of the proposed amended rule. Ms. Messersmith and Mr. Vitaglione should be contacting you about their requests to speak at the May 28 meeting if they have not already done so.

Please let us know if you have any questions or if there is any additional information helpful for you to have in advance.

Thank you,

Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, May 15, 2026 11:36 AM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good morning, Julie,

Brian informed me that there may soon be a new rulemaking coordinator for the Child Care Commission. If so, is there someone else that I should be coordinating with on this request and the rules for the May 28th meeting?

Thanks in advance.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting

---

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, April 27, 2026 1:42 PM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Hi Julie,

I am fine with recommending an extension if you need more time to consider and respond to the Commissioner's question.

Thanks,
Chris

From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Monday, April 27, 2026 12:48 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good afternoon, Mr. Miller,

Following further agency consultation with counsel, we wanted to ask if you would be willing to (re)consider recommending the initially requested extension for this rule until the May 2026 RRC meeting. Having been made aware of questions concerning the proposed amendments from a Rules Review Commissioner, a Commissioner from the Child Care Commission would like the opportunity to speak to the Rules Review Commission to address questions and an extension would also be beneficial to allow more time to thoroughly address the questions received on Friday in consultation with Child Care Commission Counsel from DOJ.

Thank you in advance for your consideration,

Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

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Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, April 27, 2026 1:42 PM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Thanks,
Chris

From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Monday, April 27, 2026 12:48 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

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Thank you in advance for your consideration,

Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
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Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting

From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Friday, April 24, 2026 2:42 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good afternoon, Mr. Miller,

Thank you for notifying us of the preliminary question received and the possibility of questions on this at next week's Rules Review Commission meeting. The agency will consult with Child Care Commission Counsel and we will provide further follow up response to you on Monday.

Best,
Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Friday, April 24, 2026 2:00 PM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Good afternoon, Julie,

I did receive a preliminary question from one of the Commissioners on rule 10A NCAC 09 .2102. To summarize, he wanted to know which statute(s) give the Commission authority to define and limit the term "corporal punishment" as proposed in the rule. He also wanted to know where the Commission's proposed definition comes from.

If possible, please provide me with a response before Tuesday's meeting. You may also receive questions on this at the meeting.

Best,
Chris

Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: 10A NCAC 09 .2102_v2.docx

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Wednesday, April 22, 2026 9:41 AM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you! Looks good. The attached version will be used for RRC review next week (I added "with changes" to the introductory statement), and I will be recommending approval.

Let me know if you have any questions before the meeting.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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10A NCAC 09 .2102 is amended with changes as published in 40:06 NCR 505-506 as follows:

10A NCAC 09 .2102 USE OF CORPORAL PUNISHMENT

(a) Corporal punishment may be used in religious-sponsored child care facilities in accordance with G.S. 110-91(10)~~.~~ ~~if:~~

~~(1) the religious-sponsored child care facility files a notice with the Division stating that corporal punishment is part of the religious training of its program; and~~

~~(2) the religious-sponsored child care facility states in its written policy of discipline that corporal punishment is part of the religious training of its program.~~

(b) The facility's discipline policy shall state when corporal punishment is used, what type of punishment is used, ~~and~~ who will be administering the punishment~~.~~ ~~[The discipline policy shall state]~~ and that parents will be informed before and by the end of the day after their child has received corporal punishment [~~and who will be administering the punishment~~]. The facility shall comply with their written discipline policy. If administered [~~by facility staff~~], corporal punishment shall be limited to one swat by the hand on the buttocks of a child over the child's normal mode of dress that does not result in any mark on the skin that lasts more than two hours or bruising. [~~A~~]An additional staff member [~~witness~~] shall be present when corporal punishment is administered. [~~and~~] Corporal punishment shall be administered by the administrator or other designated staff member. A facility shall not administer corporal punishment more than once a day per child. The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility.

(c) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall provide parents a copy of the policy for their records.

(d) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the effective date of the revised policy.

(e) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint by the Department of Health and Human Services, Division of Child Development and Early Education, alleging inappropriate discipline of a child or child maltreatment as specified in G.S 110-105.3.

History Note: *Authority G.S. 110-91(10); 110-106; 110-88; 110-85;*
Eff. October 1, 2017.
Amended Eff. May 1, 2026.

Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: 10A NCAC 09 .2102.docx

From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Tuesday, April 21, 2026 3:44 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Great, and thank you for the additional review, feedback, and suggestion. The attached rule has been revised to include this recommendation.

Thanks,
Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

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10A NCAC 09 .2102 is amended as published in 40:06 NCR 505-506 as follows:

10A NCAC 09 .2102 USE OF CORPORAL PUNISHMENT

(a) Corporal punishment may be used in religious-sponsored child care facilities in accordance with G.S. 110-91(10)~~.~~ ~~if:~~

~~(1) the religious-sponsored child care facility files a notice with the Division stating that corporal punishment is part of the religious training of its program; and~~

~~(2) the religious-sponsored child care facility states in its written policy of discipline that corporal punishment is part of the religious training of its program.~~

(b) The facility's discipline policy shall state when corporal punishment is used, what type of punishment is used, [~~and~~] who will be administering the punishment[~~.~~]. [~~The discipline policy shall state~~] and that parents will be informed before and by the end of the day after their child has received corporal punishment [~~and who will be administering the punishment~~]. The facility shall comply with their written discipline policy. If administered [~~by facility staff~~], corporal punishment shall be limited to one swat by the hand on the buttocks of a child over the child's normal mode of dress that does not result in any mark on the skin that lasts more than two hours or bruising. [~~A~~]An additional staff member [~~witness~~] shall be present when corporal punishment is administered. [~~and~~] ~~-~~Corporal punishment shall be administered by the administrator or other designated staff member. A facility shall not administer corporal punishment more than once a day per child. The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility.

(c) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall provide parents a copy of the policy for their records.

(d) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the effective date of the revised policy.

(e) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint by the Department of Health and Human Services, Division of Child Development and Early Education, alleging inappropriate discipline of a child or child maltreatment as specified in G.S 110-105.3.

History Note: *Authority G.S. 110-91(10); 110-106; 110-88; 110-85;*
Eff. October 1, 2017.
Amended Eff. May 1, 2026.

Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: 10A NCAC 09 .2102.docx

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Tuesday, April 21, 2026 3:14 PM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thanks for the responses and revisions. One last suggestion – for (b), line 10, consider adding "facility's" before "discipline policy". Otherwise, I think the rule looks to be in good shape.

Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: Request for Changes - 10A NCAC 09 .2102 - 4.21.2026.docx; 10A NCAC 09 .2102.docx

From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Tuesday, April 21, 2026 10:58 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you, Mr. Miller, for your willingness to recommend approval of an extension until May. The agency was fortunately able to consult with counsel this morning and complete responses and revisions to the rule.

The updated Request for Changes document and revised Rule are attached. The agency defers to whether you would recommend continuing with the extension approval recommendation at this time or proceeding with the rule for RRC's consideration at the April 28, 2026 meeting next week.

Please let us know if you have additional questions or concerns.

Thank you,

Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Child Care Commission

RULE CITATION: 10A NCAC 09 .2102

DEADLINE FOR RECEIPT: April 21, 2026

***PLEASE NOTE:* This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

(a): Why is this necessary? This paragraph (and its subparagraphs) seems to word-for-word restate the requirements set forth in G.S. 110-91(10).

Thank you for this correction. The agency agrees that this is unnecessary and the rule language has been revised to address.

(b), lines 11-18: Where does the Commission's authority to set and define the exact contents of facility disciplinary policies and practices come from? The limitations in your rule seem to go beyond the statutory requirements for religious sponsored child care facilities in G.S. 110-91(10). The statute appears to allow for the facility to create its own policy so long as it files with the Department and provides notice in its written policy.

The Commission is relying on its general rulemaking authority in §110-88 and in §110-85, and these have been added to the rule History Note, Authority.

(b), line 12: "and who will be administering the punishment." is redundant. You already state this on lines 10-11.

Thank you for this correction. The agency agrees this language is redundant and the rule language has been revised to address.

(b), line 15: Consider adding "on the skin" or something similar after "mark".

Thank you for this suggestion. The rule language has been revised to include "on the skin."

(b), line 15: Is there any limitation on who can serve as a "witness" in this instance?

Thank you for this clarifying question. The Commission intended for witnesses to be limited to staff members. The rule language has been revised to address.

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 15, 2026

(d): How could the facility's policy change now that you've set forth the requirements for the policy in (b)? Wouldn't any change be in violation of your rule?

Thank you for this clarifying question. There are several potential situations in which a facility could change their policy and would not be in violation of the rule, including: specifying who informs the parent, who administers the punishment, and under what circumstances the punishment is administered. A facility could also have an existing policy to update or have no existing policy and decide to develop and implement one in accordance with this rule.

(e): An investigation by whom?

Thank you for this clarifying question. The investigation would be conducted by the Department of Health and Human Services, Division of Child Development and Early Education. The rule language has been revised to include this information.

History Note, Authority: Consider adding § 110-88, which appears to include the Commission's general rulemaking authority.

Thank you for this guidance. This reference, along with § 110-85, has been added to the History Note, Authority.

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

Christopher S. Miller
Commission Counsel
Date submitted to agency: April 15, 2026

10A NCAC 09 .2102 is amended as published in 40:06 NCR 505-506 as follows:

10A NCAC 09 .2102 USE OF CORPORAL PUNISHMENT

(a) Corporal punishment may be used in religious-sponsored child care facilities in accordance with G.S. 110-91(10)~~,~~ ~~if:~~

~~(1) the religious-sponsored child care facility files a notice with the Division stating that corporal punishment is part of the religious training of its program; and~~

~~(2) the religious-sponsored child care facility states in its written policy of discipline that corporal punishment is part of the religious training of its program.~~

(b) The discipline policy shall state when corporal punishment is used, what type of punishment is used, [~~and~~] who will be administering the punishment~~[.]~~.[~~The discipline policy shall state~~] and that parents will be informed before and by the end of the day after their child has received corporal punishment [~~and who will be administering the punishment~~]. The facility shall comply with their written discipline policy. If administered [~~by facility staff~~], corporal punishment shall be limited to one swat by the hand on the buttocks of a child over the child's normal mode of dress that does not result in any mark on the skin that lasts more than two hours or bruising. [~~A~~]An additional staff member [~~witness~~] shall be present when corporal punishment is administered. [~~and~~] ~~C~~Corporal punishment shall be administered by the administrator or other designated staff member. A facility shall not administer corporal punishment more than once a day per child. The facility's administrator shall complete an incident report whenever corporal punishment is administered at the facility.

(c) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall provide parents a copy of the policy for their records.

(d) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the effective date of the revised policy.

(e) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint by the Department of Health and Human Services, Division of Child Development and Early Education alleging inappropriate discipline of a child or child maltreatment as specified in G.S 110-105.3.

History Note: *Authority G.S. 110-91(10); 110-106; 110-88; 110-85;*
Eff. October 1, 2017.
Amended Eff. May 1, 2026.

Burgos, Alexander N

Subject: FW: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: Request for Changes - 10A NCAC 09 .2102 - 4.21.2026.docx; 10A NCAC 09 .2102.docx

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From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Tuesday, April 21, 2026 10:31 AM
To: Peck, Julie C <julie.peck@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Thank you, Julie. Your request has been noted. I will be recommending approval of an extension until May at the meeting next week to provide the Commission with sufficient time to respond to our questions/requests.

Let me know if you have any questions in the meantime.

Regards,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

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From: Peck, Julie C <julie.peck@dhhs.nc.gov>
Sent: Monday, April 20, 2026 4:51 PM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Johnson, Cheryl L <cheryl.johnson@dhhs.nc.gov>
Subject: RE: Child Care Commission: Final Rule for April 2026 RRC Meeting

Hello Mr. Miller,

Thank you for your review and the Request for Changes for this rule submitted by the Child Care Commission for the April 28, 2026 RRC meeting.

I wanted to see if you would possibly be amenable to recommending the RRC grant an extension on the consideration of this rule. Given the need to consult further with Division and Agency Counsel to provide a

complete and thorough response and the available time, it would be beneficial to the agency if an extension could be granted and this rule rescheduled for the May 2026 RRC meeting.

Please let me know if you have any questions or if any additional information would be helpful related to this request. Thank you in advance for your consideration.

Best,
Julie

Julie Peck
Lead Policy Advisor
Division of Child Development and Early Education, Office of the Director
NC Department of Health and Human Services
julie.peck@dhhs.nc.gov

DCDEE has moved! Our new physical address is 1915 Health Services Way, Raleigh, NC 27607.

Our mailing address will not change: **2201 Mail Service Center | Raleigh, NC 27699-2200.**

http://ncchildcare.ncdhhs.gov

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Burgos, Alexander N

From: Miller, Christopher S
Sent: Wednesday, April 15, 2026 3:47 PM
To: Peck, Julie C
Cc: Burgos, Alexander N; Miller, Christopher S; Johnson, Cheryl L
Subject: Child Care Commission: Final Rule for April 2026 RRC Meeting
Attachments: Request for Changes - 10A NCAC 09 .2102.docx

Hello,

I'm the staff attorney who reviewed the rule submitted by the Child Care Commission for the April 2026 RRC meeting. The RRC will formally review the rule at its meeting on Tuesday, April 28, 2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is my Request for Changes Pursuant to G.S. 150B-21.10. Please submit the response and revised rule to me via email, no later than **5 p.m. on April 21, 2026**.

Let me know if you have any questions.

Best,
Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
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Raleigh, NC 27609
(984) 236-1935

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