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<th>Rule Section</th>
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**Administrative Rule Change History:**
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- **Amended Eff. January 1, 1991:** Necessary with substantive public interest and must be readopted
- **Amended Eff. May 1, 2013:** Necessary with substantive public interest and must be readopted
- **Amended Eff. July 1, 2012:** Necessary with substantive public interest and must be readopted
- **Amended Eff. January 1, 2005:** Necessary with substantive public interest and must be readopted
- **Amended Eff. November 1, 2007:** Necessary with substantive public interest and must be readopted
- **Amended Eff. October 29, 1998:** Necessary with substantive public interest and must be readopted
- **Amended Eff. January 1, 2006:** Necessary with substantive public interest and must be readopted
- **Amended Eff. May 1, 2013:** Necessary with substantive public interest and must be readopted

**Agency Determination: [150B-21.3A(c)(1)a]**
- Agency must readopt

**Public Comment:**
- No comments with merit

**RRC Determination:**
- Necessary with substantive public interest and must be readopted
- Agency must readopt
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Comments for Periodic Review of Rules
Comment Period September 12 – November 11, 2014

This is a general comment for **10A NCAC 09**

Dear Child Care Commission,

By this email, I want to thank you for your diligent review of the existing rules and strongly encourage you to maintain your commitment to the quality that has been instilled in the rules in North Carolina to date. I work all over the country with states that are developing quality rating and improvement systems and often direct them to the work in North Carolina as a model to be replicated. North Carolina has created rules and requirements that are reasonable. They did not start with the unattainable but supported the field in improving quality and changed the rules and regulations as the field attained those quality levels. You have steadily improved the quality of child care in the state and are a model for the nation. More importantly, you are seeing the results of this improved quality in better child outcomes. North Carolina's young children are arriving at school at a higher level of readiness and sustaining that readiness through their school years. You have much to be proud of and it has been possible through the diligence of the Child Care Commission in making rules that assured the state's commitment to high quality early care and education.

As you go through the current rules review process, I urge you to maintain your commitment to quality and the integrity of the system in mind and use that as the top standard for all your decisions. Thank you for all your great work.

Gerry Cobb
State Services Director
BUILD Initiative
2506 Blooming Street
Raleigh, NC 27612
[www.buildinitiative.org](http://www.buildinitiative.org)

Commission’s Response:
The Commission appreciates your comment. Thank you for your interest.
Comment: There is an inconsistency in the Child Care Licensing Requirements for school age children during planned breaks from school. Most children in NC follow a traditional calendar schedule with a ten week break in the summer, a two week break at Christmas and a one week break in the spring. A wide variety of good organizations provide positive activities for school aged children during each of those breaks. Summer day camps, winter sports camps, and vacation bible schools are not required to be licensed. There are thousands of such programs across the state and it would be an unmanageable and unnecessary administrative challenge for them to be required to be licensed.

In a few NC Counties, the school calendar is year round, with students attending school for nine weeks and then taking three weeks off. In effect, the summer break is staggered in four three week sessions through the year. When the school is out of session, (Tracked Out) many of those same organizations that provide day camps in the summer offer similar day camp programs commonly called Track Out. They are essentially staggered summer Day Camp.

Simply because of the language used to describe the calendar, "track out" camps are defined as child care, requiring compliance with all the rules and regulations for licensed child care programs that were originally designed for preschool programs. Summer day camps that school-age children attend on a traditional school calendar are defined as "recreation" and therefore do not require the same compliance. This is a challenge for many organizations who provide the services and does not improve the quality of the programs. Many organizations are providing Track Out Programs and ignore the regulations, or get past needing to comply by not providing care during all four tracks as defined in the rules.

Consistency across all school aged programs would be ideal, and the recommendation would be to make track out camps consistent with summer day camps because they serve the same population. The only difference is the arrangement of the calendar.

Sheree Vodicka, YMCA of the Triangle - NC Alliance of YMCAs,
sheree.vodicka@ymcatriangle.org

Commission’s Response:
The Commission is not certain that it has authority to make the requested change. The Commission will investigate this issue during the re-adoption process.
This is a comment for: **10A NCAC 09 .0206 Capacity of the Center**

This is an important rule because it is the only rule that addresses staff child-interactions.

Norma Honeycutt, Partners In Learning  
norma@epartnersinlearning.org

**Commission’s Response:**  
The rule referenced (10A NCAC 09 .0206) has been documented as unnecessary because it duplicates NCGS 110-91(6).
This is a comment for the following rules in 10A NCAC 09:

.0508 Activity Schedules and Plans for Centers,
.0509 Activities: General Requirements for Centers,
.0510 Activity Areas: Preschool Children Two Years and Older
.0511 Activities for Children Under Two Years of Age

Dear Commissioners,

Let me start by thanking each of you for your service to the young children in our great state. As a past commissioner, I know first hand the importance of and the challenges of your position. Your upcoming task with the rules review is one of the most important task you have been assigned. The decisions you make can ensure continued quality and safe environments for the young children in early care and education programs across North Carolina. When reviewing each rule and deciding if it is important to continue or not, please think about what would happen without them. Also, take into consideration current research. I began my work in this field 33 years ago, before many of these rules were in effect. I have witnessed first hand how the rules have increased safety and quality. In this email, I would like to address the below rules specifically. It is important that we continue to have activity areas that are well defined and provide opportunities for intentional learning and engagement. Thank you for your consideration to my request

.0508 Activity Schedules and Plans for Centers
.0509 Activities: General Requirements for Centers
.0510 Activity Areas: Preschool Children Two Years and Older
.0511 Activities for Children Under Two Years of Age

Norma Honeycutt
Partners In Learning
2386 Robin Rd.
Salisbury, NC 28144
norma@partnersinlearning.org

Commission’s Response:
The Commission appreciates your comment. Thank you for your interest. These rules are already marked Necessary with Substantive Public Interest.
This is a comment for **10A NCAC 09 .0510 ACTIVITY AREAS: PRESCHOOL CHILDREN TWO YEARS AND OLDER**

Smart Start of Mecklenburg County would like to submit a comment on Rule 10A NCAC09 .0510 ACTIVITY AREAS: PRESCHOOL CHILDREN TWO YEARS AND OLDER specifically section 7:

(7) When "non-interactive" screen time, including television, videos, video games, and computer usage is provided, it shall be:
   (a) Offered only as a free-choice activity,
   (b) Used to meet a developmental goal, and
   (c) Limited to no more than a total of two and a half hours per week, per child.

Usage time periods may be extended for specific special events, projects, on-site computer classes, or occasions such as a current event, holiday, or birthday celebration.

We are recommending that the word “non-interactive” be added as seen above. This addition would serve to differentiate non-interactive - which is described as television, videos, video games and computers - from interactive media which is defined as follows in a 2012 joint position statement by the National Association for the Education of Young Children and the Fred Rogers Center for Early Learning and Children’s Media at Saint Vincent College: *interactive media refers to digital and analog materials, including software programs, applications (apps), broadcast and streaming media, some children’s television programming, e-books, the Internet and other forms of content designed to facilitate active and creative use by young children and to encourage social engagement with other children and adults.*

The position statement, “Technology and Interactive Media as Tools in Early Childhood Programs Serving Children from Birth through Age 8” referenced above, can provide a wealth of additional information on this topic.

Please contact Jane Meyer, Executive Director, if you require further information. Her email address is” jmeyer@smartstartofmeck.org

**Commission’s Response:**
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
Dear Commissioners,

I am writing concerning the upcoming rules review. One of the most important rules that will be reviewed is: 10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS WITH A LICENSED CAPACITY OF 30 OR MORE CHILDREN. This rule sets the ratio standard for classrooms across the state. Lower ratios and group sizes are clearly linked to improved quality.

Our current standards are:

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<th>Ratio Staff/Children</th>
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<tr>
<td>12 to 24 Months</td>
<td>1/6</td>
<td>12</td>
</tr>
<tr>
<td>2 to 3 Years</td>
<td>1/10</td>
<td>20</td>
</tr>
<tr>
<td>3 to 4 Years</td>
<td>1/15</td>
<td>25</td>
</tr>
<tr>
<td>4 to 5 Years</td>
<td>1/20</td>
<td>25</td>
</tr>
<tr>
<td>5 Years and Older</td>
<td>1/25</td>
<td>25</td>
</tr>
</tbody>
</table>

NAEYC is the National Association for the Education of Young Children. NAEYC is the nation’s largest organization of early childhood professionals dedicated to the education of young children. NAEYC began in 1985 with a goal to provide a system that would raise the level of quality in early childhood programs. Based on research on the development and education of young children, NAEYC recommends the following ratios and group sizes.

For further clarification, please also see notes below.

<table>
<thead>
<tr>
<th>GROUP SIZE</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
</tr>
<tr>
<td>8</td>
</tr>
<tr>
<td>10</td>
</tr>
<tr>
<td>12</td>
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<tr>
<td>14</td>
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<td>16</td>
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<td>18</td>
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<tr>
<td>20</td>
</tr>
<tr>
<td>22</td>
</tr>
<tr>
<td>24</td>
</tr>
</tbody>
</table>

Age Group

Infants (birth to 15 months)

1:3 1:4
<table>
<thead>
<tr>
<th>Age Group</th>
<th>Ratio 1:3</th>
<th>Ratio 1:4</th>
<th>Ratio 1:4²</th>
<th>Ratio 1:4³</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toddler/Twos (12 to 36 months)²</td>
<td>1:3</td>
<td>1:4</td>
<td>1:4³</td>
<td>1:4</td>
</tr>
<tr>
<td>12-28 months</td>
<td>1:3</td>
<td>1:4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21-36 months</td>
<td>1:4</td>
<td>1:5</td>
<td>1:6</td>
<td></td>
</tr>
<tr>
<td>Preschool²</td>
<td>1:6</td>
<td>1:7</td>
<td>1:8</td>
<td>1:9</td>
</tr>
<tr>
<td>2.5-year-olds to 3-year-olds (30 - 48 months)</td>
<td>1:6</td>
<td>1:7</td>
<td>1:8</td>
<td>1:9</td>
</tr>
<tr>
<td>4-year-olds</td>
<td></td>
<td>1:8</td>
<td>1:9</td>
<td>1:10</td>
</tr>
<tr>
<td>5-year-olds</td>
<td></td>
<td>1:8</td>
<td>1:9</td>
<td>1:10</td>
</tr>
<tr>
<td>Kindergarten</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1:10</td>
<td>1:11</td>
<td>1:12</td>
<td></td>
</tr>
</tbody>
</table>

As you can see after reviewing the above information, our current rules for ratios and group size does not meet the recommended standard based on research. I would ask that you consider lowering the ratios especially for the infants and toddlers across the state. If you are unable to do so, please do not raise the ratios or group sizes. This would be detrimental to the young children in our state. Thank you for your consideration to this important issue.

Blessings,

Norma W. Honeycutt, M.Ed.

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
This is a comment for: **10A NCAC 09 .0901  GENERAL NUTRITION REQUIREMENTS**

Comment: The rule contradicts itself. USDA Child and Adult Care Food Program allows flavored milk to be served. This rule states that providers will follow USDA guidelines but then states unflavored milk is not allowed. This isn't following USDA guidelines. It also leaves little option for providers to encourage children opposed to drinking milk. I have administered the CACFP for 18 years and I have never witnessed a child care provider abusing flavored milk. Normally, it is used as a treat or to inspire a child to drink milk.

Tammie Martin, Partners for Children & Families
tmartin@pfcfmc.org

**Commission’s Response:**
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
First Flight After
School Enrichment
Program
Kathy Duncan – Site Coordinator
Phone: 252-449-7058

10/23/14

I am writing this letter to ask that you please consider making a change to the rule in Nutrition: Section .900 rule 10A NCAC 09.09.2(e). This rule is concern the requirement that children must receive only low fat/skim unflavored milk.

I am site coordinator of an after school program. The children in the program will not drink the white milk. My program is on the Federal food program and as you know the requirement with some foods is a required component.

This is a waste of money for my program. It also states in the rules that you follow the USDA requirements. No where does the USDA say that milk cannot be flavored. It states that it must be low fat milk or skim milk. To make sure that I was correct. I personally contacted Ms. Lori Carol who is with the USDA in Washington, DC. She is the consultant for this state.

I beg you to please change this if not for the pre-school age children for the school age children. Is it not better for the children to receive some sort of milk to get the nutrients than not to drink any at all? Please also know that some of the children only receive milk at school and not at home.

This is a grave concern to me as a provider, parent and grandparent and most of all as a taxpayer to see this waste. I realize that law and rule changes take a while to happen but I ask that this be done immediately. I have enclosed a picture of the milk that I have left over from today’s snack of apples and milk. I will be looking to hear from the commission on this issue and hopefully changes in the very near future.

Respectfully,
Kathy Duncan
FFES Site Coordinator

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
I have a comment on Rule 10A NCAC 09.1003 (l), Safe Procedures. The standard does not state for how long a seating chart/list of children being transported during routine or field trip travel must be kept. It has been explained to us by our licensing consultants that if it does not say how long, the document should be kept for the life of the license. A set time period for this type of documentation would be beneficial. We believe a time period for retention of this documentation corresponding to attendance record keeping would be appropriate.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
I have a comment on Rule 10A NCAC 09.1403 (b), Aquatic Activities. The standard does not include a complete list of what the term “body of water” encompasses and what water features are excluded. Additionally, the rule does not give a depth of what is considered to be a “body of water.” It has been explained to us by our licensing consultants that children doing science activities along a creek bank is considered water play. However, if a child steps into the creek, even though the water may not cover their shoes, it constitutes an aquatics activity and since there is no language stating what depth constitutes a body of water. Programs are regularly left open to violations due to lack of comprehensive rules. We would like a minimum water depth of natural bodies of water defined that would allow school age children to participate in science and nature activities without the aquatics standards.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
I have a comment on Rule 10A NCAC 09 .1403 (f), Aquatic Activities. According to this rule, staff-child ratios are listed as being in paragraph (d) when they are actually found in paragraph (e). Secondly, with regards to the rule’s language, it regularly refers to staff in the “water” and then switches to the word “pool.” Given that aquatics activities can take place in bodies of water besides pools continuity of the word “water” would be preferable.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
I have a comment on Rule 10A NCAC 09.1403 (f), Aquatic Activities. This rule calls for the ability to hear and see, “…at all times to hear, see, and respond quickly…” In light of other rule changes that have been modified to “hear or see” for accessibility of staff, we feel this should be changed as well.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment. In this case the Commission is unlikely to make the requested change because this requirement is important for safety concerns. Thank you for your interest.
This is a comment for 10A NCAC 09.1718  REQUIREMENTS FOR DAILY OPERATIONS

I have a comment on Rule 10A NCAC 09.1718 (a)(4)(A), Requirements for Daily Operations. This rule calls for the ability to hear and see children. In light of other rule changes that have been modified to “hear or see” for accessibility of staff, we feel this should be changed as well.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
This is a comment for 10A NCAC 09 .2506  GENERAL SAFETY REQUIREMENTS

I have a comment on Rule 10A NCAC 09 .2506 (b), General Safety Requirements. The language of this rule references .1403 on Aquatic Activities as if the aforementioned rule only refers to swimming pools and not all bodies of water.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
I have a comment on Rule 10A NCAC 09 .2510 (b)(2), Staff Qualifications. The current class that is offered to meet the two semester credit hours in child and youth development is EDU 119, which focuses on center-based care for children ages 0-5. Our program has seen licensed teachers not qualify as program coordinators for school-age programs because they do not have EDU 119 or its equivalent. We would like teacher licensure included as an avenue to program coordinator qualification.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment and will consider your comment during the re-adoption process. Thank you for your interest.
This is a comment for 10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK

I have a comment on Rule 10A NCAC 09 .2703 (e), Criminal History Record Check Requirements for Child Care Providers. Child care providers who also work within a school system are allowed to bypass the Criminal History Record Check requirement by providing a copy of their school system background check. We believe a similar provision entitling child care providers with an exemption if they are being employed by an organization that provides nationwide background checks comparable to the DHHS Criminal History Record Check should also be included.

Ryan P. Wilson
YMCA OF WESTERN NORTH CAROLINA
(E) rwilson@ymcawnc.org

Commission’s Response:
The Commission appreciates your comment. In this case the Commission is unlikely to make the requested change because this requirement is important for safety concerns and is highly regulated by Statute. Thank you for your interest.
This is a comment for 10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK

I have a comment on Rule 10A NCAC 09 .2703 (e), Criminal History Record Check Requirements for Child Care Providers. Child care providers are continuing to not receive qualifying letters in the mail even after repeated requests for letters. If a staff member is qualified, but a letter has not been obtained for their file, this should not continue to be a violation.

Ryan P. Wilson
Director of Operations
Youth Services
YMCA OF WESTERN NORTH CAROLINA
53 Asheland Ave., Ste. 102-A Asheville, NC 28801
(E) rwilson@ymcawnc.org (W) ymcawnc.org

Commission’s Response:
The Commission appreciates your comment. In this case the Commission is unlikely to make the requested change because this requirement is important for safety concerns. Thank you for your interest.