

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Child Care Commission intends to amend the rule cited as 10A NCAC 09 .0102, .2802 and .2823.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://ncchildcare.dhhs.nc.us/general/whatsnew.asp>

Proposed Effective Date: *September 1, 2012*

Public Hearing:

Date: *May 8, 2012*

Time: *1:30 p.m.*

Location: *Division of Child Development and Early Education, 319 Chapanoke Road, Suite 120, Raleigh, NC*

Reason for Proposed Action: *The NC Child Care Commission proposes to amend rules that are in direct response to S.L. 2011-145 that gives the Commission the rule-making authority to review and approve comprehensive, evidenced-based early childhood curricula with a reading component. These curricula shall be used as approved curricula to meet requirements for the NC Pre-K program as well as for the requirement that an approved curriculum must be used in classrooms serving 4-year old children in 4 & 5 star child care programs.*

Procedure by which a person can object to the agency on a proposed rule: *Objections may be submitted in writing to Dedra Alston, Rule-making Coordinator, Division of Child Development and Early Education, 2201 Mail Service Center, Raleigh, NC 27699-2201; or by email to Dedra.Alston@dhhs.nc.gov by June 15, 2012.*

Comments may be submitted to: *Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2201, phone (919)890-7060, fax (919)662-4568, email Dedra.Alston@dhhs.nc.gov*

Comment period ends: *June 15, 2012*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
Date submitted to OSBM:
- Substantial economic impact (\geq \$500,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 09 - CHILD CARE RULES

SECTION .0100 - DEFINITIONS

NOTE: Text shown in Italics has been approved by the RRC and is pending Legislative Review. Item (35) "Temporary care" was previously published in 26 NCR 15 for public hearing. Only Item (7) "Curriculum" is to be considered for the purpose of this rule amendment.

10A NCAC 09 .0102 DEFINITIONS

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

- (1) "Agency" as used in Section .2200 of this Chapter, means Division of Child Development and Early Education, Department of Health and Human Services located at 319 Chapanoke Road, Suite 120, Raleigh, North Carolina 27603.
- (2) Appellant" means the person or persons who request a contested case hearing.
- (3) Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and

subsequently revised by the North Carolina School-age Quality Improvement Project. Other training shall be approved *as equivalent* if the Division determines that the content of the training offered is substantially equivalent to the BSAC training.

- (4) "Child Care Program" means a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common entity.
- (5) "Child care provider" as defined by G.S. 110-90.2 (a) (2) a. and used in Section .2700 of this Chapter, includes the following employees who have contact with the children in a child care program: facility directors, administrative staff, teachers, teachers' aides, cooks, maintenance personnel, and drivers.
- (6) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7) **"Curriculum" means a curriculum that has been approved by the NC Child Care Commission.**
- (8) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (9) "Division" means the Division of Child Development *and Early Education* within the Department of Health and Human Services.
- (10) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (11) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (12) *"Experience working with school-aged children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.*
- (13) "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (14) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- (15) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Chapter, using space which is identifiable for each group.
- (16) "Health care professional" means:
 - (a) a physician licensed in North Carolina;
 - (b) a nurse practitioner approved to practice in North Carolina;
 - (c) a licensed physician assistant.
- (17) "Household member" means a person who resides in a family home as evidenced by factors *including* maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- (18) "If weather conditions permit" means:
 - (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf>, and is incorporated by reference and includes subsequent editions and amendments;
 - (b) *following the air quality standards as set out in 15A NCAC 18A .2832(d)*. The Air Quality Color Guide can be found on the Division's web site at <http://xapps.enr.state.nc.us/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
 - (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.
- (19) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

- ⌘(20) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger.
- ⌘(21) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.
- ⌘(22) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales: the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010 or the School Age Professional Scale (SA Scale) in effect as of May 19, 2010. Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings.
- ⌘(23) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours.
- ⌘(24) "Owner" means any person with a five percent or greater equity interest in a child care facility, however stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 and G.S. 110-91(8) unless they are a child care provider.
- ⌘(25) "Parent" means a child's parent, legal guardian, or full-time custodian.
- ⌘(26) "Part-time care" means a child care arrangement where children attend on a regular schedule but less than a full-time basis.
- ⌘(27) "Passageway" means a hall or corridor.
- ⌘(28) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
- ⌘(29) "Preschooler" or "preschool-age child" means any child who does not fit the definition of school-age child in this Rule.
- ⌘(30) "School-Age Care Environment Rating Scale" (Harms, Jacobs, and White, 1996, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- ⌘(31) "School-age child" means any child who is attending or who has attended, a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
- ⌘(32) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).
- ⌘(33) "Section" means Division of Child. Development and Early Education.
- ⌘(34) "Substitute" means any person who assumes the duties of a staff person for a time period not to exceed two consecutive months.
- ~~⌘(33)~~⌘(35) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.
- ⌘(36) "Volunteer" means a person who works in a child care facility and is not monetarily compensated by the facility.

Authority G.S. 110-85; 110-88; 143B-168.3.

SECTION .2800 - VOLUNTARY RATED LICENSES

10A NCAC 09 .2802 APPLICATION FOR A VOLUNTARY RATED LICENSE

- (a) After a licensed child care center or home has been in operation for a minimum of six consecutive months, the procedures in this Rule apply to request an initial two- through five-star rated license or to request that a rating be changed to a two- through five-star rated license.
- (b) The operator shall submit a completed application to the Division for a voluntary rated license on the form provided by the Division.
- (c) An operator may apply for a star rating based on the total number of points achieved for each component of the voluntary rated license. In order to achieve a two- through five-star rating, for a two component license the minimum score achieved must be a least four points as follows:

TOTAL NUMBER OF POINTS	RATING
4 through 6	Two Stars
7 through 9	Three Stars
10 through 12	Four Stars

(d) Facilities with a four or five-star rated license and who are licensed to serve four-year-old children must implement a curriculum as defined in 10A NCAC 09 .0102 with their four year olds. This requirement must be met in any licensed child care facility.

(e) A Division representative shall assess the facility requesting a voluntary rated license to determine if all applicable requirements have been met to achieve the score for the requested star rating. The assessment may include a review of Division records and site visits.

(f) The Division shall provide for Infant/Toddler Environment Rating Scale Revised Edition, Early Childhood Environment Rating Scale - Revised Edition, School-Age Care Environment Rating Scale, or Family Child Care Environment Rating Scale - Revised Edition assessments to be completed, as appropriate for the program, free of charge to operators requesting an initial three or more points for program standards.

(g) Upon completion of the Division's assessment:

- (1) If the assessment indicates all the applicable requirements to achieve the score for the requested rating have been met, the Division shall issue the rating.
- (2) If the assessment indicates all the applicable requirements to achieve the score for the requested rating are not met, the Division shall notify the operator of the requirements that were not met and the requested voluntary rating shall not be issued. The operator may:
 - (A) Accept the rating for which the Division has found the operator to be eligible;
 - (B) Withdraw the request and reapply when the identified requirements to achieve the score for the requested rating have been met; or
 - (C) Appeal the denial of the requested rating as provided in G.S. 110-94.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b).

10A NCAC 09 .2823 QUALITY POINT OPTIONS

Operators may earn one additional quality point as follows:

- (1) Education options:
 - (a) Completion by staff of additional education coursework as follows:
 - (i) 75 percent of infant/toddler teachers have obtained an Infant/Toddler Certificate, or
 - (ii) 75 percent of teachers have completed an A.A.S. or higher in early childhood education/child development, or
 - (iii) 75 percent of lead teachers have completed a BA/BS or higher in early childhood education/child development, or
 - (iv) All lead teachers have completed an A.A.S. or higher in early childhood education/child development, or
 - (v) 75 percent of group leaders have obtained a North Carolina School Age Care Credential or have completed six semester hours in school-age coursework, or
 - (vi) A family child care home provider has obtained an Infant/Toddler Certificate or has a BA/BS or higher in early childhood education/child development.
 - (b) Completion of 20 additional annual in-service training hours for full-time lead teachers and teachers, and staff working part-time shall complete additional hours based on the chart in Rule .0707(c) of this Chapter.
 - (c) Completion of 20 additional annual in-service training hours for family child care home providers.
 - (d) 75 percent of lead teachers and teachers shall have at least 10 years verifiable early childhood work experience.
 - (e) All lead teachers and teachers shall have at least five years verifiable early childhood work experience employed by no more than two different employers.
 - (f) Having a combined turnover rate of 20 percent or less for the administrator, program coordinator, lead teachers, teachers and group leader positions over the last 12 months if the program has earned at least four points in education.
 - (g) In a stand alone school age program, 75 percent of group leaders shall have at least five years verifiable school-age work experience employed in no more than two different school-age settings.
- (2) Programmatic options:
 - (a) Use of age/developmentally appropriate curriculum that addresses five domains of development. This programmatic option shall not be available to facilities that are required to use an approved curriculum in accordance with Rule .2802(d) of this Section.
 - (b) Having group sizes decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section.
 - (c) Having staff/child ratios decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section.
 - (d) Meeting at least two of the following three programs standards:
 - (i) Having enhanced policies which include the following topics: emergency evacuation plan, field trip policy, staff development plan, medication administration, enhanced discipline policy, and health rules for attendance.
 - (ii) Having a staff benefits package that offers at least four of the following six benefits: paid leave for professional development, paid planning time, vacation, sick time, retirement or health insurance.

- (iii) Having evidence of an infrastructure of parent involvement which would include at least two of the following: parent newsletters offered at least quarterly, parent advisory board, periodic conferences for all children, or parent information meetings offered at least quarterly.
- (e) Completion of a 30 hour or longer business training course by a family child care home provider.
- (f) Completion of a business training course and a wage and hour training by the center administrator that is at least 30 hours total.
- (g) Restricting enrollment to four preschool children in a family child care home.
- (h) Reducing infant capacity by at least one child from the seven point level for a family child care home as described in Rule .2821(g)(3) of this Section.

Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b)