

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD DEVELOPMENT AND EARLY EDUCATION

NORTH CAROLINA CHILD CARE COMMISSION

First Quarter Meeting

Monday, July 25, 2016

Dix Grill - Employee Center

1101 Cafeteria Drive

Raleigh, NC 27603

Commission Members Present

Glenda Weinert, Chairperson

Zac Everhart

Melanie Gayle

Elizabeth Gilleland

Kay Lowrance

Charles F. McDowell III

Laurie Morin

Donnette Thomas

Linda Vandevender

William Walton, III

Commission Members with an Excused Absence

Elliott Blades

Jonathan Brownlee, Sr., MD

April Duvall

Lisa Humphreys

Kristin Weaver

Division of Child Development & Early Education Staff Present

Pam Shue, Director

Dedra Alston, Administration/Policy

Janice Fain, Administration/Policy

Tasha Owens-Greene, Administration/Policy

Melodie Ford, Regulatory Services

Laura Hewitt, Regulatory Services

Mary Pat Hicks, NC Pre-K

Rachel Kaplan, NC Pre-K

Andrea Lewis, Regulatory Services

Heather Marler, Workforce

Lorie Pugh, Regulatory Services

Heather Laffler, Administration/Policy

Cindy Wheeler, NC Pre-K

Carleton Jones, IT

Attorney General's Office Staff

Bethany Burgon, Commission Attorney

Alexi Gruber, DCDEE Attorney

Welcome—Chairperson Glenda Weinert called the meeting to order at **9:05 a.m.** and reviewed housekeeping items. She welcomed everyone and discussed the meeting agenda. She read the conflict of interest statement and asked whether there were any conflicts to be noted for today? None were mentioned.

Chairperson Weinert asked that the Commission roll be called, and Ms. Dedra Alston performed. Chairperson Weinert noted that Kevin Campbell had not been reappointed to the Commission, and noted her disappointment in this change. She also noted that Elliott Blades, Elizabeth Gilleland, Kay Lowrance, Rev. Charles McDowell and Kristin Weaver were reappointed; she thanked them for agreeing to continue to serve. Chairperson Weinert noted that there is an additional new member of the Commission, appointed by the Governor, who will be arriving later to the meeting,

but she will wait on sharing further details once that new member is present. In addition, two other new appointments were made by the Speaker of the House, and those are currently within State Ethics Commission review.

Approval of May 16, 2015 Fourth Quarter Meeting Minutes

Chairperson Glenda Weinert asked for a motion for approval of May 16, 2016 Meeting Minutes.

Commission Action: Chairperson Glenda Weinert asked for approval of the May 16, 2016 Fourth Quarter meeting minutes as presented. Ms. Gilleland motioned for approval and Ms. Lowrance seconded. The motion carried unanimously.

Approval of May 17, 2016 Special Rules Meeting Minutes

Chairperson Glenda Weinert asked for motion for approval of May 17, 2016 Special Rules Meeting Minutes.

Commission Action: Chairperson Glenda Weinert asked for approval of the May 17, 2016 Special Rules meeting minutes as presented. Ms. Gilleland motioned for approval and Ms. Lowrance seconded. The motion carried unanimously.

Message to Commission

Rev. McDowell asked permission to relay a message to the Commission from an educator/coach in Davidson County who is familiar with both Rev. McDowell and Mr. Zac Everhart; the educator wanted to express his gratitude to the Commission members for their service and the group's work to improve education for children.

DCDEE Update—Pam Shue, Division Director

Developmental Day Rule Change:

Rules 10A NCAC 09 .2902 and .2903 became effective August 1, 2016. These amendments require that Developmental Day Services be available in community-based and local education agency-based programs (in counties where both exist) for a minimum of 8 hours per day, 5 days per week and 12 months per year. Where only LEA-based programs exist, those can continue to be provided per the school calendar.

Legislative Update:

The 2016 legislative Short Session resulted in 4 bills being approved that directly affect DCDEE

- **HB 474** Exclude Year-Round Track-Out Program/Child Care
- **HB 1014** NC Pre-K Conforming Change/Taylor's Law (Advisory Council on Rare Diseases)
- **HB 1030** 2016 Appropriations Act
- **SB 898** 2016 Appointments Bill

In addition, the legislative budget (HB 1030) required 4 study topics from DCDEE:

- Study Subsidy Rate Setting
- Study Costs and Effectiveness Associated with NC Pre-K Slots
- Report on Statewide Vision for State Agency Collaboration on Early Childhood Ed/Transition to Kindergarten (Interim and Follow-up Reports)

The budget also allowed that private child care facilities and public schools operating NC Pre-K classrooms can choose to meet the public school pre-kindergarten building standards for those classrooms, instead of building code requirements for licensed child care.

The legislative budget provided \$1.325M funding for additional slots in NC Pre-K and \$1.325M additional funding for children receiving Child Care Subsidy. It also provided \$3.45M to increase remaining age group child care market rates (ages 3-5) in Tier 1 & 2 economically challenged counties and \$663,435 for 10 new DCDEE positions to assist with meeting new CCDF reauthorization requirements.

CCDF Plan Updates:

North Carolina's CCDF State Plan has been submitted and conditionally approved by the federal Administration for Children and Families (ACF). As a part of that submission and approval, the Division is requesting that the Commission will need to adopt a package of temporary rules that will be discussed later today. These rules are necessitated by the increase in training requirements for providers, in 11 specific health and safety topics, as a part of the requirements of the Reauthorization.

Also of note related to DCDEE's State Plan and federal reauthorization, DCDEE staff met with LaPrayshia Peoples-Hayes and Calvin Moore, both ACF employees/contractors, to discuss North Carolina's programs and how our block grant funds are utilized. DCDEE staff also took them to visit local child care providers, DSS/Purchasing Agencies and CCR&R agencies.

Subsidy Updates:**Subsidy Policy Changes as a result of CCDF Reauthorization -**

As the result of a federal requirement, NC now provides a minimum 12 month eligibility period for receipt of child care subsidy assistance. This eligibility will be provided to families, regardless of a parent's temporary change in employment or participating in education or training, as long as the family's income does not exceed 85% of State Median Income (SMI), which is a federal limit.

In addition, at the time of application and redetermination, families will be asked to declare if they have assets in excess of \$1,000,000. Families declaring assets in excess of \$1,000,000 will be determined ineligible for subsidized child care assistance.

For current and future recipients of child care subsidy assistance, a 90-day phase out period will occur during which child care subsidy services will continue without adjustment of the parent fee, when a family's eligibility changes. If/when the family income exceeds 85% of State Median Income, a 10 work day notice of termination of services will be issued to the parent and the provider, due to program ineligibility.

Subsidy Policy Changes as a result of State/NC FAST Policy -

The child care subsidy assistance program is and has made a number of changes to streamline operations and to accommodate the needs and capacity of the NC FAST program. Also as a result of provider input, the program will now allow providers to choose fifteen (15) days a calendar year for automatic approval for holidays and vacation days. This limit does not include any closings required for inclement weather and emergencies.

New currently, a provider can also only receive an increase in their subsidy payment rate once a year, unless the increase in rates is the result of a provider receiving a higher star rated license or new market rates established through the Division. The subsidy program will no longer pay based on discounts, scholarships, and sliding fee scales. Payments to providers will be based on the current market rate.

Also as a part of NC FAST implementation, DCDEE continues to work to incorporate Out-Of-State providers, for children who live in NC but are provided care outside the state receive subsidized services. The Division is also close to having a solution to enrolling Department of Defense programs, which are not required to be licensed, in the Subsidized Child Care Reporting System (SCCRS).

NC FAST Update -

Pilot activities for providing reimbursement for service through the NC FAST system have begun in Durham, Orange, Lee and Buncombe Counties; as of July 7, 392 of 527 providers have been linked. Enrollment via the provider portal is active; as of July 18, and 6 providers have enrolled. Providers are contracting with FIS to get their bank account on file to receive payment; as of July 7, 2691 contracts have been established.

Phase 1 providers will begin enrolling in August. An email listserv has been established for those providers; 617 providers currently enrolled. Providers will see a new message on the 'Totals' page of the Child Reimbursement Summary in August that will also remind them to complete all requirements for enrollment in the NC FAST system. All materials for providers are on the DCDEE website under the NC FAST button and are being shared with providers via routine email updates.

At the completion of the Division Director's report, Chairperson Weinert noted to the Commission and audience the recent passing of former DCDEE Director Deb Cassidy. She expressed sympathy over Cassidy's death and asked that all present observe a moment of silence.

Temporary Rules Discussion and Vote to Publish

Ms. Alexi Gruber shared information with the Commission regarding temporary rules that need to be published and in place by the end of September in order to meet CCDF requirements. Temporary rules allow for a shortened comment period and do not require fiscal notes. Ms. Gruber mentioned that funds have been secured by DCDEE to provide online trainings which are required by the temporary rules, which will be free to trainees/child care providers.

Ms. Gruber discussed the timeline for these rules:

- 1) Commission will vote to publish today/tomorrow;
- 2) August 2nd—rules will be published on the DCDEE website;
- 3) Public Comment period will be open August 2-August 25;
- 4) Public hearing will be held August 9, 1:00 p.m., Dix Campus, McBryde Building room 130;
- 5) Rules and public comment will be reviewed by the Commission on September 12 at 10:00 a.m. By teleconference;
- 6) Rules are planned to become effective September 23, 2016 (prior to September 30 deadline).

These rules are the result of a federal CCDF block grant requirement for all states to have training provided to all child care providers on eleven (11) specific health and safety topics by September 30, 2016. Because NC did not currently have an adequate response in place to meet this training requirement, DCDEE was required to file a Corrective Action Plan to its CCDF Block Grant Plan which addressed this deficiency with temporary rules adoption and a provision that all trainings will be completed by all child care providers by next summer.

Chairperson Weinert stated that this temporary rule process has allowed the Commission to examine the worth of online training and cost effectiveness of meeting requirements more efficiently. Chairperson Weinert stated her feeling is that it's important to take a lesson from this process about the importance of providing adequate time and tools when implementing changes. Chairperson Weinert recognized Director Shue's contribution, researching the responses of other states, to inform the process.

.0604 Safety Requirements for Child Care Centers (Rules .0604 and .0608).

Rule .0604 - Safety Requirements

Ms. Gruber stated that the Division's intention is to make Center and Home Rules as similar as possible to each other.

On Page 3 line 7 Paragraph (u) states that "In child care centers, potential bio contaminants, shall be stored in locked areas or shall be removed from the premises or otherwise inaccessible to children and disposed of appropriately." Ms. Vandevender asked for a definition of 'bio-contaminants' and Ms. Gruber responded that Division staff are waiting for that information which the current regulations do not specifically define. Mr. Everhart suggested looking at OSHA Guidelines for a definition and added that OSHA regulations far supersede Health Department regulations in terms of violations.

Ms. Lowrance asked whether Paragraph (u) could be moved under Paragraph (a) "potentially hazardous materials"? Ms. Gruber stated that if the definition for a topic is included within the

rule, then that topic should stand alone in the rule format. Chairperson Weinert suggested if staff include the definition within the definitions section, instead of within the rule, then the rule could be moved under Paragraph (a). However, Ms. Gruber stated that if a definition is only used once, it is best to keep the definition in the individual rule, as opposed to putting it in the Definitions section. Ms. Gruber stated that staff has been unable to locate a definition of “bio-contaminants” in public health definitions. The Division will do more research to establish a definition and present that information to the Commission.

In reference to that same information about storage, Ms. Gayle asked what “otherwise inaccessible” means? Ms. Pugh stated that this language and requirement is part of the Sanitation rules (15A NCAC 18A .2800).

.0608 Prevention of Shaken Baby Syndrome and Abusive Head Trauma

CCDF regulation require that centers must implement training and policies that address the prevention of Shaken Baby Syndrome and abusive head trauma. This new rule, .0608 addresses the policy that centers must have in place. Chairperson Weinert asked for clarification of the implementation plan - How long do providers have to develop this policy? Ms. Lewis responded that providers would typically have a year to implement new policy requirements. However, the Division is working on a monitoring plan related to all of the new requirements and will share that comprehensive plan with child care operators and the Commission, when it is complete.

The Division was asked about whether this training would be available online, and the answer is yes, training will be provided online.

Staff Qualification (Rules .0705, .0706, .0707)

.0705 Special Training Requirements

Page 3, line 13 has been added to comply with CCDF requirements “at all times, at least one child care provider who has completed ITS-SIDS training shall be present in the infant room while children are in care.”

Ms. Lewis discussed that training already exists through Prevent Child Abuse North Carolina regarding the identification and prevention of child maltreatment; this training has been updated to include the change in investigating child maltreatment in child care and DCDEE is recommending that all child care providers complete this training within two months of employment and renew their training every three years.

.0706 Ongoing Training Requirements

Page 4 lines 6-7 states that. “Child care administrators and staff members shall complete 30 hours of ongoing training activities annually and must include the following topic areas...” Ms. Lowrance expressed her concern that the current language makes it should like this 30 hours of ongoing training activities must be completed annually?

Ms. Owens-Greene stated that after the first year, the 30 hours of training in those topic areas is not required annually per CCDF requirements; Chairperson Weinert stated that the language needs to be adjusted to reflect this. Ms. Gruber addressed the language about annual training further. This rule is written as a Temporary Rule for the short-term. For the long-term, the Federal

government's goal is that a Professional Development Plan for all child care staff be established. The current language requires staff to complete 30 hours of annual training that must include 11 topics; the first year everyone is training from zero; however, after the first year, the language will state that the requirement is "ongoing training to maintain and update." There is no federal requirement that following year training must repeat the full training, nor is it stipulated how many hours of training are required.

Chairperson Weinert stated her desire that the Commission and Division consider providing all trainings through online means, rather than in-person training. Ms. Lowrance expressed concern that the current wording about training hour requirements is unclear. Chairperson Weinert thinks the language should read "in the initial year" instead of "annually." Ms. Gruber stated that Division staff will work on proposed language to meet CCDF requirements and reiterated that his language will not be permanent; this language is just to meet requirements for the first year, in the temporary rules. Ms. Lowrance reiterated her concern that the language is unclear, temporary or not.

Chairperson Weinert asked Director Shue to explain how CCDF funds were acquired to develop online trainings; Director Shue explained that she explored online trainings to meet CCDF requirements in states like SC to develop a prototype and learned about Pro Solutions Training that can meet CCDF requirements and be offered free of charge to providers.

.0707 Orientation Training Requirements (Temporary Rule)

On Page 6 table, third row, second column the language requires "instruction in the maintenance of a safe and healthy environment; building and physical premises safety, including identification of a protection from hazards that can cause bodily injury such as electrical hazards, bodies of water and vehicular traffic." This requirement does **not** replace existing trainings at this time, but is required in addition to those trainings. Chairperson Weinert stated that in the name of efficiency, she wants to avoid duplication of trainings, and she asked that the ultimate goal be alignment of training requirements so multiple trainings are not necessary in the future. Director Shue stated that within a year, once changes are made, training modules will be moved to Pro Solutions and be able to be provided online.

On Page 6 table, fourth row, column two "Instruction in the administration of medication to children in accordance with 10A NCAC 09 .0803;" this training course will also be available online.

New Language—Page 7, row 1, column 2: "Prevention and response to emergencies due to food and allergic reactions"

New Language—page 7, row 2, column 2: 7 "Review of the center's handling and storage of hazardous materials and the appropriate disposal of bio-contaminants"

At this point in the meeting a brief recess was provided, when the newly appointed member of the Child Care Commission arrived to join the meeting.

Swearing in of new member – Ms. Donnette Thomas (Gov. – Parent Member)

Chairperson Weinert welcomed new member Ms. Donnette Thomas, Governor's Office parent appointee. Ms. Thomas introduced herself, and the Commission members all welcomed and introduced themselves to her. Ms. Alston performed the swearing in of Ms. Donnette Thomas.

Health Standards for Children (.0801)

.0801 Application for Enrollment

Ms. Vandevender stated that in her opinion, this rule is primarily liability driven; many insurance companies are considering, or actually dropping child care centers from coverage because the insurance companies are paying out liability claims for violations for which the centers have not provided proof of validated training.

Family Child Care Homes (.1701, .1702, .1705, .1730, .1719, .1721, and .1726); Edits based on language from Center Rules

.1701 General Provisions Related to Licensure of Homes

Page 16, line 20 and 21; Mr. Walton stated that the language should require "locked areas not in use" instead of "locked storage room." On Page 16, Line 23, Ms. Gruber noted that the term "unlocking devices" is used instead of "keys" because there are now alternative unlocking tools to keys.

Lunch break at 11:30 a.m., meeting reconvened at 12:30 p.m.
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Public Comment Period

Rhonda Rambeaut—NC Health and Safety Resource Center—Medication Administration Training

Ms. Rambeaut stated that she is a nurse with 38 years of experience and 10 years of experience providing medication administration training. She wanted to explain the history of the training - The reason this training was developed at UNC was because of several tragic incidents that occurred in North Carolina where children died from medication related incidents. Ms. Rambeaut stated that the training is a guide that is more effective if administered in its entirety, which is 4-5 hours in length. She is concerned with the idea that this training would be adapted to an online instead of in-person training. She stressed that this is one training where a child can die as a result of someone not receiving proper training.

Dr. Anna Schenck introduced herself as the new Director for the NC Child Care Training Center, replacing Dr. Jonathan Kotch, who has retired. Chairperson Weinert welcomed Dr. Schenck and thanked her for introducing herself.

End of Public Comment; Resume Rules Review

Mr. Everhart and Mr. Walton requested that Division staff provide Commission members with the baseline CCDF Guidelines along with the Temporary Rules that are being proposed to meet these requirements, so that the Commission can reference the requirements during the Rules Review process. Ms. Gruber stated that the language the Division drafts to comply with CCDF Regulations will include the minimum amount necessary to be compliant with CCDF regulations.

**Family Child Care Homes (.1701, .1702, .1705, .1730, .1719, .1721, and .1726);
Edits based on language from Center Rules cont.**

- .1702 Applications for a License for a Family Child Care Home
- .1705 Health and Training Requirements for Family Child Care Home Operators
- .1730 Activities Involving Water (Temporary Rule)
- .1719 Requirements for a Safe Indoor/Outdoor Environment (Temporary Rule)
- .1721 Requirements for Records
- .1726 Prevention of Shaken Baby Syndrome and Abusive Head Trauma (Temporary Rule)

These rules were presented with edits and there was no significant discussion.

After corrections are made by Division staff, those will be presented to the Commission on Tuesday (next day's meeting) and if approved, the Commission will vote to publish all temporary rules.

**Review of Rules with Staff Edits and Commission Requests from May Meetings
Definitions (Rule .0102)**

Ms. Gruber reiterated that the Definitions section only includes big picture terms that are referenced more than once within the rules; if a definition is only referenced once, it will be included in the individual rule instead of the Definitions section.

Changes provided for discussion -

Page 1, Line 14—Child Care Center- this rule is taken directly from Statute.

Page 3, Line 9—Family Child Care Home- this rule is taken directly from Statute.

Page 4, Line 26—Lead Teacher— this rule is taken directly from Statute.

Page 5, Line 25—Operator— this rule is taken directly from Statute.

Mr. Walton asked what 'interns' in child care facilities would be classified as. Ms. Gruber responded that they would either be classified as uncompensated providers, if they have unsupervised contact with children, or as volunteers, if they do not have unsupervised contact.

Ms. Vandevender inquired why the transition cut-off for ITERS/ECERS is 30 months for the evaluation of classrooms by observers? She expressed that this is in conflict with the child care definition in Rules that children are infants up to 36 months. Ms. Pugh stated the scale is designed to assess up to 30 months of age. Ms. Gilleland clarified that there is a formula used by observers, that if *more than half* of the children in the classroom are older than 30 months, the ECERS scale will be used instead of ITERS.

Chairperson Weinert asked the Division staff to find out who in charge of the ECERS tool at UNCG. Ms. Gruber will research and report back to the Commission.

**Commission Action: Chairperson Weinert asked for approval of the
Definitions Section .0102 as presented. Rev. McDowell
motioned for approval and Ms. Vandevender seconded.
The motion carried unanimously.**

Staff Qualifications (.0705, .0706, .0707, .0708, .0709, .0710, and .0711)

- .0705 Special Training Requirements
- .0706 Ongoing Training Requirements—incorporated temporary Rules language—
- .0707 Orientation Training
- .0708 Training Approval
- .0709 Documentation of Training
- .0710 Preservice Requirements for Lead Teachers, Teachers and Aides
- .0711 Preservice Requirements for Other Staff

These rules were presented with edits and there was no significant discussion. A final version will be returned to the Commission on Tuesday to approve to publish.

Health Standards for Children (.0801, .0802, .0803, .0804, and .0806)

- .0801 Application for Enrollment
- .0802 Emergency Medical Care

These rules were presented with edits and there was no significant discussion.

.0803 Administering Medication

On Page 5, line 16, the phrase was added “with a known allergy to the medication” as a condition of not administering medication.

On Page 9, line 11, in reference to medication being administered in error and the documentation of the medication error in writing language was added to require that “This documentation shall be maintained in the child’s file.” Ms. Thomas asked how long the information must be maintained in the child’s file? Ms. Gruber referred to rule .2318 Child Care Center Record Retention which would indicate that the record shall be retained as long as the child is enrolled at the facility, and for one year after. Incident files are retained for one year; however, Ms. Gruber advised that the Commission may want to revisit that length of time, if the group is concerned about potential legal issues and statutes of limitation. Chairperson Weinert proposed that the record be kept in the medical error file instead of the child’s file. A member of the public stated that the record should be kept in the child’s file in case of legal and potential privacy issues. General consensus determined that the medical incident reports should be kept in the child’s file.

On Page 8, line 19-20, Ms. Lowrance stated that the language “medication given” should be added to the following Sub-Items so that it reads as follows: (b) date medication given; and (c) time medication given.

- .0804 Infectious and Contagious Diseases
- .0806 Toileting, Clothing and Linens

These rules were presented with edits and there was no significant discussion.

Commission Action: Chairperson Glenda Weinert asked for approval of the Health Standards for Children Rules as written. Ms. Gayle motioned for approval and Ms. Morin seconded. The motion carried unanimously.

Nutrition Standards (.0901, .0902, and .0903)

.0901 General Nutrition Requirements

On Page 2, Line 19-20 states that “The child care provider shall serve only the following beverages:” As a result of changes in the USDA nutrition allowances, a new Subparagraph (6) will be added that states “(6) flavored or unflavored skim or low-fat milk for children older than 5 years.”

On Page 2, line 18 Subparagraph (5) will be changed to “for children 25 months through five years old.”

.0902 General Nutrition Requirements for infants

.0903 Requirements for Children Aged 24 Months and Older

These rules were presented with edits and there was no significant discussion.

Commission Action: Chairperson Glenda Weinert asked for approval of the Nutrition Standards Rules .0901, .0902, and .0903 as amended. Ms. Vandevender motioned for approval and Mr. Walton seconded. The motion carried unanimously.

General Requirements (.2318)

.2318 Child Care Center Record Retention

On Page 2; add “medical incident report” to chart of ‘Type of Child Record.’ Ms. Burgon recommended to change the retention period to three years.

Commission Action: Chairperson Glenda Weinert asked for approval of the General Requirements Child Care Center Record Retention Rule .2318 as amended. Ms. Lowrance motioned for approval and Ms. Gayle seconded. The motion carried unanimously.

Review New Rule

Denial of a License (.2214)

.2214 Denial of a License

This rule was presented with edits and there was no significant discussion.

Commission Action: Chairperson Glenda Weinert asked for approval of the Denial of a License Rule .2214 as written. Ms. Gilleland motioned for approval and Mr. Walton seconded. The motion carried unanimously.

Chairperson Weinert adjourned the meeting at 2:18 p.m.

Next meeting

July 26, 2016 9:00 a.m. - 3:00 p.m.

Special Rules Meeting

**Dix Grill / Employee Center
1101 Cafeteria Drive
Raleigh, NC 27603**

Future Meeting Dates:

September 26, 2016-Special Rules Meeting
September 27, 2016-Special Rules Meeting
October 24, 2016-Special Rules Meeting
December 12, 2016-Second Quarter Meeting
December 13, 2016-Special Rules Meeting