

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

**NORTH CAROLINA CHILD CARE COMMISSION
2012-13 Fourth QUARTER MEETING MINUTES**

May 6, 2013

319 Chapanoke Road, Ste. 120

Raleigh, NC

Teleconference conducted from Conference Room 300

Commission Members Present

Julia Baker Jones	Angela Beacham
Kevin Campbell	Sue Creech
Elizabeth Gilleland	Norma Honeycutt
Robin Kegerise	Laurie Morin
Vicki Narron-Warren	Janice Price
Richard Rairigh	Michael Smith, M.D.
William Walton, III	Glenda Weinert

Commission Members with an Excused Absence

Kathryn Clark, Ph.D.	April Duvall
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Division of Child Development & Early Education Staff Present

Dedra Alston, Program & Policy	Heather Laffler, Administration
Mary Lee Porterfield, Program & Policy	Karen Ferguson, Program & Policy
Sarah Buckner, Program & Policy	Shantell Disla, Program & Policy
Janice Fain, Administration	Melody Ford, Regulatory Services
Tammy Barnes, Regulatory Services	Lorie Pugh, Regulatory Services
Laura Hewitt, Regulatory Services	Alexi Gruber, Dept. of Justice
Andrea Lewis, Regulatory Services	Kathy Shepherd, Workforce Standards
Ron Byrd, Subsidy Services	Cindy Wheeler, Program & Policy

Guests

Catherine Scott-Little	Sherry Bradsher
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CALL TO ORDER

Chairperson Julia Baker Jones called the meeting to order at 9:30 and reviewed housekeeping items. She welcomed everyone and gave an explanation of this virtual meeting pilot that is being held due to the DHHS request for budget restraints and to experiment with practices for effective virtual meetings. She went through the agenda for the day and put up a slide showing the Commissioners' shared purpose, as developed at an earlier meeting. She reminded them of the ethics statement and its significance for the curriculum approval process. She presented a slide of guidelines for successful virtual meetings. To call the roll, Ms. Baker Jones asked each Commissioner to introduce him/herself and tell where they are in the state. Except for Ms. Baker Jones and Sue Creech, all Commission members in attendance were participating virtually. Kathryn

Clark and April Duvall were granted excused absences. Maureen Hardin has resigned from the Child Care Commission. The minutes of the Third Quarter meeting, held on February 4, 2013, were reviewed for approval by the Commission.

Commission Action: Ms. Creech moved to approve the February 4, 2013 meeting minutes as written. Richard Rairigh seconded the motion. Ms. Baker Jones called for a vote. The motion carried unanimously.

Curriculum Review and Approval – Dr. Catherine Scott-Little

Ms. Baker Jones gave background on the Commission's role in the curriculum review and approval process since July 1, 2011 when More at Four was moved from the Department of Public Instruction to DCDEE. She then introduced Dr. Catherine Scott-Little and gave an overview of her role and expertise. Dr. Scott-Little made a presentation to the Commission on the history, process and results of the Curriculum Review Committee and the most recent recommendations for approval of curricula resulting from the 2012-2013 review process.

Commission members raised a number of questions following the presentation. To a question about timing for publishers to re-submit their curricula, Dr. Scott-Little replied that for fairness, the process has had a definitive start and end on a 3-year cycle, although the 2012 process was inserted due to 2011 legislation requiring all four- and five-star programs to use an approved curriculum in all four-year-old classrooms. Concern was expressed that non-recommended curricula would have to wait three years to be re-submitted. Ms. Baker-Jones said that because a curriculum requirement has been extended to so many more programs, there is now the need for an appeal process and the Commission will look at a process drafted by DCDEE staff.

Commissioners asked which criteria in the review process address literacy. This is covered in #3, Areas of Children's Development and Learning. Clarification was requested on the definition of 4-year-olds. Attorney Alexi Gruber explained that the statute specifies only "4-year-old classrooms." DCDEE interprets the statute to exclude 3-year-old-classrooms that have 4-year-olds in transition.

Some commissioners expressed concern that the curriculum review process overstepped the legislative intent, with only one criterion addressing literacy and others seeming to duplicate rated license requirements. For clarification, the language in Section 10.7(d) of SL 2011-145 was referenced, expecting curriculum that meets NC Pre-K (formerly More at Four) standards to be taught in 4-year-old classrooms in 4 and 5-star programs; therefore the standards for curriculum approval need to be consistent with the standards that have been used to approve More at Four curricula. Concern was still expressed that some curricula that met the literacy criterion were not recommended for approval, and that not approving these limits parental choice and the ability of proprietary programs to differentiate themselves.

Ms. Gruber was asked to speak to the statutory authority for the Commission's approval of curricula. She explained that the new law requires the Commission to approve curricula and specifically requires approved curricula to be: 1) comprehensive, 2) evidence-based, and 3) include a reading component. One opinion was that these requirements could potentially narrow the review of new curricula. Ms. Gruber noted that the law states the approved curriculum would be added to the currently approved More at Four curricula.

Ms. Gruber reminded the Commission that no one can dictate use of particular curricula, but statute requires the use of a curriculum from an approved list if a program is serving the defined populations (NC Pre-K and 4 year olds in 4 and 5-star programs).

DCDEE staff pointed out that while an approved curriculum will be required in all 4-year-old classrooms in 4 and 5-star programs, there will be an implementation process over time. Family child care homes licensed to serve 4-year-olds also need to implement an approved curriculum and the list includes a family child care home curriculum.

Questions were raised about specific curricula. Dr. Scott-Little was asked to speak to Scholastic as it scored so high, but was not recommended. She explained that criterion #7 (Materials and Experiences) was only partially met, the issue being that some activities were deemed to be above age-level appropriateness and some learning experiences failed the integration expectation. This is an absolute criterion that must be fully met. There was also a question about Montessori. The response was that Montessori is implemented differently from program to program and there's not a standard curriculum. The Curriculum Review Committee was pleased to have one submitted from a particular Montessori program, but the materials did not meet the criteria.

Ms. Baker-Jones asked DCDEE staff to explain how programs can supplement their curriculum with approved curricula in order to be in compliance. Staff explained that DCDEE discourages combining curricula; however, if a program is using an approved curriculum as their primary, and their own curriculum has activities, materials, etc. that are consistent with Foundations, they may use these to enhance their program and consultants will recognize the alignments in their monitoring. Several Commissioners expressed concern that programs will be hurt by the cost of changing or adding curriculum.

Commission Action: Norma Honeycutt moved to approve the recommendations and to put in an appeals process. Dr. Mike Smith seconded the motion.

Discussion of motion: Laura Hewitt of the Regulatory Services Section Policy Unit responded to questions about how curriculum requirement will be implemented and monitored. Consultants will use implementation checklists to monitor select items the first year and will provide technical assistance to support compliance. To concerns about this transition and the impact on programs using

curricula not recommended for approval, Ms. Baker-Jones shared a slide on DRAFT Appeal Process Parameters and gave the Commissioners time to read through it.

Kevin Campbell made a substitute motion to table this discussion until the next meeting. Glenda Weinert seconded his motion. Ms. Baker Jones made the point that voting to approve recommended curricula is not the same as voting against those not recommended. She called for a vote on the substitute motion. The motion failed, with three voting in favor (Mr. Campbell, Billy Walton, Ms. Weinert) and ten against (Ms. Baker Jones, Dr. Smith, Mr. Rairigh, Angela Beacham, Janice Price, Laurie Morin, Ms. Honeycutt, Robin Kegerise, Ms. Creech, Vicki Warren).

Ms. Honeycutt amended her earlier motion to approve the three recommended curricula with the understanding that there will be an appeals process for non-recommended curricula. Dr. Mike Smith seconded the motion. Mr. Walton clarified that this is not a vote to disapprove the non-recommended curricula. Ms. Baker Jones called for a vote. The motion passed unanimously.

Remarks from Deputy Secretary for Health and Human Services - Sherry Bradsher

Ms. Bradsher introduced herself and her areas of responsibility in Human Services. She expressed her pleasure in working with the Commission and wants to support and make them feel they have the resources to get their work done. She is excited about the work at DCDEE and Rob Kindsvatter as the new Director, as he's been with DHHS continuously and always integral to child development areas. She sees many great opportunities to move forward the work of the agency. Child care is one of the greatest resources to support families and the system has relied on it for protection and services. She thanked the Commission for all they do and noted recent work around new policies: improving criminal record checks, dealing with budget issues, and continuity of service to children.

Ms. Baker Jones expressed a concern of the Commissioners about their ability to meet in person, and asked what to anticipate going forward. Ms. Bradsher explained that the Department is asking for help with reducing administrative costs, but if there is a need to meet in person they may do so. Any dollar not spent on administrative costs may be available for services, so efforts to save are appreciated. They need everyone to think about doing things differently to realize savings. DHHS is making more opportunities for training and meeting in new ways that may be more inclusive and provide improved services. She won't give yes or no answers, but asks the Commission to consider the best way to address the needs of a particular agenda.

Ms. Bradsher explained that Rob has been participating in Governor McCrory's meetings around the state regarding education. He keeps hearing speakers point out the need to

begin early and he has spoken to the value of early education. She and Rob will visit NC Pre-K programs in the next weeks. She serves on the NCPC board and is glad to continue her connection to early care and education in her role at DHHS.

The meeting broke for lunch at 12:15 p.m. and resumed at 12:45 p.m.

Before the Public Comment period, Commissioners resumed their earlier discussion about options for curricula not recommended for approval. Discussion points included: an option of provisional status, if a curriculum has met most criteria; an appeals process through which a curriculum demonstrates that they are up to standards; not settling for programs taking a voluntary one-star license in order to keep their own curriculum. There was agreement that more time is needed to decide on an appeals process, even with a draft in front of them, and they would prefer to discuss and vote on it in June.

Public Comment

Bill Mitchell is the owner of a Primrose school. He thanked the Commission for the special review process that allowed Primrose to submit its curriculum for review. He also appreciates their consideration of an appeals process. He feels passionately about his curriculum and doing the best for children. His program has a 2-year waiting list, despite being surrounded by 5-star programs that aren't full. This confirms that what they do and the way they do it is the draw. Parents prefer the structure they provide. He would choose to drop to 3 stars over changing their curriculum and would find that easier to explain to parents than if he opted to change the curriculum.

Lorie Barnes is the Executive Director of NCaeyc. She thanked the members for wrestling with the issue of curriculum review. It's not just what we teach children, but the way we teach it that is important. She encourages DCDEE to continue how they monitor and support the implementation of developmentally appropriate practice (DAP).

Linda Piper is the director of NCLCCA. She brought two items to the Commission's attention. First is the shortage of supplies for TB skin tests (first time it's happened, everywhere); DPH says child care falls in the limited category (low priority) and the only alternative is expensive. Emergency rule-making isn't called for yet, but it is a preservice requirement and could potentially need action as such. The second item is the Criminal Record Check (CRC) process. She gets daily calls from providers dealing with this. The problem is not with the concept but with the time it takes to process. Centers can run out of options when understaffed. She understands that even with ideal conditions it could take 2+ weeks, and this is too difficult for programs. Have they started scanning and emailing the letters to speed it up? Kathy Shepherd, Section Chief over the CRC unit, spoke to this. They had intended in the first stage to send letters via email but that didn't work. Last week they were given additional resources and managed to scan over 1000 qualification letters and email them. This work-around will allow them to get these out until the system is in place.

There was additional discussion among the Commission members about the CRC process. In response to a question about allowing tiered or provisional approval of an

individual to work in childcare, Ms. Gruber explained this isn't possible per statute, which requires CRC approval before a staff person can be counted in ratio. A suggestion was made that if statute doesn't support staffing and supervision of children, the Commission may need to address this concern to the legislature. Ms. Baker Jones advised they consider putting this on the June 27 meeting agenda.

Brookhaven Country Day School submitted a letter to the Commission that was read by Ms. Baker Jones. It addressed difficulties caused by the CRC changes, although they were intended to improve safety. Commissioners discussed ways to respond to this letter. DCDEE can only respond that the letter was received and the Commission is looking into it. Ms. Gruber suggested the Commission could write that this is an issue of statute and advise them to contact their legislator. Ms. Honeycutt volunteered to write a draft letter and then they can address this issue at the June meeting.

Tammy Barnes, Regulatory Services Section Chief, told the Commissioners that when consultants are monitoring, they will accept verbal word of CRC approval and will give only a one-point citation for not having the letter (instead of six points for being out of compliance). She also pointed out that 45 states have a preservice CRC requirement.

Public Comment closed at 1:30 p.m.

Approve Fiscal Notes – Dedra Alston

These rules have already been adopted to publish text for public hearing. Only the fiscal notes need to be adopted. Ms. Baker Jones explained the necessity to approve these now in order to have the public hearing in June.

Criminal Records Check Rules (Pre-service background check -.2701, .2702, .2703, .2704, .1702 & .0302) and Supervision Rule (See & Hear - .2506)

Ms. Baker Jones asked if there were any concerns. None were noted. She asked for a motion to approve.

Commission Action: Ms. Creech moved to accept the impact analysis dated March 2012 as presented. Ms. Beacham seconded the motion. A point of discussion was that this doesn't reflect total impact as it doesn't factor in the time between hiring someone and putting them to work. Because it's been approved by DHHS and OSBM, the wording can't be changed now, but there's an option to make changes during the public hearing period. Ms. Baker Jones called the vote. The motion passed with one abstention (Ms. Gilleland).

Developmental Day Rules (Typically developing children - .2903)

Commission Action: Ms. Creech moved to accept the impact analysis dated October 12, 2012 for the Developmental Day Rules. There

was no discussion. Ms. Baker Jones called the vote. The motion passed.

Ms. Baker Jones reviewed the remaining business on the agenda and polled members about continuing later than 3:00 p.m. Nine members (a quorum) could stay until 4:00.

Discuss what action is needed in response to the Rules Review Commission's objection to Pre-K Rule (.3004 - Religious Activities)

Ms. Gruber reported back to the Commission about the Rules Review Commission's (RRC) vote to disapprove the proposed rule. This means the rule is not in effect. She explained that she answered the RRC's questions for nearly an hour, which is unusual for the RRC. Only one RRC member voted for the rule, all others voted against it. The RRC felt that G.S. 110-88.1 prohibited any regulation of religious sponsored facilities, regardless of whether they chose to participate in the NC Pre-K program.

Ms. Gruber tried to explain to the RRC that NC Pre-K is voluntary and only NC Pre-K classrooms would be prohibited from teaching religious during the NC Pre-K portion of the day. The RRC didn't disagree about appropriateness of religious instruction. In fact, some commissioners expressed concerns over religious instruction in what is essentially an extension of the public schools, but the commissioners believed there was no authority for the rule because of the statute. The RRC commissioners were reasonable and logical, but they believed the question of religious instruction in NC Pre-K is one for the legislature.

Ms. Gruber does not see any alternative rule language at this point in time given the RRC's interpretation of G.S. 110-88.1. If the Child Care Commission does not respond to the RRC's letter indicating the RRC's objection, then the rule just goes away. Without this rule, any religious sponsored facility may teach religion during the NC Pre-K day as long as they are also teaching an approved curriculum.

Members expressed their appreciation of Ms. Gruber's efforts in taking this to the RRC three times. She was asked why the rule was brought to the Commission in the first place if it is not in their authority. Ms. Gruber explained that she believes there is a legal argument that the legislature did intend to give the Commission authority to promulgate the rule. She explained that the NC Pre-K rules were previously policy for More at Four, so the issue had never been brought before the RRC. When the program came to DCDEE and the Child Care Commission to implement, Ms. Gruber recommended the policies be put into rules to comply with G.S. 150B, the North Carolina Administrative Procedures Act, which was amended to include a much broader definition of what should be in rule as opposed to policy.

The Commission then discussed such issues as parental choice, NC Pre-K being a publicly funded program, and that the intent is not to restrict religious instruction but to protect families that may have limited choices. Ms. Baker Jones suggested that they may be able to find another way to address it later. She took a quick poll of the members for

their next step: *leave it alone* received five votes and *try to create a rule that supports inclusivity* received one vote.

Discuss forming official Ad Hoc Committee focused on Environment Rating Scales

Commission Action: Ms. Weinert moved to form an ad hoc committee. Mr. Campbell seconded.

Discussion of motion: Mr. Walton asked if the name should include “on Environment Rating Scales” or could it address any topic/issue? Ms. Gruber recommended that to comply with Open Meetings law, they need to formalize this committee, do public notice, etc. Others agreed that an ad hoc committee of the Commission should be specific as to topic. Another suggestion was to name it a sub-group of the Commission, because ad hoc suggests outside members.

Commission Action: Ms. Weinert revised her motion to form a sub-committee on Environment Rating Scales of the Child Care Commission. Ms. Baker Jones called for a vote. The motion passed with only one vote against (Ms. Warren).

Ms. Creech expressed her understanding that the sub-committee would do the legwork on items for which there’s not time in regular quarterly meetings, and then would bring any action items to the Commission. Ms. Warren expressed confusion about the intent of the committee regarding Environment Rating Scales (ERS) since the Commission has no authority to change the scales. Ms. Baker Jones shared her confusion and asked for clarification. There was discussion about ways the Commission could address the ERS, including familiarizing themselves sufficiently that they could be proactive instead of reactive, providing input into the development of a new assessment tool. Ms. Gruber clarified that the Commission does have authority where rule mentions use of the scales; in these areas they may change, modify, etc. Recommendations can be drafted into rule language with staff help.

Return to discussion of Curriculum Review and Approval

Ms. Baker Jones re-opened the discussion by asking what is urgent for the Commission to do today. Points of discussion included consideration of a provisional period for those curricula not recommended for approval and to consider an appeals process at the June 27 Commission meeting. Questions were raised about the time frame and the impact on programs if they’re using a non-recommended curriculum: e.g. does this cause a problem for NC Pre-K programs? could a program lose stars? Ms. Gruber advised them that their job is to approve, not to disapprove curricula, and if they chose, the Commission could hold off on sending result letters. Ms. Gruber suggested that if the Commission adopts some appeals process for curriculum approval, the trigger for an appeal would probably be the mailing of a “not approved” letter. This is the trigger for an appeal of a decrease in star-rating.

In thinking about how to construct an appeals process, Commissioners considered whether they really want some of these curricula that meet virtually none of the criteria to continue provisionally. One suggestion was to give provisional approval to any curriculum meeting criteria #3 (literacy). Others felt that this alone isn't sufficient for approving curricula according to the statute. A reminder was made that everyone submitting curricula knew the criteria. This was a carefully thought-out and planned process and they should think about fairness to others who have submitted and complied previously. Ms. Baker Jones reminded the Commission that they are the body chosen by the state of NC to approve curricula, and they are being responsible in their careful deliberations. It may be appropriate to rethink the process for the future, but for now they have done what they were asked. She concurred with discussion to table this for now and discuss it thoroughly in June.

Discussion of use of Virtual Meetings

Ms. Baker Jones asked for feedback on today's virtual meeting from the Commission members. Her motivation to conduct these meetings includes the hope for greater inclusion of the public through this format in the future. Commissioners mentioned their appreciation for the efforts and preparation that went into planning today's meeting. Points of discussion included:

- Difficulties with technology—audio quality, muting phones, difficulty connecting;
- Not an unsuccessful or unproductive meeting, but less so than face-to-face;
- Difficult to deal with a complex topic (curriculum review) without being able to read expressions and body language; communication is more than verbal;
- Difficulty maintaining focus when not together; feeling out of the loop, isolated;
- Consensus for in-person meetings, virtual only when it's the only option;
- Did this format save money? (yes, compared to \$2000 for meeting at DCDEE);
- If virtual meetings could facilitate greater involvement of the public, that would be a point in their favor.

Final business

Ms. Gruber reminded the sub-committee to get in touch with her regarding public notice for their meeting and advised they need to meet at DCDEE to record the meeting. Ms. Baker Jones asked if recording at another site would be allowed, if resources are available. She was advised to contact Ms. Gruber and copy Ms. Alston to discuss the details so Ms. Gruber could answer as to whether another location would be acceptable under North Carolina's open meetings laws.

There was a concern raised about emails received from DCDEE with meeting materials, feeling these should not be shared beyond the Commission. Ms. Gruber responded the Commission is a public body, and that most everything done by the Commission is public record. Commission members' emails are subject to Public Records Act requests and are generally not confidential. Although, for example, the Commission may decide to hold off on notification of approval of curricula until that information can be shared at a public meeting, there is nothing that prevents sharing of that information from being shared ahead of a public meeting absent an agreement by the Commission.

Commission Action: Ms. Creech moved to adjourn. Ms. Beacham seconded. There being no further discussion, Ms. Baker Jones called for a vote. The motion carried unanimously.

The meeting was adjourned at 3:48 p.m.

The next meeting of the North Carolina Child Care Commission is scheduled for Thursday, June 27, 2013.