

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

**NORTH CAROLINA CHILD CARE COMMISSION**

**Second Quarter Meeting  
Tuesday, November 17, 2015**

Dix Grill  
1101 Cafeteria Drive  
Employee Center  
Raleigh, NC 27603

Commission Members Present

<b>Glenda Weinert, Chairperson</b>	<b>Kay Lowrance</b>
<b>Kevin Campbell, Vice Chairperson</b>	<b>Laurie Morin</b>
<b>April Duvall</b>	<b>Janice Price</b>
<b>Zac Everhart</b>	<b>Linda Vandevender</b>
<b>Elizabeth Gilleland</b>	<b>William Walton, III</b>

Commission Members with an Excused Absence

**Elliott Blades**  
**Jonathan Brownlee, Sr., MD**  
**Melanie Gayle**  
**Charles F. McDowell III**  
**Kristen Weaver**

Division of Child Development & Early Education Staff Present

<b>Tammy Barnes, Interim Director</b>	<b>Dedra Alston, Administration/Policy</b>
<b>Heather Laffler, Administration/Policy</b>	<b>Andrea Lewis, Regulatory Services</b>
<b>Janice Fain, Administration/Policy</b>	<b>Terry McCauley, Regulatory Services</b>
<b>Tammy Freeman, IT</b>	<b>Lorie Pugh, Regulatory Services</b>
<b>Laura Hewitt, Regulatory Services</b>	<b>Melissa Stevenson, Regulatory Services</b>
<b>Mary Pat Hicks, NC Pre-K</b>	<b>Branda Watford, Administration/Policy</b>
<b>Carleton Jones, IT</b>	<b>Cindy Wheeler, NC Pre-K</b>
<b>Rachel Kaplan, NC Pre-K</b>	

Attorney General's Office Staff

**Bethany Burgon, Interim Commission Attorney**  
**Alexi Gruber, DCDEE Attorney**

**Welcome**—Chairperson Dr. Glenda Weinert called the meeting to order at **9:12 a.m.** and reviewed housekeeping items. She expressed appreciation to the Commission for attendance. She also expressed an extra special thank you to Division staff for all of their efforts; the Commission could not do its work without them. She welcomed everyone and discussed the meeting agenda. She read the conflicts of interest statement and asked whether there were any conflicts noted for today, which none were.

Chairperson Weinert asked for roll call, which Dedra Alston performed. Chairperson Weinert listed the Commission members who were absent from this meeting who had requested and received excused absences.

**Approval of August 10, 2015 First Quarter Meeting Minutes**

Chairperson Weinert asked for a motion for approval of the October 10, 2015 Special Rules Meeting Minutes.

**Commission Action:**

**Chairperson Weinert asked for approval of the August 10, 2015 First Quarter meeting minutes as presented. Vice Chairperson Campbell motioned for approval of minutes as presented, and Mr. Billy Walton seconded. The motion carried unanimously.**

**Approval of September 28, 2015 Special Rules Meeting Minutes**

Chairperson Weinert asked for a motion for approval of the September 28, 2015 Special Rules Meeting Minutes.

**Commission Action:**

**Chairperson Weinert asked for approval of the September 28, 2015 Special Rules meeting minutes as presented. Ms. Kay Lowrance motioned for Approval and Vice Chairperson Kevin Campbell seconded. The motion carried unanimously.**

\*\*\*Vice Chairperson Campbell noted that he would appreciate if references to line numbers in the minutes would also reflect the content of the rule/change when a specific line is referenced in the minutes. Ms. Kaplan agreed to add that information in future meeting minutes.

**Update on the Child Care and Development Fund (CCDF) Plan and Quality Rating and Improvement System (QRIS) —Ms. Jennifer Johnson**

Commission members were provided handouts including the PowerPoint presentation “Update on TQRIS Validation Study and EQuIPS: Presentation to the Child Care Commission November 17, 2015” and “Conceptual Framework for QRIS.”

Ms. Johnson addressed questions in her presentation from the last meeting about the validation study sample, questions from the last meeting about the child outcome measures, and questions from the last meeting about the EQuIPS in family child care homes (FCCH). The presentation also included information about the measurement’s design being more FCCH-friendly and FCCH-specified design features.

The end result of this evaluation is potentially to assist in revising North Carolina’s QRIS. Ms. Johnson provided background and history on the project, considerations addressed in the recommendations for overall structure, components of the recommended hybrid system, conceptual framework for QRIS, and recommendations for implementation.

Questions:

Chairperson Weinert asked whether researchers were simultaneously looking at a fiscal impact for whatever changes they might suggest for the QRIS, because there needs to be a balance of examining what is quality and what it costs to produce that quality. Ms. Johnson mentioned that a public hearing for North Carolina's CCDF Plan will be held on Wednesday, November 18<sup>th</sup>, and that the public was welcome to comment on this issue during that venue, since CCDF helps fund activities to support quality, to help assist with such costs.

Vice Chairperson Campbell stated that there are still a lot of unknowns in his opinion related to this study and that he still believes that the concept is too complicated and vague concerning indicators of achievement at each level. He inquired as to how centers were to determine if they had met the level of achievement with a lack of specific criteria? Ms. Johnson responded that the researchers did ask specific questions of centers and she will provide the spreadsheet to Ms. Alston to disseminate to the Commission.

Vice Chairperson Campbell expressed that he is particularly concerned with the proposed level three block area—ratios and square footage. He is worried the block categories will compress centers into the 2-3 star range and in order to get subsidy, centers must have 3 stars or better.

Ms. Johnson reminded the Commission that any proposed changes that affect child care rules will be required to go through the rulemaking process. Ms. Laurie Morin inquired about whether there are checklists for different levels already developed; Ms. Johnson replied in the affirmative, that those checklists are in the testing stage right now but they will be made available to the public and providers. Ms. Tammy Barnes also stated that the approach to this QRIS evaluation was originally to identify what improvements can and should be made to improve quality, and then to take costs into account and compromise accordingly regarding what is actually implemented.

Mr. Everhart expressed concern with the geographic concentration of the sample; he would ask that the research make sure the sample size is big and diverse enough to be able to provide information on costs due to varying market rates across the state. Ms. Johnson responded that the validation study sample is representative of the entire state. Chairperson Weinert provided a concern that it is dangerous if research starts from the premise that one already knows the answers; the assumption that the existing measure is good and it just needs to be improved upon. Ms. Johnson reiterated that this study began because the same star ratings could represent vastly different programs and there was a need to revisit the definition of what is quality. She noted that in order for states to receive the federal Race to the Top-Early Learning Challenge Grant, they needed to test a QRIS, since NC already had a mature QRIS, the option to validate a proposed model was allowed. Mr. Walton added to Chairperson Weinert's comment and stated that there is also a need to challenge the assumption that more is necessarily better; e.g., the education of teachers. Ms. Johnson noted that providers are increasing the teacher staff education on their own, even without higher quality rating requirements.

**DCDEE Update—Ms. Tammy Barnes, Interim Director**

Ms. Barnes thanked Chairperson Weinert and the Commission for its diligent work in reviewing rules. Chairperson Weinert requested that when Division staff makes recommendations of *changes* to the Rules that those be highlighted for easy identification. Ms. Barnes stated that the CCDF Plan

is currently posted on the DCDEE website in preparation for the public hearing until December 18<sup>th</sup>. She noted that tomorrow, Wednesday, November 18<sup>th</sup>, the CCDF public hearing will be held at this same location.

Reauthorization around licensing rules—Ms. Barnes distributed a handout to the Commission. This handout illustrated areas where North Carolina is already in compliance with the new CCDF reauthorization and areas where changes in rule, policy or practice need to be made. Ms. Barnes stated that North Carolina Meets 9 out of 10 established health and safety requirements—NC is way above the average in this area, meeting every requirement except requiring training regarding the prevention of shaken baby syndrome. The Division expects to propose rules to the Commission to make changes to meet reauthorization requirements.

Ms. Barnes stated that the reauthorization requirement area in which DCDEE is falling short pertains to the requirement of providing both Pre-service or Orientation training and ongoing training. At this point the Division meets at least 2 of these 10 requirements. Ms. Barnes expressed that the greatest concern in this area is the First Aid and CPR training requirement. It is unclear in the federal language whether everyone employed in a child care facility is required to have actual CPR certification, or only having to complete an orientation CPR training. Currently only one person – at least 1 person at all times, on-site, when children are present- is required to have official CPR training in the presence of the children.

Vice Chairperson Campbell asked if the administration of medicine policy whereby facilities can opt-out of providing medication altogether is going to remain the same. Ms. Barnes replied that the Division has not fully reached a decision on this, but that policy is likely to remain the same. Ms. Vandevender stated that medicine administration is an increasingly growing concern for liability.

Ms. Barnes also discussed Criminal Records background checks and the challenging new reauthorization requirements that must take place for all staff and applicants within a 45 day period. Ms. Barnes also discussed the transition of investigations of child maltreatment from the Division of Social Services to DCDEE. The transition of this responsibility is going well and DCDEE will be ready to assume these responsibilities on January 1<sup>st</sup>, 2016, the transition deadline.

Ms. Barnes noted that the Division has not heard anything regarding the legislative study committee that is tasked with evaluating the structure and operation of the Subsidized Child Care program, Smart Start, and the NC Pre-K program. Ms. Barnes noted that the epi pen bill had been approved that would allow child care facilities to obtain blanket prescriptions to have an epi pen on site that is administered in case of emergency by a trained staff person.

Chairperson Weinert inquired as to how information regarding alleged abuse and neglect in child care facilities and resulting investigations will be reflected on the DCDEE website, and how previously completed investigations and substantiated allegations are reported? Ms. Barnes replied that the Division does not yet know what will become of the past information, which is automatically populated through the Regulatory data system, and will revisit this after January 1 and the implementation deadline for the activities moving forward.

Ms. Barnes reported that Division staff are working to complete the legislatively required Subsidy Child Support Cooperation Report to plan for how individuals receiving subsidized child care may be required to cooperate with child support enforcement. Per a previous comment, Ms. April Duvall inquired about fingerprinting online; Ms. Barnes responded that live scan electronic fingerprinting is now available in all counties and this should make receiving fingerprints for Criminal Background Checks easier and faster for all parties. Chairperson Weinert recognized Division staff for their work transitioning Child Abuse and Neglect investigations from dual-agency to single agency with DCDEE, and expressed her opinion that this is a positive step for child care providers.

### **Discussion of Fast Tracking of Rules and/or Publication of Rules—Ms. Dedra Alston**

Vice Chairperson Campbell had asked for an agenda item allowing for a discussion of changes in existing rules and new rules that may need to be implemented more quickly than through the full rule review process. As such, he asked whether the Commission needs to prioritize certain rules and topics to vote to have changes published. Chairperson Weinert inquired as to whether traditional rule review and approval (outside of the full rules review process) still needs to go through the Rules Review Commission (RRC); Ms. Alston replied that the Commission can adopt/amend rules through the permanent rules process at any time. All rules are reviewed and approved by the Rules Review Commission.

### **Rescheduling of February Meeting Dates**

Chairperson Weinert discussed scheduling future Commission meetings. The room currently being used – Dix Grill, Dix Campus - is not available on the previously proposed dates of February 8<sup>th</sup> and 9<sup>th</sup>, so she wanted to ensure that the dates of February 15<sup>th</sup> and 16<sup>th</sup> would be amenable to Commission members. The Commission members agreed with the change of dates.

### **Curriculum Update**

Chairperson Weinert, Vice Chairperson Campbell and Mr. Everhart, the assembled Curriculum Review committee, met to review the two curricula that had appealed their original rejection as ‘approved curriculums’—Kiddie Academy Curriculum and The Learning Experience. The committee evaluated the curricula based on all eleven criteria; however based the approval on the two criteria—evidence-based and literacy component that were eventually determined to be required for approval. Through this subcommittee’s review, both curricula have been approved. This action leaves no curricula remaining for review under the previous process.

Chairperson Weinert, asked that the Commission discuss how it intends to move forward with the approval process for any publishers that have requested subsequent approval for curricula. She referenced Ms. Gilleland’s remarks from a previous meeting regarding the bill language that a Commission member submitted to the General Assembly mandating that curricula adhere to North Carolina’s Early Learning Standards (*Foundations*) in order to be approved. The requested language was not implemented because General Assembly staff determined that the Commission already has the authority to put this into rule. Chairperson Weinert asked for feedback regarding what language would need to be included for this purpose.

Ms. Gilleland clarified that the original intent of the bill language was to alter the current system by which the Commission was tasked with approving all curricula. The General Assembly

determined that current law gives the Commission the authority to determine the process by which curricula are approved. She recommended the first step needs to be to determine how the language submitted to the General Assembly should be revised to be drafted into a rule for the curricula approval process, and then to begin working on a process itself.

Chairperson Weinert asked for feedback regarding whether the Commission should create a checklist for publishers to help them determine if their curriculum would be determined to be in compliance with *Foundations*. Ms. Bethany Burgon stated that she will review the statute and determine how best to streamline the process in rule. Vice Chairperson Campbell suggested that the Commission put the language of the law into rule and **not** develop a checklist, leaving the Division to come up with the tools and process of determining alignment with *Foundations*.

Chairperson Weinert stated that she would wait for Ms. Burgon to check what the statute allows and for her recommendations on how to proceed. Ms. Gilleland raised a question as to whether the current list of approved curricula would go away if a move toward curricula being required to align with *Foundations* is implemented.

Chairperson Weinert read aloud the summary of the review of the two outstanding curricula and asked the Commission to vote to approve these curricula for classroom use.

**Commission Action:** Chairperson Glenda Weinert, as a member of the Curriculum sub-committee, moved to approve the Kiddie Care Curriculum. Mr. Billy Walton seconded. The motion carried unanimously.

**Commission Action:** Chairperson Glenda Weinert, as a member of the Curriculum sub-committee, moved to approve The Learning Experience curriculum. Ms. April Duvall seconded. The motion carried unanimously.

**Further Discussion of Proposed Rule 10A NCAC 09 .0510(d)(3), (4) Screen Time: American Academy of Pediatrics Guidelines (AAP)**

The Commission discussed AAP Guidelines for screen time for children that were disseminated after the relevant discussion on the previous day, October 16<sup>th</sup>. Chairperson Weinert read that the AAP recommends limiting screen time to two hours a day for children **over the age of two**. These recommendations concur with existing child care rule.

Ms. Gilleland expressed her concern that this allowance still does not address her concern expressed yesterday that the current rule allows for unlimited screen time for “teacher-directed activity” which is not defined anywhere. Chairperson Weinert stated that the Commission voted on October 16<sup>th</sup> to approve the language of the current rule as it is and not to revisit the time-limit language. Chairperson Weinert expressed that because the Commission voted, the Commission would also have to formally agree to re-open the conversation.

**Meeting break at 11:00 a.m., meeting reconvened at 11:11 a.m.**

Chairperson Weinert stated that Ms. Burgon reminded her that the previous day's Commission vote was an approval of language and not a vote to publish; therefore, ample opportunity remains to discuss this issue further and make changes. Chairperson Weinert asked if Ms. Gilleland would like to reopen the conversation immediately, during the 15 minutes before the public comment period is scheduled to begin at 11:30 am. Ms. Gilleland stated that yes, she would like to continue the conversation and her opinion that "teacher directed screen time" needs to be included within the overall screen time limits for children in child care. Ms. Gilleland is supportive of increasing the total allotted time from 2 hours a week to some other reasonable amount, but still would like to establish limits set on the total amount of screen time allowed. Vice Chairperson Campbell proposed that perhaps there should be a distinction between large group versus individual or small group screen time. Ms. Elizabeth Gilleland stated that since recommendations advise limitations on any type of screen time, then the Commission should also limit screen time for children in care in North Carolina as well.

Mr. Everhart asked Ms. Gilleland what time limit she would implement. Ms. Gilleland responded that she would recommend somewhere between 5-10 hours per week. Mr. Everhart stated that he observes many positive effects in using technology (screens), in situations such as individualized reading/language education for children. Mr. Walton stated that he is comfortable with language as it stands.

Ms. Duvall asked if this issue could be addressed in another way rather than limiting teachers who would use screen time positively, by prohibiting those activities which use screens negatively as an 'electronic babysitter'? Chairperson Weinert asked whether screen time would be naturally limited by the very fact that there are so many other requirements regarding scheduling during the day? Ms. Gilleland disagreed and expressed a concern that screen time needs to be explicitly limited or it will/can be infused into all types of activities.

Ms. Barnes referred the Commission to the handout summarizing the research on screen time that Division staff distributed on October 16<sup>th</sup>. She suggested that a portion of this document might offer a compromise - "Screen time is defined as looking at electronic media (including television) with a screen, including watching screens while others use the media."

Television or other screen time is:

- a. prohibited for children under two;
- b. prohibited during meal and snack times (snacks may be provided during occasional group activities);
- c. prohibited when any child in the group is between birth through twenty-three months of age;
- d. limited for all other groups whether teaching staff-directed or a child-selected activity;
- e. limited to thirty minutes or less per day for each child or group;
- f. limited to one hour or less per evening for each child or group in evening or overnight care.

Exceptions to specified time limits include:

- a. electronic media used for children's homework;
- b. e-readers for reading;

- c. smart boards and tablets if used for hands-on learning activities;
- d. electronic media involving physical activity participation; and
- e. occasional group activities, such as watching a movie, provided that alternate supervised activities remain available to children.

(From RI licensing regulations: [http://www.dcyf.ri.gov/docs/center\\_regs.pdf](http://www.dcyf.ri.gov/docs/center_regs.pdf))

Chairperson Weinert paused the screen time discussion to allow for the scheduled public comment time and stated that the Commission would resume the discussion of screen time activities at a later time. Ms. Gilleland requested that the Commission revisit the discussion at a later date after further review of the research. Chairperson Weinert stated that the Commission would make the decision of when to schedule the conversation continuation before the lunch break. Ms. Burgon stated that the Commission could put the item on the agenda for the February meeting or wait to discuss the topic again when voting to publish the rule. Chairperson Weinert asked that Commission members also keep in mind how DCDEE Regulatory Services consultants will evaluate compliance with the rule.

### **11:30 a.m. Public Comment**

#### **Jen Kozaczek—NC Child Care Health and Safety Resource Center**

Ms. Kozaczek expressed concern that teacher-directed screen time activities should be included in time limits of screen time because if not, this could potentially allow for unlimited screen time. Ms. Kozaczek also asked that the Commission consider changing the rule for family child care homes whereby they are required to have emergency medications locked, as opposed to out of reach of children as is the rule for child care centers. Ms. Kozaczek expressed concern that it may be dangerous for medication, for example epi pens for allergic reactions, to be locked up which would slow response times for administration in true emergency situations.

#### **Linda Piper—NC Licensed Child Care Association**

Ms. Piper expressed gratitude to DCDEE's Ms. Jennifer Johnson for going to Concord to speak to the Association's multi-site symposium and answering members' questions. Ms. Piper also thanked the Division staff, Ms. Andrea Lewis and Ms. Barnes, for providing information about the new abuse and neglect/child maltreatment investigation process. Ms. Piper also expressed gratitude to Ms. Lorie Pugh for answering questions about the Emergency Preparedness Training. Regarding the emergency preparedness training, Ms. Piper expressed her concern at her perceived disconnect between what was approved as being required in the rule and what providers are being asked to achieve in training.

#### **Mr. Jerald Bryant—Frog Street Curriculum**

Mr. Bryant wanted to inform the Commission about the Frog Street early childhood curriculum that he represents. The curriculum and materials are available in both English and Spanish for children ages 0-5. Mr. Bryant stated that his company would be willing to volunteer for any piloting of any new curriculum selection process and that his company is also currently seeking approval under the existing procedure for its curriculum. Chairperson Weinert thanked Mr. Bryant for the information and his willingness to volunteer to pilot a new process. Mr. Walton inquired about the Frog Street digital online library and digital software.



**Ms. Anna Carter—Child Care Services Association (CCSA)**

Ms. Carter informed the Commission about activities currently being conducted through CCSA which include new trainings to support providers, Director Academies, T.E.A.C.H. Masters' Degree scholarships related to administration and leadership, and WAGES\$ supplements to provider staff in the Race to the Top Transformation Zone (which help support teachers in completing additional education). Ms. Carter discussed the results of the CCSA Workforce Study, which include a description of the commitment that early childhood teachers have shown to completing their degrees. Ms. Carter requested the opportunity to present the findings of the workforce study to the Commission at some point convenient to the group.

Ms. Carter also cautioned with her concern that the Commission needs to be mindful that if providers must align to *Foundations* that there needs to be guidance to help them to do that. Ms. Carter also expressed concern that from a parent perspective, there is concern that the DCDEE website will no longer list maltreatment reports from facilities unless those reports are fully substantiated.

Mr. Walton requested additional information regarding an online staff orientation that he had heard CCSA was working on. Ms. Carter said an orientation has been developed as part of Race to the Top-Early Learning Challenge Grant and once it is on the public website, it will be a great resource for new staff.

**Ms. Isabel Taylor—Owner/Director Bell's School, for people under six**

Ms. Taylor sent a letter to the Commission expressing concern that the minimum standards for student to teacher ratio is NOT mandatory.

<b>Lunch break at 12:00 p.m., meeting reconvened at 1:00 p.m.</b>
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**1:00 p.m. Public Hearing****10A NCAC 09 .1718-Requirements for Daily Operations**

This amendment will allow school-age children to participate in age-appropriate activities in a room separate from younger children in care *in a family child care home setting*. The change will also align this rule with the child care center supervision rules; more specifically defining supervision and allowing children to be either seen **or** heard and not requiring both at the same time.

The public comment period on this rule ends on November 30, 2015.

An email was sent to the Commission from Ms. Linda House inquiring about how this rule applies to split-level homes; specifically the statement that "The operator shall be on the same level of the home where children are sleeping or napping"? Chairperson Weinert asked Ms. Barnes how Regulatory consultants are being directed to interpret this Rule; Ms. Barnes replied that consultants will work with the providers on a one-on-one basis with the exception of naptime. During

naptimes all providers must be on the same level as a napping child. In response to this inquiry, Division staff will send letter of explanation to Ms. House.

**Review New Section of Rules Safety Requirements for Child Care Centers (.0605, .0606, .0607)**

Ms. Barnes provided an overview of changes made by Division to this section of Rules:

**10A NCAC 09 .0605 Outdoor Learning Environment**

Ms. Vandevender asked whether there are any rules concerning the overall movement towards centers developing more *natural* outdoor environments because she is concerned that this movement and the potential disconnect between that and rules that focus more on ‘created’ play areas creates potential for child injuries.

Mr. Walton asked about Rule .0605(a) line 15 “The manufacturer’s instructions shall be kept on file.” He wanted to know why a provider is required to keep manufacturer instructions on file; Mr. Everhart asked whether a grandfather date should be included with this rule, so that the rule applies from that date forward, but does not apply to existing items which may not have had user manuals at all, or where those user manuals may no longer be on site. Chairperson Weinert expressed her opinion that from a date going forward is a good idea for a requirement to keep user manuals on hand for manufactured structures. Mr. Walton stated that the language currently reads “equipment”, which could include everything from play structures to sporting equipment and should refer only to “outdoor structures”. Therefore, the two changes that Division staff should make include adding a date to grandfather in existing items and a specific reference to installed structures.

Chairperson Weinert asked for clarification of Rule .0605(d) “Children shall not be allowed to play on outdoor equipment that is too hot to touch”; Ms. Lowrance thinks that this requirement should remain because if the equipment is too hot when a hand is placed on a surface, then children should not be playing on it.

Chairperson Weinert asked about Rule .0605(e) “Children shall not be allowed to be barefooted while outdoors if equipment or surfacing is too hot to touch.” She did not realize that children were permitted to go barefooted at all while in regulated care, however it was pointed out that there are instances when children may play without shoes.

Vice Chairperson Campbell discussed that surface-related violations are one of the most cited violations. He inquired as to whether there is a way to make the rules surrounding playground surfaces less restrictive. He referenced Rule .0605(h) lines 5-7 - “Other materials that have been certified by the manufacturer to be shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F1292, may be used only if installed, maintained, and replaced according to the manufacturer’s instructions.” He expressed the difficulty with keeping mulch at required depths in place and referenced Rules .0605(h) lines 11-18, which list the four critical height provisions. He feels that these contradict lines 5-7. Chairperson Weinert feels that because mulch is constantly moving that it and related issues should be treated as technical assistance items, rather than violations, by consultants. Ms. Barnes responded that any of these proposed changes for playground maintenance would need to be made

in rule, not as technical assistance, otherwise the Division cannot ensure consistency in consultant practice across the state.

Ms. Gruber expressed that the depth requirements for playground surfaces should only apply to materials cited in Rule .0605(h) lines 4-5 “wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel” and there should be a separate discussion of materials certified by manufacturers to be “shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard” (basically non-organic materials). Vice Chairperson Campbell inquired as to whether any Rule exists to prohibit mixing materials—e.g., mats and mulch. Vice Chairperson Campbell also mentioned the practice of placing dirt under other materials in order to reduce height measurements and make those easier to achieve. Chairperson Weinert suggested a change in practice by consultants that instead of using a measuring stick to measure the depth of mulch that they refer to the center’s playground maintenance policy and schedule. Chairperson Weinert also made the suggestion of having a range of acceptable depth for materials, to compensate for possible temporary shifting of mulch.

Vice Chairperson Campbell suggested that perhaps there should be a rule that designates appropriate ground covering materials for certain locations and gives more leniency outside of those areas. Ms. Gruber recommended that Division staff review this section and propose clearer, more streamlined language for the Commission to review. Mr. Walton suggested that the rule could include limitations of where mulch can be measured and perhaps points could be deducted on a continuum. Vice Chairperson Campbell asked for clarification of Rule .0605(j)(1) lines 21-24 which requires for stationary outdoor equipment used by children under two years of age that protective surfacing shall extend beyond the external limits of the equipment for a minimum of three feet, except that protective surfacing is only required at all points of entrance and exit for any structure that has a protective barrier.

Vice Chairperson Campbell also inquired about .0605(p) line 30 “Trampolines and inflatables are prohibited.” He would like to include exceptions to the prohibition of inflatables for events such as fall festivals. Ms. Barnes says that the position of the Division is that inflatables are very dangerous and the Division does not support the use of them in regulated care. Any exceptions would need to be included in the rule and state that inflatables can be used at special events under appropriate supervision. Ms. Vandevender asked that Rule .0205(o) line 25 should read “...shall be conducted by a trained individual trained in playground safety.”

#### **10A NCAC 09 .0606 Safe Sleep Practices**

Ms. Lowrance stated that the use of the language “nothing” in .0606(a)(3) line 20 specifies that “nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep” should be made consistent with .0606(h) “when a child is sleeping, bedding or other objects shall not be placed in a manner that covers the child’s face.” To make this so, “bedding or other objects” should be replaced with “nothing.” Ms. Mary Cleary, UNC Gillings School of Global Public Health, asked to address the Commission and noted that the recommendation of the American Academy of Pediatrics is that no objects, including blankets, should be in the crib with a sleeping infant. Ms. Barnes informed the Commission that the language used for .0606 was based on the American Academy of Pediatrics Policy Statement, *SIDS and*

*Other Sleep-Related Infant Deaths: Expansion of Recommendations for a Safe Infant Sleeping Environment.*

Vice Chairperson Campbell referenced Rule .0606(h) “When a child is sleeping, bedding or other objects shall not be placed in a manner that covers the child’s face.” He noted this applies to all ages of children and that he was also concerned potentially about the use of sleep positioners and wedges, which are allowed. Ms. Barnes stated that she would support removing the wedge provision in Rule .0606(e)(3) line 31 which allows an exception to “specify if a wedge is needed, why it is needed and how it should be used.” Chairperson Weinert suggested that a medical provision needs to exist for exceptions to a prohibition of wedges, and Ms. Morin agreed that certain special needs conditions truly necessitate the use of wedges to position children while they sleep. Vice Chairperson Campbell suggested adding wedges or other positioners to items broadly prohibited in .0606(a)(2) “specifies no pillows, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths or other objects may be placed with a sleeping infant aged 12 months or younger” and delete Subparagraph (e)(3) line 31. Chairperson Weinert agreed with this change but stated that the rule still should include .0606(e)(3) allowing to “specify if a wedge is needed, why it is needed and how it should be used” because then a waiver can be submitted if necessary.

**10A NCAC 09 .0607 Emergency Preparedness and Response**

Vice Chairperson Campbell asked for a demonstration of the online “Child Care Emergency Preparedness and Response Plan” tool (<https://rmp.nc.gov/portal/#>). He expressed that he is trying to understand how the rule language matches up with the training that is being provided. Ms. Pugh demonstrated the online plan template and said that DCDEE staff and the training contractor are reviewing the training and are determining how both groups can provide greater clarification distinguishing between best practices versus requirements. A larger discussion ensued about this need for clarification in emergency preparedness training and how that related to the rule language.

**Chairperson Weinert adjourned the meeting at 3:17 p.m.**

**Third Quarter Meeting - February 15, 2016 9:00 a.m. - 4:00 p.m.**

**Special Rules Meeting - February 16, 2016 9:00 a.m. - 4:00 p.m.**

Dix Grill

1101 Cafeteria Drive

Employee Center

Raleigh, NC 27603

**Future Meeting Dates:**

May 16, 2016 - Fourth Quarter Meeting