

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

**NORTH CAROLINA CHILD CARE COMMISSION
2013-14 FIRST QUARTERLY MEETING MINUTES**

September 30, 2013
319 Chapanoke Road, Ste. 120
Raleigh, NC

Commission Members Present

Glenda Weinert	April Duvall
Kevin Campbell	Laurie Morin – by Telephone
Melanie Gayle	William Walton, III
Elizabeth Gilleland	Janice Price
Rev. Charles F. McDowell, III	Sue Creech

Commissioners Members with an Excused Absence

Norma Honeycutt	Richard Rairigh
Dr. Johnathan Brownlee, Sr., MD	John Everhart
Robin Kegerise	Vicki Narron-Warren

Division of Child Development & Early Education Staff Present

Robert Kindsvatter, Director	Tammy Barnes, Regulatory Services Section Chief
Lorie Pugh, Regulatory Services Asst. Section Chief	Alexi Gruber, Attorney General
Andrea Lewis, Regulatory Services Asst. Section Chief	Tasha Owens-Green, Administration & Policy
Melissa Stevenson, Licensing Enforcement	Connie McAdams, Educ. & Quality
Mary Lee Porterfield, Educ. & Quality	Nicole Wilson, Licensing Enforcement
Dedra Alston, Administration & Policy	Heather Laffler, Administration & Policy
Janice Fain, Administration & Policy Section Chief	Kim Miller, Subsidy Services
Laura Hewitt, Regulatory Services	Cindy Wheeler, Educ. & Quality

CALL TO ORDER

Vice Chairperson Glenda Weinert called the meeting to order at 9:05 a.m. and reviewed housekeeping items. She welcomed everyone and discussed the agenda. Ms. Julia Baker Jones (former Chairperson) and Dr. Katherine Clark have resigned from the Child Care Commission. Ms. Weinert read the statements of economic interest for new members John Z. Everhart and Dr. Johnathan Brownlee. She explained that each Commission member has been provided a new binder for the new fiscal year, briefly walking through each tab of information.

The next Commission meeting is Monday, December 2, 2013 to be held at the Division of Child Development and Early Education. Commission Members are reminded to submit their travel reimbursement to DCDEE in a timely manner. An email prompt will be sent out by Division staff following the meeting as a reminder. Ms. Dedra Alston called the roll.

Approval of June Commission Meeting Minutes – Kevin Campbell noted that Mr. Walton joined by phone, so it should be reflected that he joined in the meeting instead of listing him as absent. Janice Price moved accepting the minutes as written with this change. Melanie C. Gayle seconded this motion. After a unanimous vote, these minutes are approved.

The Commission members were then invited to introduce themselves and provide a brief background about their work with children and appointment to the group.

Stephanie Graham, staff member for the Division, officially swore in new Commission members Melanie Gayle and Reverend Charles McDowell, III.

Brief Overview of Commission Purpose & Duties (Alexi Gruber and Dedra Alston)

Alexi Gruber introduced herself to provide an overview of what the Commission is tasked with. She noted that she works for the NC Attorney General's office and is assigned to DCDEE and the Child Care Commission, as clients. She explained that rule-making is a lengthy process, but the Commission works together with Division staff from the start when rule changes are requested or become necessary for various reasons. The Rules Review Commission receives rule suggestions from the Child Care Commission and makes final decisions on rule changes and text. There are two important statutes that members need to be aware of: The Child Care Act, N.C.G.S. § 110-85, *et seq*, which includes the authority of the Commission. She noted that if the Commission does not have authority over an issue, then action may not be taken. The second statute is the Administrative Procedures Act, N.C.G.S. § 150B, *et seq*. This sets out the rule-making process, which is very specific. Both of these statutes are provided for Commission members in their binders.

Dedra Alston, the Division's Rule-Making Coordinator, introduced herself and her role in working alongside the Commission. She reiterated that the guidelines for rule-making must be adhered to, so she is here to help with that. Ms. Alston noted that she works alongside the Office of State Budget and Management (OSBM) and the Rules Review Commission in rule-making. There are different ways that new rules may come into being, either as a request from the public or directly from the Commission. Ms. Alston also coordinates with Commission members regarding State Ethics forms and training.

Ms. Gruber noted that public records regulations, *i.e.*, 'NC's Sunshine Laws', require the Commission to meet publicly. Any time a majority of the Commission's members are together, that is considered a meeting and must be open to the public. She reminded the group that even during their lunch break the group may not discuss Commission business. There can be social meetings, but not for the purpose of evading public meetings laws. One exception would be that the Commission may meet with her, as their attorney, in private, for legal counsel. Anything that an individual member does, as a Commission member is public record, so when communicating about sensitive topics via email, members are reminded to please make note that emails can be subject of a Public Records Act request.

THE COMMISSION TOOK A BRIEF BREAK AT 9:50 A.M.

Division of Child Development and Early Education Report – Rob Kindsvatter, Division Director
(see PowerPoint)

Rob Kindsvatter greeted the Commission and introduced himself. He provided an Organizational Update regarding staffing at the Division. A new section has been created called the Education and Quality Section, and Jennifer Johnson is that section's Chief. This group includes NC Pre-K, Race to the Top grant staff, as well as DCDEE's Workforce Education group. The Administration Section has expanded to become the Administration and Policy Section, and Janice Fain is the Chief. The Budget Unit, previously a part of the Administration Section, now reports to the Director.

Mr. Kindsvatter also provided a legislative update. Regarding NC Pre-K, the General Assembly's final budget included \$12.4 million for additional slots. There was no change to the income eligibility for NC Pre-K enrollment. There is a pilot program underway, per a legislative requirement, for NC Pre-K payments to

be based on classrooms instead of a per-child attendance basis. Seven different NC Pre-K contractors will participate, including: Davidson, Down East, Duplin, Orange, Pitt, Union and Wilkes. Daily attendance will still be tracked in pilot classrooms, however the contractor is allowed to negotiate a per classroom rate with their providers, rather than a per child rate. This pilot will compare cost per child and attendance utilizing the two different payment methods. The report on this will be due to the General Assembly January 31, 2014, with a follow-up report likely at the end (or closer to) of the program year.

Regarding Subsidized Child Care: The final State budget resulted in an approximate 1% reduction for child care subsidy funding. There was the addition of an option for counties to use 2% of their allocation for fraud detection. As always the Division has distributed funding based upon the established allocation formula; currently including 2000 Census economic data instead of 2010 Census data. This formula calculation is detailed in legislative special provision.

DCDEE is continuing to work with 1-2 star rated facilities to increase their license to a 3-5 star rating to be eligible for subsidy participation. In SFY 12-13, 35% of 1-2 star programs increased to 3-5 stars. There is also a continuation of licensure of public school Pre-K sites through SFY 13-14. Division staff and partners are studying the ability of the Division to create and utilize a unique identifier for participants in the Child Care Subsidy program. Similarly, a Race to the Top – Early Learning Challenge grant project, will develop a unique identifier across several early childhood programs.

It was noted that legislation ended current Child Care Commission appointments and requires new appointments by October 1, 2013.

Regarding Criminal Record Checks, Mr. Kindsvatter explained that last fiscal year House Bill 737 passed requiring child care provider staff to complete a *pre-service* record check, rather than after being hired in a child care facility. This requires that employment applicants pay for the SBI/FBI check and DCDEE provides the local record check as part of that process. The Division has revised our system internally and, on average, the local check is now taking 6-8 business days turn-around. DCDEE is working in collaboration with staff from ITS to automate as much of this process as we can, even including the bubble sheets. Commission member Janice Price commented that while she is sure that the Division is working hard to increase the speed of this process she is still experiencing problems beyond the time frames referenced. Her facility is still experiencing a backlog; Mr. Kindsvatter asked that she speak with our staff after the meeting so we could research and identify any issues for her.

Regarding curriculum review, the Commission was originally tasked with approving a list of curricula for use in four-year-old classrooms, and a work group was formed. Seventeen curricula sets were submitted for review and three were selected by the work group for the approved use list. Because this low number created concern, programs which are currently using any of the seventeen that were submitted may continue to do so at this time while the review process is being considered. New facilities must use curriculum from the 'approved' list only. A discussion of curriculum review is also on the agenda later today for further Commission discussion.

Regarding the child care subsidy SEEK system, Mr. Kindsvatter noted that a pilot of all parents using cards to document attendance continues in six counties, and DCDEE is currently at the end of correcting technical problems based on this pilot. The six pilot counties plan use SEEK attendance data for reimbursement purposes, which will help the Division troubleshoot any payment issues so that DCDEE can prepare for statewide implementation of SEEK in Spring 2014.

Mr. Kindsvatter shared that DCDEE will be relocating to the Dorthea Dix Campus beginning in December 2013. The Division will occupy 3 floors of the McBryde South building, sharing space with DSS and the DHHS Controller's Office. The goal is for all staff to be completely moved by the end of February 2014

when the current Chapanoke Road location lease ends. The next Commission meeting, December 2, will still be held on Chapanoke Road in the current DCDEE building. Future Commission meetings will be held on the Dix campus, though an exact location is yet to be determined. More information will be provided to Commission members at a later time.

Commission member Kevin Campbell had several questions from Mr. Kindsvatter's presentation. Regarding selection of NC Pre-K sites, where are we with that site selection pilot since DCDEE was legislatively mandated to review this process? Cindy Wheeler and Janice Fain helped explain that NC Pre-K is piloting a site selection tool that will be used to standardize the site selection process. Regarding the pilot for NC Pre-K payments for classrooms instead of per student, Mr. Campbell shared that he hoped this will also be a quality issue, not focused only on budget or lowering expenditures. Regarding child care subsidy, his feeling is that his county seems to be down in placement, funding approximately 2,000 less children this year, and when he asked about this at the county level, he was told that the change was because funding allocations had been based on the 2000 census instead of the 2010 Census. Mr. Kindsvatter stated that counties' spending will be monitored throughout the year, so DCDEE can see how counties are or aren't spending subsidy funding, and the usual re-allocation will take place throughout the year. Mr. Campbell also asked about the funding for fraud detection, concerned that money would go toward this when SEEK is supposed to already be helping prevent fraud. It was noted that this allocation option for counties was a legislative requirement.

Mr. Campbell shared that the Commission was copied on a letter also sent to Mr. Kindsvatter by a provider. The provider shared concerns regarding the SEEK system, and Mr. Campbell is concerned about how the system is running, as well. Mr. Kindsvatter said that he wants this system to run smoothly and effectively, which is why he would like the pilot process to continue moving carefully and judiciously. Mr. Campbell said that South Carolina uses a centralized subsidy reimbursement system as well, but without a swipe card. Ms. Weinert said she has also heard that the card is the real issue with parents and providers. She shared a concern that the State would continue implementation, despite already knowing that the card is an issue. She asked that this be looked into now before it goes further. Mr. Kindsvatter made note of all comments and concerns. April Duvall shared that in her own individual situation, as a foster parent, she's had extended periods of time where she's never been sent a card at all for the children in her care. Ms. Weinert suggested that the Division research using a biometric system using thumbprints for identification, instead of a card.

Mr. William Walton asked, regarding Subsidy, why the state is still using 2000 census data? Mr. Kindsvatter commented that the General Assembly chose not to change the existing baseline in the allocation formula. Mr. Kindsvatter did clarify that the subsidy allocation formula utilizes current annual Census projections for population information. The data that comes from the 2000 Census is the economic data used in the allocation formula, including parent employment and income levels.

General Legal Update (Regulatory Reform) – Alexi Gruber

Alexi Gruber explained that her review of the Regulatory Reform Act of 2013 legislation enacted during the most recent legislative session will be general for now, but that more detailed information will be provided at the December Commission meeting because she and Dedra Alston will be attending informational meetings over the next two weeks with the Rules Review Commission ("RRC"). The Regulatory Reform Act of 2013 was codified as an amendment to N.C.G.S. § 150B. This legislation mandates a periodic review of existing rules: all rules will be reviewed to some extent every 10 years. The first review is to be done by the Commission, not internally through DCDEE. While this is a large undertaking, there are many other agencies in the state with more rules than those related to child care. The upcoming meetings that Ms. Gruber and Ms. Alston will be attending are to be held to discuss the schedule and process for rules review. The Commission will have to follow whatever schedule RRC provides for this rules review process.

The Commission will need to determine if there is a “substantive public interest” for each rule, or if the rule is “necessary but does not have a substantive public interest.” Depending on how a rule is categorized, it will go through one of two processes. One is a surface review, and one is more in-depth. The public will be invited to comment on rules. Rules with public comment will be given a higher review by the agency. RRC may make suggestions about how that review will take place. DCDEE staff will most likely map out a plan for this review process to aid the Commission. Ms. Gruber explained that once the Division knows more about the process expectations, staff and the Commission will be able to plan for this work.

Mr. Campbell asked what the term “substantive public interest” means. Ms. Gruber said she will get clarification on this in the upcoming training. There is a definition in statute for this term that states this is “any rule for which the agency has received public comments within the past 2 years.” However, that definition is not clear about what constitutes a ‘comment’. RRC may promulgate rules regarding this rule review process. Ms. Weinert said that this process will give agencies the chance to simplify and connect with other agencies’ rules where there are disconnects; however, Ms. Gruber noted that there has been a similar process in place in the recent past and through that existing process the Commission did repeal and adjust rules. Ms. Gilliland asked if this review will be as simple as looking at a rule and quickly deciding “we need this, we don’t” or “should we change this”? Ms. Gruber said this will depend on the Commission. Mr. Walton asked if this work could be handled by work groups, and Ms. Gruber said that may be one way of dealing with this. The Commission will have to begin making plans after more information is provided by the Rules Review Commission. Ms. Weinert suggested that in the waiting period Commission members should begin reading and familiarize themselves with child care rules.

Commission members were reminded to check each of their contact listings on the overall membership list and submit any changes to Division staff. If members are contacted by a member of the public about an issue or question, they may respond as individual Commissioners, but may not speak on behalf of the entire Commission. Requests for Commission action should be forwarded to the Commission chairperson and to Dedra Alston at DCDEE, who will coordinate an official response with the help of the Division. If Commissioners have questions about what they can or can’t respond to, they are welcome to contact Ms. Gruber with any questions or concerns.

Meeting breaks for lunch at 11:30 a.m. and resumed at 12:45 p.m.

Public Comment – on issues impacted by the Commission

Each Commenter Bulleted:

- Linda Piper introduced herself and provided background about the organization she represents, the NC Licensed Child Care Providers’ Association (NCLCCPA). She gave an update about the annual conference that is held by NCLCCPA. The evening before the conference begins the Commission is invited to attend for a panel presentation. This is an opportunity for members to hear from providers about their concerns and to connect names with faces. Ms. Piper provided an invitation page as well as a copy of the conference schedule to each member of the Commission.
- Kevin Campbell provided a copy of the letter mentioned previously, sent to Rob Kindsvatter from a provider, Dennis Moore, in August and to all members of the Commission. Glenda read the letter as a public comment. This letter expressed many concerns regarding the SEEK system. Glenda asked that Dedra be sure that this letter is given to Rob and that the issues are addressed. Commission members agreed that there is wide-spread concern regarding the SEEK system.
- Bill Mitchell, Primrose School – Mr. Mitchell stated that his program is not a Montessori program, but there has been a lot of positive comments about their approach, so he would like to know why this ‘approach’ cannot be added to the approved or reviewed curriculum list. What if the Division thought about that process differently (approaches to learning vs. contained curricula)? Can the curriculum review group evaluate what’s going on in the classrooms/programs to find out if they do

the things that are required for curricula in the statute? Ms. Gilleland commented, asking if there had been discussions of having the NAEYC accreditation as an alternative to 5-star licensure. NAEYC requires accredited schools to submit to licensure standards of their state, so can we not allow NAEYC accreditation to be the standard?

Speakers were thanked by members of the Commission for making the effort to attend and providing constructive suggestions and insight.

Public Comment closed at 1:30 p.m.

Curriculum Action – Overview discussion in preparation for undertaking rule-making

Vice Chairperson Weinert shared as background review for new and existing Commission members that there were 17 recently submitted curriculum submitted to be approved for 4-5 star classroom use. Only three of those 17 were approved by the evaluation panel. This was a concern to members of the Commission, so the membership felt that the process of review needed to be evaluated. Ms. Gruber read the statute regarding the Commission's involvement in curricula review and described how that had been delegated to this review committee. Ms. Weinert reviewed the past timeline of events regarding this review process as well as the tasks performed and expectations of the Commission thus far. Mr. Walton asked if there are programs that are continuing to use a curriculum that's not one of the seventeen, and if so, what happens with their star-rating? Tammy Barnes shared that programs that are not following the rule would have violations, but the majority of programs affected are waiting on the curriculum they use to finish going through edits, potential re-evaluation, etc., in hopes that it might become approved.

Janice Price shared that she feels there needs to be some work done on the curriculum review process. She believes that the review group should/should have work(ed) together as one large group to review curriculum instead of splitting up the packages for review within sub-groups. She also feels that the group is too large, and feels that it's not acceptable that some items of the curricula packets submitted reportedly were not opened (i.e. reviewed). Tammy Barnes and Laura Hewitt shared more details about how in-depth the work is for the committee to review these curricula and that many of the Commission's concerns were addressed in the review process. Kevin Campbell commented that the review committee did what they were charged to do, but he feels that this is where the focus needs to be for revision – the actual charge of the committee. Ms. Gilliland asked about the statute, so Ms. Gruber read the exact detail of which classrooms' curricula were required to be reviewed and for what purpose. Ms. Gilliland said that there was the thought that 'approaches to learning' are not the same as 'curricula', in this context. She wonders if the statute specifically says curriculum, or if approaches to learning could also be included. Laura Hewitt said that 'curriculum' is defined in rule, but the committee also created a definition for review purposes, after wrestling with this same concern. The intent of this was not to stop programs from a more creative type of teaching, but "approaches to learning" do not have a way to be collected and submitted for consistent review. Mr. Campbell said that he would like for curriculum editors to be allowed to submit the supplemental portions of their work to be included in consideration. Ms. Weinert said that she would like for Commission members to spend time thinking through this before the December meeting so that as the review process itself goes through change, members can offer up what they believe to be important issues for consideration. The Commission requested for Catherine Scott-Little to come back to talk and to share her ideas, as the review work group coordinator, on improving the process. Sue Creech said that she would like that information before the meeting, provided as quickly as possible by Division staff. Also, she asked if actual classroom curriculum use is being monitored in facilities, in addition to statements of curriculum use. Ms. Barnes said that actual implementation is not being checked at this time, and that the Division would need more staff to be able to train on specific curricula and have time to monitor actual use in the classrooms. Cindy Wheeler from DCDEE stated that qualified staff are evaluating BK licensed teachers in

NC Pre-K, NC Developmental Day, and Race to the Top BK Project classrooms who are required to use an approved curriculum and formative assessment system, as required under the NC Educator Effectiveness System per NC State Board of Education policy.

The meeting's agenda completed, Rev. C.F. McDowell **made a motion** to adjourn. Kevin Campbell seconded this motion.

There being no further business, the meeting was adjourned at 2:05 p.m.