

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

**NORTH CAROLINA CHILD CARE COMMISSION
2014-2015 SPECIAL SESSION COMMISSION MEETING**

September 26, 2014
5605 Six Forks Road, Cardinal Room
Raleigh, NC

Commission Members Present

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| Dr. Glenda Weinert, Chairperson | Melanie Gayle |
| Sue Creech, Vice-Chairperson | Kay Lowrance |
| Elliott Blades | Janice Price |
| Kevin Campbell | William Walton, III |
| Zac Everhart | Linda Vandevender |
| Rev. Charles F. McDowell, III | |

Commission Members with an Excused Absence

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| Laurie Morin | Elizabeth Gilleland |
| Robin Kegerise | April Duvall |
| Blake Fricks | |

Division of Child Development & Early Education Staff Present

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| Rob Kindsvatter, Director | Heather Laffler, Administration/Policy |
| Dedra Alston, Administration/Policy | Lorie Pugh, Regulatory Services |
| Rachel Kaplan, NC Pre-K | Sharon Spigner, NC Pre-K |
| Laura Hewitt, Regulatory Services | |

Attorney General's Office

Jim Wellons

Welcome—Chairperson Glenda Weinert called the meeting to order at 9:02 a.m. and reviewed housekeeping items. She thanked the Commission for the extra effort to attend the special meeting, welcomed everyone, and discussed the meeting agenda. She read the conflict of interest statement and no conflicts were noted.

Ms. Dedra Alston called the roll. Chairperson Weinert then noted the Commission members who had requested and received excused absences.

Chairperson Weinert noted the designated time for public comment as 11:30 a.m. and stated that anyone who wanted to speak should inform Ms. Alston.

Chairperson Weinert stated that for the record, the Commission received the formal opinion of the State Ethics Committee that cleared Mr. Elliot Blades to participate in all discussions and voting surrounding curriculum approval and review.

Chairperson Weinert called on Mr. Jim Wellons to discuss the option Commission members have been provided surrounding confidentiality of their personal contact information and the public posting of that information.

Mr. Wellons explained the State Personnel Act (SPA), which limits the information that can be made public—no addresses, phone numbers, emails. However, Commission members may sign a waiver to allow personal contact information to be published. Members were directed to the waiver in their packets of meeting materials. It was noted the members may specify what information, if any, they wish to disclose publicly. The waiver is valid for the term of the Commission member's current appointment. When reappointed, the members would need to sign the waiver again. At any time during their appointment, members can revoke the waiver in part or in its entirety. The Division of Child Development and Early Education (Division) receives members' requests and will take the requested action. Any person can be witness to the signature.

Members completed the waivers and Chairperson Weinert collected them.

Chairperson's Report

Approval of August 11, 2014 Commission Meeting Minutes was considered.

Commission Action: **Ms. Melanie Gayle moved to approve the August 11, 2014 meeting minutes as presented. The motion was seconded by Ms. Kay Lowrance and carried unanimously.**

Mr. Blades inquired about what he and other members should do when they receive public comments via letter or email.

Chairperson Weinert responded that any letters or emails should be sent to Ms. Alston and the Division, as well as to Chairperson Weinert to make copies. Chairperson Weinert stated that all comments pertaining to the periodic rules review received at this point will not be discussed today; they will be discussed during the rules review discussion at the next meeting.

Mr. Wellons stated that under the public records law, everything received by or sent from a Commission member in connection with the transaction of Commission business is a public record; members should forward a copy of everything they receive to the Division immediately. All public records must be maintained as specified by the Commission's Records Retention Schedule.

Chairperson Weinert read a letter from Ms. Sue Creech resigning as NC Child Care Commission Co-chair. Ms. Creech is not resigning from the Commission until the end of her term, but requests to be removed from her duties as co-chair. Chairperson Weinert requested the Commission members begin consideration of filling the co-chair position, which will be discussed at the November 2014 meeting.

Emergency Preparedness and Response Rules Discussion and Adoption - Dedra Alston and Laura Hewitt

Ms. Laura Hewitt opened this portion of the NC Child Care Commission meeting by distributing packets which contained versions of the Emergency Preparedness and Response rules edited following the last Commission meeting. The packet also included a chart and an additional revised set of rule language. It was brought up at the last Commission meeting that a group planned to convene to discuss the qualifications of trainers for the new Emergency Preparedness and Response course. This group met and included the following persons: Ms. Linda Vandevender, Ms. Mary Clearly and Ms. Jackie Quirk from the NC Child Care Health and Safety Resource Center, and Ms. Lorie Pugh and Ms. Hewitt from the Division. During this meeting the group discussed qualifications of trainers, and also methods to implement the train the trainer once it was in place.

Ms. Hewitt shared a question that came up at the last Commission meeting: If the administrator left (who was already trained) and there was a template in place, why would we have that person retake the course and have to rewrite the template? Ms. Hewitt reviewed the following language.

Safety Requirements for Child Care Centers under .0607(a) – *Each child care facility shall have one person on staff who has completed the Emergency Preparedness and Response in child care training approved by the Division within two years of the effective date of this rule and within four months of a trained person’s last day of employment.*

Ms. Hewitt referred to the latter part of this rule which states “...and within four months of a trained person’s last day of employment.” It was noted this is different from the original rule language that was drafted in August. In the previous draft, it was assumed that the person would complete the template (EPR plan) in order to successfully complete the course. Now, the group separated the rule so if a new staff person comes to the center and there is an existing plan, the individual would just need to complete the course and not have to re-write the plan. The group recommended that four months might be adequate time for the person to be trained because they will not have to re-write the plan. Ms. Hewitt explained that the time frame was meant to coincide with the time that a new infant teacher is required to complete the ITS-SIDS course.

Safety Requirements for Child Care Centers under .0607(b). The plan must be on a template provided by the Division completed within four months of completion of the Emergency Preparedness and Response Training and available for review. Due to having the EPR plan being completed separately, the group had recommended the same four month time frame. It was noted the intent is to have the plan completed separately from the course.

The second piece in paragraph (b) of this rule was then reviewed, which required the designated staff person to develop and/or annually review the Emergency Preparedness and Response plan to ensure all information is correct.

It was noted the reason this portion of the rule was added, was because sometimes there may be an EPR plan already in place, therefore the plan may only need to be reviewed annually.

The same change was proposed for the family child care home rules. The rule language that reads, “the plan must be completed within four months of the completion of the training” was also added to the Emergency Preparedness Rules for Family Child Care Homes. The Commissioners were asked to review the August rule language versus the revised rule language.

Ms. Alston then distributed the Division’s response to a comment that was received from the NC Licensed Child Care Association regarding proposed rule changes to 10A NCAC 09 .0102. The comment recommended eliminating the phrase “and subsequent editions” from the definitions for Environment Rating Scale Assessments. The Division’s feedback on this proposed change was shared via a letter from the Division’s Director. The letter stated the Division’s preference for not removing the phrase, noting it may delay the ability to implement updates or revisions to the rating scales.

Ms. Lorie Pugh explained that the reason this was being discussed is because the definition rule was included in the package of emergency preparedness rules. During the public hearing, this was one of the comments in 10A NCAC 09 .0102.

Mr. Kevin Campbell stated that public comment pertained to changes occurring in the field without people being informed and without the changes going through due process. He referred to the recent school age scales being changed without notice. He supported holding current editions of the scales in place until any changes have a formal review and approval.

Ms. Vandevender stated that there is a concern from the provider’s perspective that this language affects finances. Providers do not know when there are changes to the scales; therefore, the provider might be penalized because they are not aware of what is expected. Ms. Vandevender gave an example of two assessors assessing two of her NC Pre-K classrooms. Once she received the documentation back from the assessor, she was not clear regarding how one assessor evaluated certain areas. As a result, she appealed and her appeal was upheld, but stated that many providers do not understand that they have the right to an appeal.

Mr. Campbell inquired as to whether the Environment Rating Scales are in rule or policy, and if the law required the scales to be used. He asked if it is in rule, how can the scales change without coming before the Commission.

Ms. Pugh explained that child care law does not require the Environment Rating Scales to be used; the law states that the Commission adopts rules around program standards and education. The Commission has adopted in Section .2800 Voluntary Rated License Requirements, that the environmental rating scales be used.

Ms. Pugh stated the scales are one part of the assessment process for a rated license when the rules in Section .2800 were adopted. She explained that the Division contracts with the NC Rated License Assessment Project to complete the Environmental Rating Scale assessments. She noted that when the authors of the scales make revisions, the Division plans for how to implement those changes. The Division works with the NC Rated License Assessment staff to give more time for the changes to be implemented and for providers to be notified of changes.

Mr. Wellons explained how a rule may be adopted by reference. Adopting a rule by reference may be done either “as it currently exists” or “with future amendments.” In this case, the rule was adopted with all future changes, since the rule states that the Environment Rating Scale is adopted as it currently exists as well as all future revisions. That could be changed by the Commission.

Mr. Blades stated that there should be an established policy of when new versions can come out and the use of existing versions until those designated time periods.

Mr. Campbell asked whether Rule .0102 was open to change, and the response was yes.

Chairperson Weinert suggested that they look at the “and subsequent version” part of rule by reference. Mr. Wellons pointed out that only other option is “only current version.”

Ms. Alston clarified that the price of the rating scales must remain in Rule.

Chairperson Weinert questioned whether they should table this discussion until the next meeting, so that the Commission could consider the emergency preparedness item, which is actually designated on the agenda. Ms. Alston noted that the definitions are part of the emergency preparedness rules, but that it was an option for the Commission to adopt the other Emergency Preparedness rules now and deal with Rule .0102, Definitions, later.

Mr. Wellons recommended deferring the adoption of rule pertaining to rating scales until a later date.

Ms. Mary Cleary of the UNC Child Care Health and Safety Resource Center spoke to the questions raised regarding the EPR Train the Trainer Course. She explained that once trained, the original trainer for each facility would develop a plan and/or keep the plan current and also orient the staff. If the designated trainer leaves, a designated trained person would assume the responsibilities of updating the plan and orienting the staff.

Mr. Blades proposed to change the first word from “each” to “existing.”

It was requested that the Commission be able to review the template. It was also noted that a significant change to the rule language could possibly necessitate another public comment period.

Ms. Kay Lowrance noted an inconsistency with the home and center language in item 12 “conduct shelter in place drill or lockdown drill ... every-three months” – the hyphen between “every” and “three” should be removed.

Commission Action: Ms. Janice Price moved to accept Rule .0607 as written with amendments and that the first word be changed from “each” to “existing: The motion was seconded by Ms. Creech and carried unanimously.

Rules .1003 and .1723 regarding cell phones and rules .0804 and .2404 regarding temperature taking were discussed next. No comments were received from members of the public.

Commission Action: Mr. Campbell moved to accept rules .1003 and .1723 and rules .0804 and .2404. The motion was seconded by Ms. Vandevender. The motion carried unanimously.

Break - 10:50 a.m. - 11:00 a.m.

Curriculum Sub-Committee Report and Discussion

Ms. Hewitt was asked by the Commission to discuss minutes from the subcommittee meeting on the curriculum review process. On June 27, 2014 a sub-committee of the NC Child Care Commission, including participants from the NC Curriculum Review Committee, met to discuss potential changes to the current curriculum review process.

The Commission sub-committee included Mr. Blades; Ms. Laney Brown; Mr. Campbell; Ms. Carla Garrett; Ms. Lowrance; Ms. Price; Ms. Catherine Scott-Little; Ms. Florianna Thompson; and Chairperson Weinert. Ms. Hewitt and Mr. Wellons were also present. It was noted that members of the public also attended.

The Commission sub-committee discussed issues regarding the curriculum review process and developed recommendations for the Child Care Commission to consider. These included:

- According to NC Session Law 2011-145, changes made to the curricula review process should result in a list of curricula that maintain the current standard of quality held by the NC Pre-K Program, formerly More at Four.
- Once the review process satisfies the Commission, the curriculum review process procedure should be put in Child Care Rule.
- When making a decision about the frequency of the NC Curriculum Review Process, the Commission should balance the rights of the publisher and amount of work and time that goes into the process. The sub-committee did **not** make a decision about how frequently the curriculum review process should occur. Previously, the review was completed every 3 years.
- Revise criteria so that more criteria with “partially meets” can be approved.
- The curricula could have partially met the following criteria and be approved: diversity; inclusion; and family involvement.
- Provide an appeals process using the procedure outlined in the revised appeal process document.
- Supplemental materials may be submitted to meet criterion.

Mr. Campbell noted that the sub-committee had not voted on the minutes of the meeting. Chairperson Weinert responded that the committee has not met since that time, so any additions or changes could be provided now.

Mr. Campbell commented that in each area there was not unanimous agreement. He noted that there was discussion and clarification in the sub-committee on what age group the Commission was covering. The law requires this to be for four-year-olds. The definition of a four-year-old was a child who would attend Kindergarten the following year. The sub-committee also discussed the legal definition of curriculum as outlined in rule. The documents the evaluators used were

definitions of curriculum, but they were not the legal requirement the Commission is bound to, to satisfy the law.

Ms. Hewitt mentioned that the document the Commission had was a summary of the recommendations from the sub-committee meeting. She stated that she had some copies of the detailed minutes. A request was made for the minutes to be copied and distributed to the Commission. The minutes were copied and distributed at that time.

Chairperson Weinert, addressing Mr. Wellons, stated that one of the things that has come up in conversations is that the law strictly addresses curricula being: 1) evidence-based; 2) literacy focused (with a reading component); and 3) comprehensive. She suggested starting with these requirements and then making sure the Commission's interpretation of that is accurate.

Mr. Wellons said that since the other committee members were not here to vote, the Commission would have to rely on the staff's drafts of the minutes unless the Commission decided to defer action and ask the committee to meet again. He responded to Mr. Campbell's earlier comments by noting that most minutes do not give the individual votes, but rather note whether an item was passed or not passed. He also explained the Commission is not bound by the recommendations of the sub-committee.

Chairperson Weinert reiterated that in light of criteria, the law references evidenced-based, comprehensive, and literacy focused (with a reading component). Mr. Wellons agreed those items need to be included in the discussion.

Mr. Blades referenced 10A NCAC 09 .0102 (7) "'Curriculum' means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidenced-based and with a reading component." He noted the definition of curriculum from the dictionary, as a set of courses that constitute various specializations; topics taught within a subject or course. He noted that curriculum as defined by Webster is about what you are teaching and what you are doing, rather than how. When you get into the criteria, much of the criteria are about "how." He recommended using the definition of curriculum from the dictionary.

Mr. Wellons explained the word curriculum was used in the rule as it is generally understood, with the qualification that it is comprehensive, evidence-based and with a reading component. Mr. Wellons recommended the Commission not propose to redefine curriculum unless they wanted to engage in rulemaking. Mr. Wellons suggested taking the definition as it is, and then reach an understanding among Commission members as to what is meant, making sure that the meaning will generally be understood by teachers, parents and the general public.

Ms. Hewitt stated the definition used in the 2007 process is the definition that was used when the More At Four curriculum was evaluated. Chairperson Weinert read the definition from the "North Carolina Approved Early Childhood Curricula 2013" document. She felt there was inconsistency between the definition used in that document and what the rules said.

Mr. Wellons noted that the Commission at that time had delegated advisory authority to a committee which included members of the academic community and members of the early childhood profession. That committee developed the 2013 document which was the basis of their

decision-making. These are what the current standards are based on, according to what was approved and implemented by the Commission in the past. At the Commission's request, that definition is what the advisory committee provided, which the previous Commission accepted.

Ms. Vandevender noted that parents should have the opportunity to make a choice between programs and curricula, since every child learns differently; what works for one child may not necessarily work for another.

Mr. Wellons reminded the Commission that the General Assembly has required the Commission to establish standards. How that is done is up to the Commission, but the Commission does have the duty to adopt standards.

Public Comment: 11:30 a.m.

Ms. Carla Garrett, NC Department of Public Instruction Consultant, and a member of the Curriculum Review Committee and the Curriculum Review Subcommittee - noted that the definition of curriculum in the 2013 document is based on research and best practice. Ms. Garrett requested that the Commission keep in mind that the decisions they make affect NC Pre-K, Title I, and other programs as well.

Dr. Nancy Brown, representing the Frankie Lemmon School, Developmental Day Services – requested that the staffing requirements for provision of developmental day services be changed to support 12 months of service.

Ms. Janet Sellers, Executive Director, Frankie Lemmon School — asked for the Commission's support to require 12 months of service for the provision of developmental day services. She also asked the Commission to consider the impact on the private sector of public schools hosting developmental day classrooms.

Ms. Melissa Langford, director of Children's Learning Center, Hillsborough, current vice-chair of NC ADD and the parent of a special needs child –requested support of the petition of a rule change for 12 months of services.

Ms. Nancy Haddock, Developmental Day Children's Learning Center, Wilmington - spoke about Developmental Day classrooms needing to be available year round.

Commission Action: **Ms. Gayle made a motion to make rule language (Rule .2903) state that all licensed Developmental Day centers shall be available for a minimum of eight hours per day, five days per week, and twelve months a year. The motion was seconded by Mr. Blades and the motion carried unanimously.**

Dr. Linda Hestenes, Director NC Rated License Assessment Project, UNC Greensboro - spoke on behalf of 10 Birth-Kindergarten faculty at UNC Greensboro. Dr. Hestenes expressed concern with the perceived lowering of standards for curriculum approval; opposed to approval based on “partially met” criteria.

Lunch - 12:15 p.m. to 12:45 p.m.

Follow Up Discussion

Chairperson Weinert stated that the Commission’s discussion would be focused on curriculum standards.

Chairperson Weinert commented that there is no intent to weaken the criteria of the approval process, nor is there intent that an approval process should be done away with. However, there appear to be inconsistencies across criteria that give the Commission concern. Ms. Weinert feels that it is hard to see the consistency across the evaluation of curricula. There also needs to be a specified appeals process for those that have not yet been approved, so that they can become approved either with changes or additional information provided. The floor was opened for discussion.

Mr. Blades provided a copy of a study to Commission members that spoke to the lack of educational impact in classrooms using the Creative Curriculum, which is the most often utilized approved curriculum. Mr. Blades inquired as to how the Commission can assume the current selection process is the best way to select curricula if the most utilized approved curriculum has no empirical support of its effectiveness, based on the study he cited?

Chairperson Weinert noted that Creative Curriculum is approved by the process, but it does not meet the law’s requirement of being evidence-based; it only “partially meets” this requirement. Chairperson Weinert expressed concern that Creative Curriculum by the Commission’s own standards does not meet the requirements of the law.

Mr. Campbell proposed that the process be simplified, and that inconsistencies in evaluation be resolved. He feels that how the curricula are measured currently is greatly flawed.

Mr. Blades proposed a labeling approach — label the curricula according to the criteria that they meet, and let parents make their own decision about each curriculum’s worthiness for their needs.

Ms. Hewitt commented on the review committee’s approval of Creative Curriculum. The “partially met” rating for being evidence-based may have been because the curriculum did not have empirical evidence for its effectiveness, but it was shown to be based on accepted developmental theory.

The Commission again reviewed recommendations from the Commission’s Curriculum Review Subcommittee:

- According to NC Session Law 2011-145, changes made to the curricula review process should result in a list of curricula that maintain the current standard of quality held by the NC Pre-K Program, formerly More at Four.
- The curriculum choices in NC Pre-K programs must also be the curriculum choices for four-year-old classrooms in Four and Five Star Programs.
- The goal of the curriculum review is to have criteria that result in the approval of curricula which will provide the development desired in Pre-K and four-year-old children in Four and Five Star Programs.

Chairperson Weinert read through the recommendations of the subcommittee again:

- Once the review process satisfies the Commission, the curriculum review process procedure should be put in Child Care Rule, so individuals who apply can clearly understand the process.
- When making a decision about the frequency of the NC Curriculum Review Process, the Commission should balance the rights of the publisher with the significant amount of work and time that goes into the review. The Commission needs to evaluate how frequently the curriculum review process needs to occur. Right now the rule says the review occurs every 3 years.
- The sub-committee recommended that the review process be conducted more frequently and possibly quarterly. No further discussion was held on the frequency of the review process.
- Sub-committee suggested revising criteria so that more curricula with “partially meets” can be approved.

The Commission discussed whether the following criteria would be considered absolutes for a curriculum to be approved:

- Evidence-based
- Planning process
- Areas of children’s development and learning
- Social environment
- Implementation guide

It was also discussed that curricula could have “partially met” the following criteria and still be approved: diversity; inclusion; and family involvement.

Commission members discussed whether scheduling could be a “partially meets” criteria for approval; however, members want to hear to what extent scheduling is addressed in rule before finalizing this change. Since programs must already have an appropriate schedule in place as a part of existing Child Care Rules, each classroom’s schedule is routinely monitored by Division consultants. There was discussion on whether play-based involvement in the environment, or free play, was included in the schedule criterion; and whether a daily schedule is considered separate from a curriculum’s “scheduling”.

It was noted that the criteria regarding physical environment and materials and experiences need further consideration by the full group of Commission members. Physical environment is addressed in the environment rating scales and Child Care Rules, although curriculum helps direct teachers as to how to *utilize* materials and experiences.

The Commission concluded its review of the recommendations by discussing providing an appeals process using the procedure outlined in the revised appeal process document, and allowing supplemental materials to be submitted to meet criterion if they are submitted by the same publisher as the curriculum.

Mr. William Walton proposed that until there is a better method established if a curriculum is determined to be evidence based and partially meets the criteria, then it should be approved.

Mr. Zac Everhart reiterated that the law says that approved curriculum must meet evidence-based criterion, and that not all of the currently approved curricula are shown as meeting the evidence-based criterion. Chairperson Weinert expressed concern of what would be gained by excluding more curricula than those that would be approved?

There was further discussion among Commission members on whether curricula that did not meet criterion 1 and 3 (evidence-based and areas of children’s development and learning) would be approved.

At Ms. Creech’s request, Ms. Sharon Spigner from the Division spoke. Ms. Spigner stated that it is important for curricula to meet all 11 criteria, because it is important to have a curriculum that is comprehensive to ensure that a program can meet the needs of all children.

When addressing the issue of what the motion would mean, Mr. Wellons stated that the statute dictates that there cannot be a lowering of standards; however, if the committee’s opinion is that removing the criteria does not lower standards, then the proposal can move forward. He noted if someone disagreed, they could go to court to dispute it.

Ms. Spigner was asked to speak to the motion being presented. She stated her belief that if the Commission required all 11 criteria to be met, then programs would definitely meet the needs of all the children in the classrooms. She encouraged the Commission to consider what is best for each individual child.

Commission Action: **Mr. Blades made the motion that “Criteria 1 and 3 shall be used to determine which curricula are approved. Where a partially met in 1 and 3 would be sufficient based on the flexibility already embedded in the description of “Evidence Based.” The remaining 9 criteria shall be used to drive quality higher across the state by making available publicly what each curriculum does in each of the areas and driving education programs and technical support for parents and providers to make better informed choices and improve best practices.”**

Commission members voted to approve this motion.

Based upon this motion, it was noted that 23 curricula were approved.

Mr. Wellons spoke to the fact that there is already an appeals process in place, so it is not necessary to address appeals at this point. However, the Commission does need to establish the review process and put that into rule. The Commission should specify in rule how often curricula are reviewed, who conducts those reviews and how the review is completed. Who has the final decision making authority also needs to be established.

Chairperson Weinert adjourned the meeting at 2:33 p.m.

Next meeting: October 13th