

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

NORTH CAROLINA CHILD CARE COMMISSION

Special Rules Meeting

Monday, May 14, 2018

Dix Grill

1101 Cafeteria Drive

Employee Center

Raleigh, NC 27603

Commission Members Present

Glenda Weinert, Chairperson

Zac Everhart, Vice Chairperson

Melissa Burroughs

Susan Butler-Staub

J. Lanier DeGrella

Sharon Foster

Melanie Gayle

Elizabeth Gilleland

Brooke King

Kimberly J. McClure

Charles F. McDowell, III

Rhonda Rivers

William Walton, III

Commission Members with an Excused Absence

Mitchell Gold

Amelie Schoel

Donette Thomas

Nina Whitley-Artis

Division of Child Development & Early Education Staff Present

Kristi Snuggs, Deputy Director

Heather Laffler, Administration/Policy

Dedra Alston, Administration/Policy

Rachel Kaplan, Administration/Policy

Andrea Lewis, Regulatory Services

Lorie Pugh, Regulatory Services

Alison Keisler, Regulatory Services

Laura Hewitt, Administration/Policy

Justin Berrier, Regulatory Services

Kimberly Mallady, Regulatory Services

Terry McCauley, Regulatory Services

Attorney General's Office Staff

John Green, Commission Attorney

Alexi Gruber, DCDEE Attorney

Welcome

Chairperson Glenda Weinert called the meeting to order at 9:03 a.m. and reviewed housekeeping items. Chairperson Weinert explained the change of venue from the main Dix Grill meeting room to the small conference room, due to the shorter time frame for scheduling this meeting, and the main room being already booked, and thanked DCDEE staff for arranging the accommodations.

Roll Call

Chairperson Weinert read the Conflicts of Interest statement and asked whether there are any conflicts noted for today? None were noted. Ms. Kaplan conducted roll call and Chairperson Weinert reviewed the agenda and discussed the printed materials provided to the Commission members.

Approval of April 9, 2018 Fourth Quarter Meeting Minutes

It was noted that these draft minutes are mislabeled “Third Quarter” and will be edited to note that they are from the “Fourth Quarter” meeting.

Commission Action:

Chairperson Weinert asked for approval of the April 9, 2018 Fourth Quarter Meeting Minutes, with the edit noted. Dr. Elizabeth Gilleland motioned for approval and Ms. Melanie Gayle seconded. The motion carried unanimously.

Report on Public Meetings**May 2nd—Stallings, NC**

Ms. Rhonda Rivers, Ms. Amelie Schoel and Rev. Charles McDowell attended this focus group meeting to represent the Child Care Commission. Dedra Alston, Jeff Gaster and 2 licensing consultants from DCDEE were also in attendance. Ms. Rivers facilitated the meeting and provided a report to the Commission that there were over 30 providers present. Ms. Rivers reported that the main feedback from the Stallings discussion was that people who cannot usually attend meetings appreciated the opportunity to be heard. There was also significant conversation about lobbying the legislature regarding the “prior to employment” requirement for the completion of background checks. Rev. McDowell stated his feeling that other locations should continue to be considered for future meetings of the Commission to provide opportunities for more individuals across the state to provide input.

May 8th—Raleigh, NC

Mr. Zac Everhart, Mr. William Walton, Ms. Melissa Burroughs, and Ms. Brooke King attended this focus group meeting to represent the Child Care Commission. Deputy Director Kristi Snuggs and Assistant Director Tammy Barnes from DCDEE and Commission Attorney John Green were also present. Mr. Everhart reported that initially there was significant reluctance from the audience to speak. He expressed that there should be more opportunities for interested parties to make their voices heard. He also reported discussion regarding concerns about the pre-service criminal background check requirement. Dr. Lanier DeGrella expressed her belief that the Commission has an obligation to providers to alert them that they may submit their opinions in writing even if they cannot attend meetings, in addition to providing in person attendance opportunities. Mr. Walton expressed appreciation for Commission members who attended the meetings. Chairperson Weinert stated that people need to know that the Commission members care about collaboration; a chasm has existed for a long time between Commission and the field. All members expressed agreement that meetings in the field are important for providers to be able to feel heard. Dr. Sharon Foster noted that there is precedent for statewide meetings, and that in past years the Commission did hold meetings in cities other than Raleigh.

May 9th—Hickory, NC

Chairperson Weinert stated her understanding from providers' comments that the attitude of the Division needs to be more consultative and less punitive. Weinert participated in the Hickory meeting and reported that it was productive and provided an opportunity to meet and hear from new people. Alison Keisler, Rebecca Hammond, Pam Hauser, Barbie Anderson and Cindy Yount from DCDEE attended. Chairperson Weinert asked that the Commission continue efforts to meet in locations other than Raleigh and be available to child care providers statewide. She thanked all Commission members who participated in the focus groups.

Professional Development Committee Update

Dr. DeGrella summarized the recommendations of the Professional Development Committee to the Commission regarding intensive technical assistance counting toward child care staff's professional development hours.

Technical Assistance (TA) Provider Qualifications

- 1) TA hours must be provided by a level 11 NC Institute for Child Development Professionals Endorsed TA specialist.
- 2) TA specialists must have needed content knowledge of the topic areas listed in NCGS 110-91(11).
- 3) Standardized documentation and reporting tools must be created and aligned with DCDEE professional development requirements.
- 4) TA specialists must have knowledge about and provide support for administrators and Early Childhood (EC) educators accessing continued higher education.
- 5) TA specialists must commit to being continuous learners and gaining new knowledge in adult learning, TA practices and specialized content.
- 6) The NC Institute for Child Development Professionals should also update coordinating requirements.
- 7) NC DCDEE must establish guidelines for what types of TA can be counted toward/as professional development.
- 8)

TA Content and Process

- 1) TA must follow the NC model of TA and the process must be documented.
- 2) The "countable TA model" requires provisions for TA time in classrooms and one-on-one consultation.

Early Educator and Center/Home Qualifications

- 1) Signed agreements must be adopted between TA providers and all staff for whom the TA is intended.
- 2) Countable TA can only be offered if the classroom lead teacher has previously earned at least 18 credit hours in early childhood education courses towards an AA (AAS) degree.
- 3) TA as professional development can only be offered in 3-star rated centers or higher.

System Needs and Mandates

- 1) An adequate supply of Level 11 NC Institute of Child Development Professionals and endorsed TA specialists must be available or begin to be cultivated to meet demand across state.

- 2) Information about the art and science of successful TA training must continually be provided to endorsed trainers.
- 3) Time spent in TA which counts for PD must be calculated consistently across the state; for every 3 hours of TA, 1 hour of PD can be counted.
- 4) DCDEE will develop standards for the recording and counting of TA.
- 5) TA may not count for more than 50% of all required PD hours for a teacher, director or family child care provider.

Rulemaking Discussion

Public Hearing Date: February 12, 2018, **Public Comment Period:** January 16-April 3

Additional Meeting Dates that public comments were received: May 2, 8 and 9

- **Minimum Standards (Rules .0513-.0516, .1101, .1715, 1729)**

Rule .0514(b)—line 24. “Operational policies shall be discussed with parents ~~at the time they inquire about enrolling their child~~ prior to enrollment in the center.”

There was concern about the lack of precision of “...prior to enrollment”. Ms. Rivers expressed the importance of facility policies being relayed to parents prior to a child entering the classroom, but there was also concern about providers being cited over a short time discrepancy between enrollment and documented receipt of the signed paperwork. Mr. Walton proposed language stating that policy statement paperwork should be received by the facility “on or before the first day of the child’s attendance.” Ms. Gruber stated that the Division will propose language for this rule and the corresponding FCCH rule. Chairperson Weinert noted that the “prior to enrollment” language was also present in Rule .0515(a)-line 16, and Ms. Gruber stated that the Division will update the language throughout.

Rule .1101—New Staff Orientation Requirements. Discussion on Rule .1101 noted the discussion in each of the focus groups related to the requirement that an applicant’s criminal background check (CBC) be fully completed, including any required national and out-of-state evaluations, prior to any employment activities. Ms. Gruber stated that the Division does not have revised language to propose regarding this requirement today, but that DCDEE staff are working on revisions that would address legislative requirements for out-of-state criminal background checks and allow applicants to start work activities as soon as possible. Chairperson Weinert shared feedback from providers from the focus groups about the importance of addressing the requirement in the statute that staff not be able to complete any employment activities prior to full completion of their CBC. Ms. Gruber stated that Division staff are planning to provide language to address out-of-state CBCs and the current delay associated with completing these, but this revision is not planned to address the concern of providers being able to orient individuals or have them complete any employment tasks prior to clear criminal background checks being confirmed. Ms. Gruber stated she hoped DCDEE would be ready to propose language at the Commission’s next meeting.

Chairperson Weinert asked if the Division would be willing to work with the Commission to change the proposed language change from “prior to employment” to “prior to working with children”? Ms. Gruber stated this was something DCDEE management and the Department would need to discuss and that she could not commit at this time. In addition to the concern over requiring applicants to wait for full CBC evaluation prior to employment, Mr. Walton raised the issue of facilities being cited as out of compliance when teachers are waiting for CBC renewals. He stated

that if the statutory requirement cannot be changed to allow child care teachers on campus if the CBC renewal has not been received, is there a possibility of changing how providers are cited for this violation? Ms. Gruber stated that one way to avoid any issues with the recheck requirement is to make sure that the employees submit recheck applications within plenty of time. Ms. Rivers clarified that providers do not have to “terminate” employees if the CBC is not back; they can just suspend the worker from campus. Ms. Rivers also asked if a policy of a “grace period” exists where a teacher awaiting CBC renewal may stay on campus during the time between submission and receipt? Ms. Pugh stated that she would look at the current policy for clarification.

- **Rated License (Section .2800-Rules .2801-.2802, .2804-.2809, .2817-2831)**

Rule .2801(c)—line 10. “A one-star rated license shall be issued to a child care facility when compliance with G.S. 110-91 and this Chapter is determined.”

Mr. Walton proposed new language for this rule which would allow providers who do not wish to participate in the rated license system to not receive a one-star rating as a result. Ms. Gruber stated if this were to happen, that some provision would need to be made for providers who do choose to attempt to complete the rated license process and then decide to ‘opt out’ if they are not satisfied with the rating they receive.

Ms. Butler-Staub expressed discomfort with allowing a non-rated license designation as opposed to the one-star; she thinks if a provider chooses to opt out, they need to own the one-star rating and be able to fully explain that choice to parents. Dr. DeGrella stated her feeling that there is a need for clarification of what a one-star license represents, which is that a program meets minimum standards. Dr. DeGrella proposed calling the current one-star license a ‘minimum-standard’ license. Following, and in support of the comments by Ms. Butler-Staub, Dr. DeGrella noted that she also does not support any change to the current language or license structure and does not support the adoption or allowance for a non-rated license.” Dr. Gilleland stated her opinion that, at this point, “one-star” is not meaningful. Ms. Gruber stated that DCDEE does not support having an unrated license be available to child care providers. Mr. Green stated, however, that the Commission does have the authority to put forth language, as it does not appear to be in conflict with statute, to provide guidance for a non-rated license. Ms. Gruber stated her opinion that she believes there may not be authority for the Commission to adopt such a rule, but that she would look into it. Dr. Gilleland stated that she is uncomfortable with voting on this issue without time to research and discuss the issue, and asked that DCDEE staff present additional information and potential repercussions at the next meeting, including specifics about what exemptions would be provided from current licensure standards.

Commission Action:

Mr. Walton made a motion that if a facility chooses not to submit an application for a star-rated license, a license stating the center is unrated shall be issued. Rev. McDowell seconded the motion.

A roll call vote was requested and the motion carried by majority: 8 yes, 5 no.

Yes: Chairperson Weinert, Vice Chairperson Everhart, Ms. Burroughs, Ms. Gayle, Ms. King, Ms. McClure, Rev. McDowell; Mr. Walton

No: Ms. Butler-Staub, Dr. DeGrella, Dr. Foster, Dr. Gilleland, Ms. Rivers.

Absent: Mr. Mitchell, Ms. Schoel, Ms. Thomas, and Ms. Whitley-Artis.

- **Caregiving Activities for Preschool-Aged Children (Rule .2806)**

Chairperson Weinert expressed provider request for clarification of the age groupings for pre-school age children because currently there appear to be contradictions within the rule language and the assessment categories for Infant Toddler Environment Rating Scales (ITERS) and Early Childhood Environment Rating Scales (ECERS).

DCDEE staff will examine the rules and the ERS guidelines and report back to the Commission. Ms. Pugh stated she has also received concerns with Rule .0713 about age groupings, and DCDEE staff will provide a list of all discrepancies and present these at the September meeting. Ms. Pugh stated there will be no violations cited with these rules in light of this awareness.

- **Enhanced Program Standards for Child Care Centers (Rule .2817)**

Chairperson Weinert stated that requests were received for headings to be added to the charts in this rule. DCDEE staff will add these headings as needed.

- **Enhanced Staff/Child Ratios for a Rated License for Child Care Center (Rule .2818)**

Chairperson Weinert noted a provider request for an allowance to increase maximum group size if there is also a corresponding increase in staff size and also compliance with space requirements; Ms. Gruber stated that the maximum group sizes are established in statute G.S.110-91(7), and so the Commission or Division cannot adjust these. Ms. Burroughs requested clarification in the charts about what age categories are meant to indicate, and how children should be separated into appropriate age group classrooms.

Lunch break at 11:45 a.m., meeting reconvened at 12:57 p.m.

Rulemaking Discussion cont.

Chairperson Weinert reported a provider request that in Rule .2819(c), NC Early Childhood Administration Credential (NCECAC) be specifically defined. Ms. Gruber stated staff will draft a definition. Chairperson Weinert also raised an issue from the focus group meetings about whether facility administrator education credentials could be combined or shared to rate additional licensing points to meet enhanced requirements? Ms. Gruber responded that minimum requirements in Rule .0704 provide some allowances for pre-service education requirements; however, this is not allowed on a permanent basis. The existing rule language allows credential sharing while an individual is in the process of completing a credential, but does not appear to extend to allow for sharing to obtain enhanced points. Chairperson Weinert asked the Division to provide language to address sharing of education and experience for Rule .2819 to allow a facility to be documented as having a Level III Administrator and 7 license points.

Chairperson Weinert read a provider comment regarding Rule .2919(f) “For centers with a licensed capacity of 200 or more, there shall be a second administrator on-site for a minimum of 20 hours per week...”. The provider requested that the language be changed to reflect actual enrollment instead of capacity. Ms. Gruber stated that if a provider has fewer than 200 children enrolled, the provider may already request a decrease in license capacity, so the second administrator would not be required.

Chairperson Weinert noted a provider request in changes to Rules .2820 and .2821 to allow nationally recognized Child Development Associate (CDA) Credential as an equivalency. Further discussion provided that the Division believes that this equivalency to the credential already exists and is available to providers. Staff will research and clarify.

Regarding all rules pertaining to the Enhanced Education Standards, a conversation ensued among Commission members about adding additional equivalency options. Chairperson Weinert requested that the Division review and present language providing equivalency options. For example, a provider requested that for Rule .2819 there be additional options for providers to earn license quality points.

Additionally, a provider request for Rule .2830(c) is that the current 90-day allowance be extended to 6 months. “If employment related changes occur at a facility which result in the operator not complying with the standards in the Section for the star rating issued, the operator shall correct the noncompliance within 90 days.” After discussion, the Commission proposed a compromise of extending the current 90 days to 120 days, rather than 6 months.

Commission Action: **Dr. Foster motioned for a change in Rule .2830(c) extending the allowance from 90 days to 120 days for employment related changes. Ms. McClure seconded the motion, which carried unanimously.**

Chairperson Weinert stated a question from a provider about whether providers should be cited if they self-report a violation, but have already resolved the problem that is being reported? Ms. Gruber stated that the law requires providers to report suspected maltreatment, abuse or neglect. Providers are not required or expected to report minor noncompliance that is corrected, e.g., putting a safety plate on an open plug.

- **Criminal Records Checks Rules (Section .2700-Rules .2701-.2704)**

No issues were raised surrounding CRC rules.

Concluding remarks:

Ms. Gayle expressed thanks to Chairperson Weinert for her time as Chairperson, and Chairperson Weinert expressed thanks and appreciation to the Commission.

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| <p>Chairperson Weinert adjourned the meeting at 2:11 p.m.</p> |
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**The next meeting of the North Carolina Child Care Commission is scheduled for
September 17, 2018, 9:00 a.m.-3:00 p.m. (First Quarter Meeting)**

Future Meeting Dates:

- September 17, 2018—First Quarter Meeting 9:00 a.m.-3:00 p.m.
- November 5, 2018—Second Quarter Meeting 9:00 a.m.-3:00 p.m.
- February 11, 2019—Third Quarter Meeting 9:00 a.m.-3:00 p.m.