

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

**NORTH CAROLINA CHILD CARE COMMISSION**

**Special Rules Meeting Minutes**

**Wednesday, August 5, 2020**

**Teleconference**

Commission Members Present

**Zac Everhart, Chairperson**

**Rhonda Rivers, Vice Chairperson**

**Sheresa Blanchard**

**Melissa Burroughs**

**Susan Butler-Staub**

**Victor Coffenberry**

**Sharon Foster**

**Mitchell Gold**

**Rev. Charles F. McDowell, III**

**Kimberly J. McClure**

**Perry S. Melton**

**Amelie Schoel**

**Iheoma Iruka Thompson**

**Janie R. Truesdale**

Commission Members with an Excused Absence

**J. Lanier DeGrella**

**Elizabeth Gilleland**

**Beth Messersmith**

Division of Child Development & Early Education Staff Present

**Kristi Snuggs, Interim Director**

**Heather Laffler, Administration/Policy**

**Arlette Lambert, Administration/Policy**

**Dedra Alston, Administration/Policy**

**Tammy Barnes, Regulatory Services**

**Andrea Lewis, Regulatory Services**

**Lorie Pugh, Regulatory Services**

**Rachel Kaplan, Administration/Policy**

**Regina Brooks, IT**

**Tammy Freeman, IT**

Attorney General's Office Staff

**John Green, Commission Attorney**

**Amber Davis, DCDEE Attorney**

**Sarah Tackett, DCDEE Attorney**

**Welcome**

Interim Director Kristi Snuggs welcomed everyone to the web session. Chairperson Zac Everhart called the meeting to order at **9:12 a.m.** and reviewed housekeeping items.

Chairperson Everhart thanked everyone for being here for this emergency meeting and DCDEE and DHHS for everything they have done during these unprecedented times.

Chairperson Everhart thanked Dr. Kristi Snuggs for her time as Interim Director and her magnificent work during this time.

**Roll Call**

Chairperson Everhart read the conflicts of interest statement and asked whether there were any conflicts noted for today.

- Ms. Kimberly McClure discussed her potential conflict since she has a school-age program at a YMCA. Ms. Dedra Alston stated that participation is fine as long as not voting for YMCA program. Vice-Chairperson Rhonda Rivers also mentioned having school-aged programs. Chairperson Everhart stated that many Commission members do; however, as long as they are not voting about their specific programs, there is not an issue.

Ms. Alston conducted roll call.

Chairperson Everhart reviewed the agenda and discussed the materials and the processes by which the meeting will run via teleconference.

**Chairperson's Report**

- Schedule date to hold public hearing for Temporary Rules (anytime between **August 19 through September 2**)
  - August 19<sup>th</sup> 9:00 am - 10:30 am
- Schedule date to adopt Temporary Rules (anytime between **September 18 through October 6**)
  - October 5<sup>th</sup> 9:00 am - 10:30 am

**Rulemaking Discussion—Interim Director Kristi Snuggs**

Interim Director Snuggs expressed gratitude to Commission members for responsiveness during this time.

**School-Age Care**

- Has become a priority
- 800,000 school-age children
- Many will need some where to stay during school hours
- Community-based organizations (YMCAs, Parks and Recreation, and Boys & Girls Clubs) wanting to help with school-age care
- Many challenges to provide school-age care

**The State of NC School Districts****School Age Child Care Survey Results**

- Based on DCDEE survey from 7/28:
  - At least 3,535 child care programs facilities are currently licensed to provide school-age child care
  - Current availability: About 45% of total school-age slots are currently available (29,447 slots out of total 64,752 school age slots)
  - Additional availability: Up to 20,147 additional slots (based on 2,149 facilities who reported being willing to serve additional school-age children beyond the number currently licensed)
  - Total potential availability: 49,594 school-age slots
  - 16 counties with less than 20 available school-age slots
    - 8 Western Counties: Alleghany – 0; Cherokee - 9; Swain – 0; Ashe – 3; Avery – 13; Graham – 15; Yancey- 15;
    - 2 Central County – Montgomery – 13; Stokes – 11

- 7 Eastern Counties: Hyde – 0; Tyrrell – 0; Pamlico – 6; Gates – 8; Jones – 12; Dare – 20; Currituck – 20
  - NCDHHS planning to promote the (888) 600-1685 child care hotline for school age care
- DCDEE is exploring the best path forward for community-based organizations to provide full-day school age care during school closure / Plan C scenarios; planning for more information next week

#### School-Age Guidance

- Organizations want to help employees and families find options for child care as schools reopen (Plan B (hybrid) or Plan C scenario (remote learning)).
- Call the NCDHHS child care hotline: 1-888-600-1685
- 30,000 currently available licensed school-age child care slots
- Public schools have the option to serve school-age children on site at public schools.
- Currently, community-based organizations providing care for more than four hours per day must be licensed.
- NCDHHS is actively working with the Child Care Commission to allow public schools to enter into contractual agreements with community-based organizations to establish Remote Learning Facilities for school-aged children.

#### School-Age Child Care Options

- Option 1- Families can seek out licensed child care programs: Families can call a child care hotline (1-888-600-1685) to get information about local child care options for infants through children age 12.
- Option 2 - Public Schools can choose to provide a Remote Learning option at Public Schools
- Option 3 - Public Schools *may* be able to provide a Remote Learning option through Public Schools by contracting with Community Based Organizations

Mr. Perry Melton clarified that public schools are currently able to provide space for school-age children for child care even though they are not able to operate as schools. Interim Director Snuggs concurred that part of the rationale is that this would result in fewer students than if school were operating as a school.

Ms. Amelie Schoel asked about funding for public schools to be able to sustain Plan B past the first semester. Mr. Mitchell Gold stated that the state legislature will have to pass funding bill to provide public schools with additional funding. Interim Director Snuggs stated federal support is needed as well. She stated that another option for funding is for providers to apply for licensure in order to be available for subsidy dollars.

Ms. McClure clarified that option 3 of contracting with other agencies means that the remote learning would be provided in other settings. Interim Director Snuggs stated that is correct. Ms. McClure also clarified that there is a significant waiting list for subsidy dollars--over 13,000 children. Interim Director Snuggs stated it varies by county, but that is correct.

Vice Chairperson Rhonda Rivers asked if there is support from NC DPI considering that DCDEE is picking up overflow of school-age children. Interim Director Snuggs stated that there are daily conversations with DPI leadership, but there is not currently any funding available and that is why they are being asked to be part of the solution.

#### **Overview of Care for School-Age Children During State of Emergency Rules—Amber Davis**

Ms. Amber Davis discussed the proposed Rules for Care for School-Age Children During this State of Emergency.

Ms. Schoel asked about rule .3104 and the 6-month provision for inspections of additional space to be utilized as classrooms because this can take longer. Ms. Davis stated that they did not want to leave it open-ended but did want to provide a buffer for sites to be able to get the spaces inspected.

Mr. Melton clarified that these rules apply to childcare providers that have additional space in current facilities. He stated that this would be strange to have uninspected space in existing facilities. Interim Director Snuggs clarified that this would apply for facilities that might not be licensed for school-aged or if facilities are licensed for school-aged children but have rooms that were used for storage that can be cleared out that now can be used. Ms. Lorie Pugh clarified that this applies to space that was not part of the current building inspection.

Chairperson Everhart and Mr. Melton both clarified that rule .3104 only applies to existing unused space and does not apply to renting out new space. Chairperson Everhart stated that many sites use classrooms for multiple uses, such as for NC Pre-K and after school care, so they are not able to serve all of the original school-age children, so the numbers may show a higher level of need for school-age children. He stated that, in this emergency situation, licensed facilities should be able to use additional space under their current license.

Mr. Melton clarified that in this context school-age is 5-12 year olds; 4-year olds cannot be included. Ms. Davis stated that the definition of school-age is children enrolled in school--kindergarten and above.

Ms. McClure stated that most of the school systems are not allowing the use of school space for child care. Vice Chairperson Rivers stated that most schools have not been allowing use of space for the summer months, so she does not think this will provide many opportunities during the school year. She asked if there is a neighboring building, such as a church that has space. Ms. McClure stated that Option 3 is primarily geared for organizations, such as YMCA that provides after school camps, that are not currently licensed that are going to provide remote learning now.

Ms. Schoel asked about organizations that already use school space after school. She asked if those organizations expanded their hours, would this apply to them.

Ms. Davis stated that this would apply to school-age children but only temporarily during COVID. Public schools can use their own buildings to provide school-age children care. This was not envisioned for child cares to use the public-school space for their child cares.

Chairperson Everhart asked what is done during emergencies when licensed centers need to use auxiliary spaces to house children currently enrolled. Interim Director Snuggs stated that temporary licenses were issued for auxiliary spaces.

Chairperson Everhart stated that children are getting displaced like any other emergency situation, so the same exceptions should be applied.

Dr. Iheoma Iruka Thompson stated that the schools need to be accountable in the future for emergency situations such as this. She stated that “temporary” needs to be clearly defined.

Ms. Davis stated that the Commission would have to agree that the temporary license for auxiliary space would expire in 6-months. What would happen after that? Ms. Schoel asked if there is an option for reissuing a temporary license. Ms. Davis stated that perhaps a provisional could be issued at that time.

Ms. Schoel asked again about DPI's role. Interim Director Snuggs stated that DPI feels like they have addressed how to handle school, but they are not addressing the family issues that have been created when children are not physically in school. They are looking to DCDEE to come up with options.

Ms. Schoel and Vice-Chairperson Rivers both stated that they think the emergency situations during disasters such as hurricanes set the precedent for this situation. They propose that licensed facilities be allowed to operate in additional space under a temporary license.

Dr. Sheresa Blanchard asked if facilities that are not licensed, such as mixed martial arts studios, expand to serve children full days, are they acting outside of the law. Ms. Davis said yes.

Ms. Davis stated that rule .3104 can be changed for non-licensed spaces regardless of location not previously approved for care.

Ms. Lorie Pugh asked how these decisions will affect the license and the Regulatory system's relationship with the NC FAST system. Also, temporary licensure would affect subsidy payments.

Dr. Sharon Foster stated that she thinks this issue will continue for several years and a provisional license needs to be conceived with less stringent requirements for school-age children.

Mr. John Green stated that Commissioners need to be careful that their comments reflect the entire state and not individual child care centers that would present a conflict of interest.

Vice-Chairperson Rivers stated that the allowance of auxiliary space would also be beneficial in allowing smaller groups of children to protect against COVID.

Mr. Green proposed adding language regarding liability of the school systems.

Ms. Davis proceeded to go through the emergency rules to see what language the Commission wants to change or add.

Ms. Davis asked that the Commission address the language surrounding building inspections and outdoor space currently in law.

Chairperson Everhart and Mr. Melton stated that language stating that any new space must meet existing Rules will be problematic for many facilities.

**Commission Action:** Chairperson Everhart asked for a motion to approve Section .3100 Care for School-Age children during state of emergency. Vice-Chairperson Rhonda Rivers motioned for approval. Rev. Charles McDowell seconded. The motion carried unanimously.

### **Timeline for Rules—Dedra Alston**

#### **Timeline for Emergency and Temporary Rules**

Below are the timelines for the Emergency and Temporary Rules. Emergency rules are effective for 60 days so you must begin temporary rulemaking by voting to publish the temporary rules at the same time. Temporary rules will remain in effect for 270 days (until August 13, 2021) as long as the permanent rules

to replace them are submitted to the Rules Review Commission by then, unless an earlier expiration date has been established.

### **Emergency Rules**

- Commission adopts emergency rule – **August 5**
- OAH reviews findings – by **August 6** (they can review in one day)
- OAH approves rules – Rules become effective on the 6<sup>th</sup> business day – **August 14**
- Published in **September 1** NC Register

### **Temporary Rules**

- Commission votes to publish Temporary rules – **August 5**
- Proposed temporary rules submitted to OAH and emailed to mailing list – **August 5**
- Rules published on OAH website – **August 12**
- Public Comment (at least 15 business days after publication of OAH’s website) – **August 12 – September 2**
- Public hearing at least 5 days from publication on OAH’s website – **August 19** (earliest day for public hearing)
- Agency adopts rules (at least 30 business days from submission to OAH) - **September 18 - October 6**
- RRC Review (w/in 15 business days from submission to RRC) – **October 15** (next regularly scheduled RRC mtg.)
- RRC Approves rule – earliest effective date - **October 23, 2020**
- Temporary Rule published in Register – **November 160**
- Permanent Rules to replace the temporary rules should be “adopted” and submitted to the RRC by **August 13, 2021** or the temporary rules will expire.

<p><b>Chairperson Everhart adjourned the meeting at 1:00 pm.</b></p>
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**The next meeting of the North Carolina Child Care Commission is scheduled for  
September 14, 2020 9:00 am - 3:00 pm (First Quarter Meeting)**