

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

NORTH CAROLINA CHILD CARE COMMISSION

**Special Rules Meeting
Monday, April 20, 2015**

Nature Research Center
William G. Ross Conference Center, 4th Floor
121 W. Jones Street
Raleigh, NC 27603

Commission Members Present

Glenda Weinert, Chairperson
Elliott Blades
Kevin Campbell, Vice Chairperson
Sue Creech
Zac Everhart
Melanie Gayle

Elizabeth Gilleland
Kay Lowrance
Janice Price
Linda Vandevender
Kristin Weaver

Commission Members with and Excused Absence

Jonathan Brownlee, Sr., MD
Charles F. McDowell III
William Walton, III

April Duvall
Laurie Morin

Division of Child Development & Early Education Staff Present

Rob Kindsvatter, Director
Janice Fain, Administration/Policy
Heather Laffler, Administration/Policy
Dedra Alston, Administration/Policy
Tammy Barnes, Regulatory Services

Andrea Lewis, Regulatory Services
Lorie Pugh, Regulatory Services
Alexi Gruber, Attorney General
Jim Wellons, Attorney General
Rachel Kaplan, NC Pre-K

Welcome—Chairperson Glenda Weinert called the meeting to order at **9:00 a.m.** and reviewed housekeeping items. She expressed a thank you to the Commission for the extra effort of being here. 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.

- Chairperson Weinert called for roll call which Ms. Dedra Alston performed. Chairperson Weinert noted the members with excused absences: Dr. Brownlee, April Duvall, Rev. McDowell, Laurie Morin and Billy Walton.

Chairperson's Report

- Chairperson Weinert polled members present on their availability and desire for a Special Rules Meeting for June or July. As a result of this discussion Chairperson Weinert asked

the Division to email all Commission members proposing several dates in early June to see if the Commission can meet and achieve a quorum.

Approval of March 16, 2015 Special Rules Meeting Minutes

Chairperson Weinert asked for a motion for approval of March 16, 2015 Special Rules Meeting Minutes.

Commission Action: **Mr. Elliott Blades moved to approve the March 16, 2015 Special Rules meeting minutes as presented. The motion was seconded by Ms. Kay Lowrance and carried unanimously.**

Approval of Curriculum Review Committee Meeting Minutes

Chairperson Weinert asked for a motion for approval of March 16, 2015 Curriculum Review Committee Meeting Minutes.

Commission Action: **Ms. Elizabeth Gilleland moved to approve the March 16, 2015 Curriculum Review Committee meeting minutes as presented. The motion was seconded by Ms. Kay Lowrance and carried unanimously.**

Review of Revised Rule Groupings Submitted by Kay Lowrance

Moving into the meeting agenda Chairperson Weinert provided opportunity for discussion of a revised rule grouping proposed to the Commission at an earlier meeting by Ms. Kay Lowrance. Following a brief discussion, it was agreed that it would be easier and more logical for the Commission to wait to discuss regrouping of all of the rules until the end of the rule revision process.

Update on Curriculum Review Committee

- Ms. Laura Hewitt provided information to the Commission that letters providing guidelines for submitting materials for re-review and the criteria by which those materials will be evaluated have been mailed to curriculum publishers.
- At the end of the submission deadline, a review committee will review any materials submitted on behalf of the two curricula that were not originally included in the approved group.

Update on Senate Bill 453

- Commission members were provided with an update on the progress of Senate Bill 453 - [Regulatory Reform Act of 2015](#) which includes a revision to the statute requiring that curriculums for 4 and 5 star classrooms be evaluated and approved by the Commission.
- Ms. Elizabeth Gilleland provided information about the content and progress of the bill Ms. Gilleland stated that revisions have been made to the language that originally was proposed from a letter that the Commission sent to the General Assembly. If and when this portion of the bill becomes law, the Commission will be tasked with making rules related to the statute.

- Chairperson Weinert stated that she would email the most current draft of the legislation to Commission members and asked members to send any feedback to her. Upon receipt of any feedback, she will consolidate and share that back to Commission members, the Child Care Coalition and other interested parties.

Rules Previously Reviewed

Child Care Centers

- Building Requirements (.1301, .1302, .1303, .1304)
- General Requirements (.0201, .0301, .0403, .0302, .1401, .1402, .0304)
 - Rule .0302(g)—The Division recommended that this rule be moved to Section .2200; Chairperson Glenda Weinert asked that it be circled and replaced with the correct reference at a future date. At this point Mr. Jim Wellons stated that all references to other chapters, subchapters are subject to change, and that this will take place at the end of the review process.
 - Rule .0403(c)—There was a question about the use of “or” and appropriate changes were made on screen for clarification.
 - Rule .0302(a)(1) and (2)—There was a proposal to change the phrase “natural person” to “individual.”
 - Ms. Gilleland raised the question about the use of “applicant, “individual” or ”person” throughout the rules? Mr. Wellons stated that this will be a clean-up matter taken care of at the end of the review process.
 - Ms. Linda Vandevender reminded Commission members that the emergency preparedness rules are likely to change some of the language in Rule .0302. Ms. Laura Hewitt said this newly submitted rule is scheduled to be reviewed by the Rules Review Commission in May.
 - Ms. Gilleland asked for clarification about forms referenced in Rule .0302(f)(6) and Mr. Wellons proposed developing rule language that specifies which child care/DCDEE forms are *mandatory*. This language would mean that it would not be necessary to specify each time a form is mentioned “as provided by Division.” Mr. Wellons proposed that the Division should put together a draft of such a list of mandatory forms, for rule language, and then the Commission will review the proposed list.

<p>Chairperson Weinert requested a break at 10:25 a.m., the meeting reconvened at 10:35 a.m.</p>

- Ms. Lowrance stated that Rule .0302(f)(1) should include staff orientation; “...documentation of *staff orientation*, participation in training and staff development activities;...”
- Mr. Wellons indicated that a list such as the one in Rule .0302 is an opportune moment for the Commission to implement the rulemaking best practice of breaking lists of things into separate rule portions whenever possible [ex -...(A), (B), (C)]. He informed the Commission that there is no advantage to having a lengthy rule over a short rule; it is always better practice to break long rules into smaller rules.
- He also reminded Commission members and staff that after all the rule review process has been completed every rule’s statutory authority will be checked. All

- rules should be linked to statutory authority and there should not be instances in which a statute is listed if it is no longer related to revised rule content.
- Mr. Wellons recommended that Rule .1401(a) should be changed to “The Division shall obtain accurate measurements of all primary space that will routinely be used by children who attend the center. The following will not be included in the measurements...”
 - Mr. Elliott Blades asked for clarification regarding Rule .1401(a) (line 9). It was suggested that the phrase “...built-in equipment or furniture” be amended to include “**built-in** furniture” for clarity.
 - Chairperson Weinert asked about where standards originated to calculate what is needed for square footage per child; Ms. Gilleland agreed that she would like to know this history as well and what is supported by current research. Mr. Wellons recommended that Chairperson Weinert and Ms. Gilleland research this topic and revisit the discussion of required square footage at the Commission’s next regular quarterly meeting.
 - Following discussion with calculations of space per child and other related issues it was determined that the Division will review and revise Rule .1401 and present suggestions to the Commission for review.

The meeting was adjourned for lunch at 11:40 a.m., reconvened at 12:40 p.m.

- Chairperson Weinert asked about Rule .1402(e) and recent changes to requirements regarding see, see **or** hear, or see **and** hear.
- Ms. Alexi Gruber suggested using the term “adequate supervision” because that term is defined in Rule .0714(f). The rule will be revised to state “Staff are able to adequately supervise the entire area in accordance with (insert cross reference).”
- Rule .1402(b) raised the issue of the Commission’s authority to grandfather facilities into various requirements. Mr. Wellons inquired as to why April 1, 1984 was when this rule was grandfathered in? He also noted that there do not seem to have been any standards in place at all prior to 1986 when Rule .1402 was created.
- Ms. Gruber said that this and similar questions need to be researched and answered as to authority of the Commission regarding grandfathering.
- Rule .1403(e) led to a discussion about the ambiguity of compliance score calculation; Mr. Wellons suggested returning to this topic when the compliance history score sheet and methodology are posted on the DCDEE website.

Periodic Review of Existing Rules - Child Care Centers (continued from previous meeting)

- General Requirements (.0204, .0205, .2318)
 - Rule .0205 raised concerns about use of the phrase “unlimited access” to a facility for parents. Mr. Wellons suggested the rule might need multiple contingencies and that it needs to be made clear that this access applies to parents not under other specific legal restrictions. Mr. Wellons proposed that the Commission refer this rule section to the Division to develop language to rewrite this rule. In addition Ms. Gruber referred Commission members to the Criminal Record Check statute that

provides language that limits access to parents who demonstrate certain threats. (Rule .0703(c)).

Chairperson Weinert requested a break at 1:50 p.m., the meeting reconvened at 2:00 p.m.

- Mr. Wellons asked whether there is a reason why in Rule .2318 (3) prior versions of certain records are mandated to be kept for a minimum of 30 days and other records are required to be kept for one year. Mr. Blades proposed that this is because of the higher volume of certain schedules and records that are created weekly or monthly.
- Mr. Wellons also asked why Rule .2318(4) states that building permits shall be retained for as long as the license remains valid? Ms. Tammy Barnes said that this is required for building inspections because they are only completed one time unless there is a change of ownership or certain types of renovations; however, all yearly inspections (fire, sanitation, pool) would only need be kept for one year and the year previous because those are performed at least yearly. Mr. Wellons will draft language to concisely state the length of record retention for each type of record.
- Ms. Barnes stated that the Division advises moving Rule .0401 to Section .2200 and stated that the Division will revise this language and present it to the Commission.

Chairperson Weinert proposed that the Commission would resume with the next section of rules listed on today's agenda at the next Special Rules Meeting. (Section .0500 Age and Developmentally Appropriate Environments for Centers Schedules and Activities (.0508, .0509, .0510, .0511)).

REMINDER: Chairperson Weinert reminded Commission members that their Ethics Statement of Economic Interest was due for submission (at this point it is late if not submitted) on April 15.

Chairperson Weinert adjourned the meeting at 3:05 p.m.

Next meeting: Monday, May 11, 2015, 9:00 a.m. - 3:00 p.m. (Fourth Quarter Meeting)