

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

NORTH CAROLINA CHILD CARE COMMISSION

**Special Rules Meeting
Monday, December 8, 2014**

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

Commission Members Present

Glenda Weinert, Chairperson

Kevin Campbell, Vice Chairperson

Elliott Blades

Jonathan Brownlee, Sr., MD

Sue Creech

Zac Everhart

Melanie Gayle

Elizabeth Gilleland

Kay Lowrance

Janice Price

Linda Vandevender

William Walton, III

Kristin Weaver

Commission Members with an Excused Absence

April Duvall

Laurie Morin

Charles F. McDowell III

Division of Child Development & Early Education Staff Present

Dedra Alston, Administration/Policy

Janice Fain, Administration/Policy

Heather Laffler, Administration/Policy

Tammy Freeman, IT

Alexi Gruber, Attorney General

Mary Pat Hicks, NC Pre-K

Rachel Kaplan, NC Pre-K

Rob Kindsvatter, Director

Andrea Lewis, Regulatory Services

Jim Wellons, Attorney

Laura Hewitt, Regulatory Services

Welcome & Chairperson's Report—Chairperson Glenda Weinert called the meeting to order at 9:07 a.m. and reviewed housekeeping items. She expressed appreciation to the Commission for attendance at this and future specially-scheduled rules review meetings. 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. None were noted.

Chairperson Weinert expressed a special thank you to DCDEE Staff, Ms. Dedra Alston, Ms. Mary Pat Hicks, and Ms. Tammy Freeman, for setting up the room on Sunday according to the new requested specifications. She also discussed the review of procedure, the items in the folders and the day's agenda.

Roll Call –Chairperson Weinert called for roll call, Ms. Dedra Alston performed roll call, and Chairperson Weinert listed the Commission members who were absent from this meeting who requested and received excused absences.

Chairperson Weinert read the Statement of Economic Interest letter from the NC Ethics Commission regarding Ms. Weaver and her Statement of Economic Interests submission.

Swearing in

Ms. Dedra Alston performed the swearing in of Ms. Kristin Weaver to the Child Care Commission.

Chairperson Weinert asked each of the Commission members to introduce themselves to the group's newest member, Ms. Kristin Weaver.

Update on the Timeframe for the Re-adoption of Rules—Alexi Gruber and Jim Wellons

Mr. Jim Wellons discussed the timeline of the Commission's rules review process. He stated that the Commission currently is within an interim period with no formally specified timeframe. The Rules Review Commission (RRC) needs to review the final determination report (report), all comments received, and the Commission's response to the comments that the Commission completed at its December meeting. Upon RRC's approval, the report will be forwarded to the Joint Legislative Administrative Procedures Oversight Committee (APO), which has 61 days to review it.

The Commission must decide what to do in the interim period, considering the following timeline:

- The report is to be filed in February;
- The RRC will review the report in March and ask DCDEE any questions it has with the submitted report; the report will be forwarded to the Joint Legislative Administrative Procedures Oversight Committee (APO), which has 61 days to act on the report.
- The APO will consult with the RRC;
- When the report becomes effective, the RRC will then contact DCDEE to talk about the schedule for the re-adoption of rules. The RRC will negotiate a timeframe specific to the Child Care Commission's review of rules, as there is currently no timeframe established by law or Rule. RRC, DCDEE staff and the Child Care Commission are expected to be able to work together to estimate how much time will be needed to review all of the child care rules.
- Mr. Wellons advised the Commission that a logical first step is to estimate how many rules are expected not to need to be changed and then subtract that number from the total number of rules and estimate how many meetings the Commission membership would like to schedule based on the number of rules Commission members estimate they can cover in a meeting.
- The Commission will then approve the timeframe established by RRC.

Note: RRC has stated that the Commission shall not publish rule revisions prior to APO review and approval of the final determinations.

Currently this Commission is ahead of the established timeline, having completed the rules determination process and submitted its response for public comment. Mr. Wellons proceeded to explain that until the report is finalized following consultation with APO, the Commission is awaiting the next formal step.

Once the report is approved and finalized, several actions will occur:

- Rules that have been classified as *unnecessary* will be removed from the NC Administrative Code without any further action of the agency or Commission.
- Rules classified as *necessary without substantive public interest* will remain in the NC Administrative Code “as is” with an addition to the history note to reflect that a review was completed.
- Rules classified as *necessary with substantive public interest* will remain in the NC Administrative Code “as is” and the agency will begin the process of reviewing and readopting these rules in accordance with G.S.150B. Rules in this category will remain in effect until the deadline of revision. If a rule is not amended, the notice of intent to readopt will be published, but no publication of text or fiscal note is required. If substantive changes occur, a fiscal note must be drafted and then the text will be published for public comment. Oral comments at a public hearing will follow, after which the Commission will meet to discuss the comments, make adjustments and vote on the rules. Then the rules would go to the RRC for review and approval.
- In an effort to assist the Commission with administrative duties, DCDEE staff will make statutory citation changes and any stylistic changes not considered substantive changes prior to the Commission’s review of the language of each rule.

Fiscal Note Discussion:

- A fiscal note will be required to be submitted and approved by the Office of State Budget and Management (OSBM) for all substantive changes to rules.
- Creating an accurate fiscal note is not always an easy process. An additional step in the fiscal note process, and moving forward with the rule change, is receiving approval for that note from OSBM, which often requires multiple revisions.
- Chairperson Weinert inquired about the process of crafting the fiscal note and what the level of participation of the Commission might be? DCDEE Director Rob Kindsvatter stated that the Division works directly with OSBM to develop fiscal notes, and OSBM requests information until fiscal staff are satisfied they understand the impact of any rule changes on both the public and private sectors.
- Chairperson Weinert requested that DCDEE involve the Commission in the fiscal note process, and Mr. Kindsvatter noted that Commission feedback would be valuable in order to obtain any information needed in development of the fiscal note.

Alexi Gruber stated that DCDEE staff are available to assist in drafting and revising rules. She also mentioned that DCDEE is in the process of creating and interviewing field staff focus groups to get feedback about the current rules. DCDEE will have information resulting from this process in next three months to provide to the Commission.

Mr. Kindsvatter noted that it is also important for members of the Commission to remember the ongoing federal Child Care Development Fund (CCDF) Block Grant reauthorization. Changes in

the CCDF regulations will result in changes to federal requirements related to child care subsidy and quality improvement activities. Information regarding the CCDF reauthorization will be provided to the Commission and may have an impact on the Commission's review of the rules.

Ms. Sue Creech noted that it is important to have multiple perspectives represented, such as those of parents of children in child care, providers, and researchers. She requested that DCDEE Regulatory staff determine the most difficult regulatory issues that DCDEE faces. If the Commission is aware of these issues, then they can help to address them.

Ms. Gruber suggested that Commission members may want to consider attending other state level commission meetings (e.g. Social Services Commission, DPH Environmental Health Commission) that are reviewing rules that are tied child care rules.

Mr. Wellons asked DCDEE staff to create a list of agencies and Commissions that adopt rules that affect child care and advised the Commission members to arrange to receive information regarding those groups' meetings and decisions. Ms. Alston will develop this list for the Child Care Commission's reference so that members may share information with other commissions as desired, through the universal agency rule review and re-adoption process.

In responding to whether the Commission should wait to begin its review of the rule content, Chairperson Weinert recommended that Commission did **not** need to wait to review substantive issues. She also pointed out that it will be difficult to accurately estimate how long it will take to actually evaluate and revise each part of the rules, within the groups of rules.

Chairperson Weinert further recommended that the current meeting's agenda should include determining the groupings of the rules, followed by determining which grouping would be the simplest to focus on at the Commission's January meeting.

Periodic Review of Existing Rules

Discuss How to Proceed with the Review of Rules

- **Grouping of Rules**

Mr. Wellons recommended the creation of subchapters within the existing rule format with more meaningful Subchapter headings than currently exist. Doing this would require reorganizing the existing rules (and therefore changing their numbering); however, Mr. Wellons noted that regrouping/renumbering alone is not considered a "substantive" change that would require a fiscal note, public comment, etc. The Commission membership supported this suggestion.

The discussion moved to the rule groupings that should be used, which began with reviewing Chairperson Weinert's proposed groupings that she had shared with the Commission. The Commission discussed different options addressing questions to DCDEE staff as needed.

Meeting Break at 10:20 a.m., resumed at 10:30 a.m.

After the break, the Commission resumed the discussion of the groupings of the rules. Mr. Wellons clarified that regrouping rules in order to organize them into Subchapters will necessitate

renumbering, so any renumbered rules will need to be cross-referenced with their original numbers.

Chairperson Glenda Weinert requested that any member comments for the January meeting should be submitted to her by December 19th to ensure that the items are on the agenda. The Commission discussed what section the group should discuss in the January meeting, and based on the Commission's discussion, Chairperson Glenda Weinert asked for agreement that they would begin with Group 1 (.0200; .0400; .1300; .1400) involving licensure; they will move to Group 2 (.0300) involving paperwork if time permits. Chairperson Weinert stated that the Commission's homework is to go through the aforementioned Groups 1 & 2 and come to the January meeting with their comments ready for discussion.

The Commission broke for lunch at 11:30 p.m., reconvened at 12:30 p.m.

Follow up Discussion

The Commission reviewed the revised rule groupings based on the discussion prior to lunch, made some further revisions and asked that the document be revised and emailed to them. Chairperson Glenda Weinert reiterated that the Commission will discuss Groups 1 & 2 (as time permits) on January 12th.

The Commission discussed potential dates for meetings in March and April if they determine at the next meeting that these meetings need to be scheduled.

Possible March date—March 16th on calendar

Possible April date—April 20th on calendar

Adjourn

Chairperson Weinert adjourned the meeting.

The meeting adjourned at 12:50 p.m.

Next meeting Monday, January 12, 2015, 9:00am-4:00pm