

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

NORTH CAROLINA CHILD CARE COMMISSION

**Special Rules Meeting
Monday, January 30, 2017**

Dix Grill
1101 Cafeteria Drive
Employee Center
Raleigh, NC 27603

Commission Members Present

Zac Everhart, Vice Chairperson
Elliott Blades
Melanie Gayle
Elizabeth Gilleland
Brooke King

Kay Lowrance
Charles F. McDowell, III
Linda Vandevender
Amelie Schoel
William Walton, III

Commission Members with an Excused Absence

Glenda Weinert, Chairperson
Donnette Thomas
Kristin Weaver

Laurie Morin
Jonathan Brownlee, Sr., MD
Lisa Humphreys

Division of Child Development & Early Education Staff Present

Pam Shue, Director
Heather Laffler, Administration/Policy
Dedra Alston, Administration/Policy
Rachel Kaplan, Administration/Policy
Tammy Barnes, Regulatory Services
Lorie Pugh, Regulatory Services
Kimberly Mallady, Regulatory Services

Andrea Lewis, Regulatory Services
Melodie Ford, Regulatory Services
Laura Hewitt, Regulatory Services
Jenine Gatewood, NC Pre-K
Mary Pat Hicks, NC Pre-K
Heather Marler, Workforce

Attorney General's Office Staff

Bethany Burgon, Commission Attorney
Alexi Gruber, DCDEE Attorney

Welcome—Vice Chairperson Everhart called the meeting to order at **9:04 a.m.** and reviewed housekeeping items. Vice Chairperson Everhart read the conflicts of interest statement and asked whether there were any conflicts of interest noted among members for today's agenda? None were noted.

Vice Chairperson Everhart called for roll call and Ms. Dedra Alston performed the roll call. Vice Chairperson Everhart noted that Jonathan Brownlee, Lisa Humphreys, Laurie Morin, Donnette Thomas, Kristin Weaver, and Glenda Weinert requested and received excused absences from today's meeting.

Vice Chairperson Everhart stated that Ms. April Duvall has resigned from the Commission effective immediately.

Chairperson's Report

Approval of December 12, 2016 Second Quarter Meeting Minutes

Vice Chairperson Everhart asked for approval of the December 12, 2016 Second Quarter meeting minutes.

Commission Action: Ms. Melanie Gayle motioned for approval for the December 12, 2016 minutes. Mr. Elliott Blades seconded the motion. The motion carried unanimously.

Discussion of Rule-making Petitions

I-HOPE Advisory Committee concerning Nutrition Standards .0901; Outdoor Play .0508(c)

Ms. Alexi Gruber stated that it is unclear what specific changes are being requested through this rule-making petition. Ms. Gruber and Ms. Bethany Burgon recommended that the Commission deny the rule-making petition because the Commission is already in the process of reviewing all the Rules in 10A NCAC 09, which would include the rule changes requested here. If this petition were accepted alongside that existing rule action, then there would be two rule actions taking place at the same time on different schedules. However, the Commission may use the recommendations of the petitioners when completing its ongoing review.

The petitioners are encouraged to attend the public hearing for the ongoing rules review and to make their recommended changes once the proposed rules are published.

Vice Chairperson Everhart asked for clarification about the Review of Rules process. Ms. Gruber stated that if the Commission votes to publish the presented package of rules today, staff will begin the next steps of the rule-making process. Once the presented package of rules is published there will be a public hearing and 60-day public comment period. The public hearing is currently planned to be held in May. After the comment period has ended, the Commission will take into consideration any comments that were received on the rules and at that time the Commission may amend the rules or adopt them as published. The rules will then be submitted to the Rules Review Commission for their review and approval.

Mr. Blades asked for clarification between the rule-making petition process and the public comment process. Ms. Burgon explained that the Review of Rules process makes a rule-making petition unnecessary since all the rules are currently in the process of being reviewed. If all the Rules were not currently being reviewed, a rule-making petition would be necessary for any rule that the public wanted to bring to the Commission to amend.

Ms. Amelie Schoel asked if any of the submitted rule-making petitions include time sensitive issues that would preclude denying the petitions? Mr. Everhart and Ms. Gruber stated that it would be faster for the petitioner to utilize the public hearing and public comment time during the Review of Rules rather than to pursue a separate rule-making petition. Ms. Schoel asked to clarify also, that denying the petition does not preclude the interested party from utilizing the information from a previously submitted petition to inform the Commission during the rule-making process? The denial of the petition does not limit the information that a requestor can present to the Commission in future activities.

Mr. Blades expressed his feeling that a decision to deny a petition should depend on the specific rule change being requested, and should be addressed individually. Ms. Gruber and Ms. Burgon discussed that they did consider each petition individually when making their recommendations, and the petitioners' concerns would be part of the upcoming rules discussions.

Commission Action: **Ms. Kay Lowrance made a motion that the I-HOPE Advisory Committee's rule-making petition for a change in Rules .0901 and .0508(c) be denied and that the petitioner be officially notified of this denial with clear instruction on their right to resubmit said request with more specific language relative to each rule. Mr. Blades seconded and the motion passed unanimously.**

Petition regarding Space Requirements .2909 & Administrator Requirements .2819, submitted by Kevin Campbell

Ms. Gruber and Ms. Burgon again recommended that the Commission deny this rule-making petition because the Commission is already in the process of reviewing the Space Requirement Rule addressed in the petition in the Rules Review process.

Regarding rule .2909, Ms. Gruber also stated that the authority of the Commission is limited concerning changes to rated license rules involving administrator credentials because those requirements are stated in law and therefore would require action by the General Assembly for change. Ms. Burgon also reiterated, similar to the first petition reviewed, that denying this petition does not mean the petitioner cannot utilize the language requested or information submitted during any upcoming discussion of these rules.

Commission Action: **Ms. Elizabeth Gilleland motioned to deny the rule-making petition submitted by Kevin Campbell (12/12/16). (Note that plan is to use suggestions/language in current discussion/rules-review process.) Ms. Schoel seconded and the motion passed unanimously.**

Crème de la Crème Petition involving Activity Areas: Preschool Children Two years and older .0510 & Indoor Space .1401

Ms. Gruber again recommended denying the presented rule-making petition because the petitioner's objections may be addressed with new rule language that is being proposed regarding activity areas and indoor space. Ms. Gruber stated that there is nothing in the rule at hand that

states that the activity areas must be in one room; just that children must have access to all activity areas throughout the day.

Ms. Burgon added that the Commission may recommend for the petitioner to request a declaratory ruling for statute concerning the interpretation of the law. Ms. Lowrance asked the representative of Crème de la Crème in the audience whether the program has been evaluated with the Environmental Rating System (ERS) because the program would have to modify their program to meet these requirements if they chose to be part of the NC star rated system. The representative did not know but stated that she would inquire.

Ms. Gilleland expressed hesitancy to make a request for a declaratory ruling. She would like reassurance that the resulting declaratory ruling would not be too broad, based on a single program's concerns. Vice Chairperson Everhart stated that he does think that this issue is broader than this one petition, and that the Division's position that activity spaces do not need to be in a single room could impact many programs. Ms. Burgon recommended that the Commission deny this rule-making position today and delay asking the petitioner to request a declaratory ruling until after rule-making is complete. Upon completion the petitioner could evaluate whether amended rules suit their needs or if further inquiry is needed. Ms. Gruber added that since this is a rule-making petition, the Commission may also request that the petitioner make a request for a declaratory ruling including proposed specific language.

Commission Action: **Ms. Gilleland motioned to deny the rule-making petition of Crème de la Crème and suggest that the organization submit a future request for a declaratory ruling regarding their organization's use of space. Ms. Lowrance seconded and the motion passed unanimously.**

Meeting break at 10:10 a.m., meeting reconvened at 10:15 a.m.

Discussion of Screen Time Rules and Review of Articles

.0510 Activity Areas and .2508 Age Appropriate Activities

Mr. Billy Walton directed the Commission to the document he created titled "A few "takeaways" from the screen time articles". He proposed defining screen time per the American Academy of Pediatrics (AAP) definition: "Screen time is spent using digital media for entertainment purposes. Other uses of media, such as online homework, don't count as screen time."

Ms. Gilleland stated her belief that this definition is a misrepresentation. Ms. Gilleland stated that the AAPs recommendation for screen exposure for 2-5 year old children is that it be limited to one hour per day of **high quality programming**.

Mr. Walton confirmed that nobody advocates for low quality screen time. Ms. Gilleland directed the Commission to additional articles distributed titled "Media and Young Minds" and "Media Use in School-Aged Children and Adolescents". She stated that the new AAP article stressed the importance of being intentional regarding the use of screen time. Ms. Gilleland stated that she is

content with the current rule as it is written; however, if there is any reopening of this rule, she feels that it should be to tighten requirements, making screen exposure more beneficial for children, not more harmful for children.

Mr. Walton stated his belief that limitations should not be the same for school-age children and preschoolers. Ms. Gilleland agreed that screen exposure for school-age children is a completely different issue and that she would be open to revisiting the school-age rule; however, she desires to address the preschool-age rule first.

Ms. Gilleland stated that research incontrovertibly finds that limiting screen time is essential during the preschool developmental stage. She reiterated that this includes **all** digital media use, not just non-educational screen time, at this developmental stage.

Mr. Walton repeated his feeling that the definition of ‘screen time’ should include anything that is not teacher-interactive or educational. Ms. Brooke King stated that she agreed with Ms. Gilleland that at the preschool stage of development screen time should be utilized as a supplement only, to one-on-one interactions. Mr. Blades stated his belief that there are two issues that need to be addressed regarding screen time: amount and definition. Ms. Schoel stated that she does not feel comfortable allowing for unlimited screen time, even if the screen time is educational or teacher-involved; however, she does not consider supplemental use e.g., white boards for transitions as “screen time”.

Ms. Gilleland stated that the Commission has already discussed the general issue of screen time at length, and, instead of discussing the appropriateness of individual examples of digital use, she requested to hear proposed changes to the existing language of the rule that was voted on?

Ms. Gayle asked where the current definition of screen time is in the rules? Staff provided that Rule .2508(e) “Screen time is provided on any electronic media device with a visual display.”

Ms. Gilleland stated that she hopes the Commission would base rule-making on research concerning what is best for children and feels that it would be unconscionable to do otherwise. Ms. Gruber stated that Director Shue made a statement that the Division’s position is that the proposed rule should remain as it is.

Ms. Gilleland stated her concern that if the Commission approves this motion, it would be recommending that **ALL** recommended allowable screen time (AAP recommendation of no more than 1 hour per day for preschool children) for children at that developmental stage be completed at school. Any screen exposure outside of the child care day would be in addition to research suggestions. Ms. Lowrance stated that she would rather children hold a real frog than a leap frog.

Commission Action:

Mr. Walton motioned that the use of screen time shall not exceed 30 minutes per use and not to exceed 60 minutes per day. Mr. Blades seconded the motion. The motion failed.

The motion was denied by a vote of 7-3. Mr. Walton, Vice Chairperson Everhart and Mr. Blades voted in favor of the motion. Ms. Linda Vandevender, Rev. Charles McDowell, Ms. Gilleland, Ms. Gayle, Ms. Schoel, Ms. Lowrance and Ms. King voted against the motion. There was no change to the rule.

Discussion of School-age screen time

Ms. Gruber stated that the Division's position on the school-age screen time rule is to leave the rule as it is currently written, with screen exposure "limited to a maximum of 30 minutes per day and no more than two and a half hours per week, per child."

Ms. Gilleland stated that any proposed increase in screen time should include an increase in supervision. Ms. Vandevender stated that school-age children often need more than 30 minutes to complete school assignments on line, and some low-income families do not have access to computers at home. She feels that the Commission would be doing a disservice to low-income families and centers by preventing use beyond 30 minutes in these instances.

Ms. Gilleland stated that she would ask someone to consider developmental research and propose an acceptable change, or maintenance of the rule regarding screen time for school-age children.

Ms. Schoel suggested changing the language from "limited to a maximum of 30 minutes per day and no more than two and a half hours per week, per child" to "limited to a maximum of 30 minutes per day **OR** no more than two and a half hours per week, per child", which would allow a child to go beyond 30 minutes in one sitting if needed.

Ms. Gruber recommended including an exception clause that screen time may be extended for homework and these instances must be documented.

Commission Action: Ms. Schoel motioned that rule .2508(e)(3) be amended to read that screen time is limited to a maximum of 2 ½ hours per week, per child and documented on a cumulative log or activity plan, and shall be available for review by a representative of the Division. Usage time periods may be extended for school assigned homework. Ms. Vandevender seconded. The motion passed with 9 members voting yes and Mr. Walton abstaining.

Lunch break at 11:40 a.m., meeting reconvened at 12:40 p.m.

Discussion of New Rules

Section .2800: Voluntary Rated Licenses (.2801-.2812; .2817-.2831)

.2801 Scope – No change to this rule and therefore no discussion

.2802 Application for a Voluntary Rated License

Ms. Vandevender noted her belief that there should be a recognition of centers that host NC Pre-K Program classrooms, such as an additional star rating, as these centers meet higher standards. Ms. Barnes stated that she agrees that centers do deserve some sort of recognition; however, there is no way to add a star rating because the 5-star rating system is established in law.

Vice Chairperson Everhart asked the group to note that there is a difference between centers that choose not to be part of the NC Pre-K Program versus those that are not allowed to be involved (i.e. due to limited slot or classroom numbers, or not being selected as a local site). It cannot be assumed that quality is lower in centers that do not have NC Pre-K classrooms, because some centers want NC Pre-K but are not given that option. He does, however, agree that it would be reasonable for there to be some form of recognition for facilities that can be involved in the NC Pre-K program.

.2803 Program Standards for a Three Component Rated License for Child Care Centers - No change to this rule and therefore no discussion

.2804 Administrative Policies

Mr. Walton suggested that all centers should be expected to meet this requirement and this rule should be moved to the minimum requirements section.

.2805 Operational and Personnel Policies

DCDEE staff suggests that the language in Paragraph (b) should be changed from “Operational policies shall be discussed with parents at the time they inquire about enrolling their child in the Center” to “Operational policies shall be discussed with parents prior to enrollment of their child in the center.”

Mr. Walton suggested that all centers should be expected to meet this requirement and this rule should be moved to the minimum requirements section; however, Division staff pointed out that Subparagraph (g)(2) would need to be moved to the orientation section “documentation that information concerning the enhanced standards was included during the employee’s orientation.”

.2806 Caregiving Activities for Preschool-Aged Children - No change to this rule and therefore no discussion

.2807 Parent Participation

It was suggested that the language in (a) line 36 be changed from “The plan shall be discussed with parents at the time the child is enrolled...” to “The plan shall be discussed with parents **prior to enrollment** of their child”. Mr. Walton suggested that all centers should be expected to meet this requirement and this Rule should be moved to the minimum requirements section

.2808 Night Care

Mr. Walton suggested that all centers should be expected to meet this requirement and this rule should be moved to the minimum requirements section.

- .2809 Space Requirements
DCDEE staff suggested that “enhanced” will be added to the title of this rule.
- .2810 Staff/Child Ratios for a Three Component Rated License
- .2811 Education Standards for a Three Component Rated License for Child Care Centers
- .2812 School Age Only Standards for a Three Component Rated License for Child Care Centers
Above three rules, no change to this rule and therefore no discussion.
- .2817 Program Standards for a Two Component Rated License for Child Care Centers
The Commission requested that this section be formatted in a chart. From this point forward, the Division will attempt to put rules into charts where appropriate. It was also suggested that “enhanced” will be included in the title of this rule.
- .2818 Staff/Child Ratios for a Two Component Rated License for Child Care Centers
It was suggested that “enhanced” will be included in the title of this rule.
- .2819 Education Standards for On-Site Administrators for a Rated License for Child Care Centers
- .2820 Education Standards for Lead Teachers for a Rated License for Child Care Centers
- .2821 Education Standards for Teachers for a Rated License for Child Care Centers
- .2822 Education Standards for Program Coordinators for a Rated License for Child Care Centers
- .2823 Education Standards for Group Leaders and Assistant Group Leaders for a Rated License or Child Care Centers
- .2824 Education Standards for a Rated License for Administrators for Centers that Provide Care Only to School-Aged Children
- .2825 Education Standards for Program Coordinators for a Rated License for Centers that Provide Care Only to School-Aged Children
- .2826 Education Standards for Group Leaders and Assistant Group Leaders for a Rated License for Centers that Provide Care Only to School-Aged Children
- .2827 Education Standards for Operators for a Rated License for Family Child Care Homes
- .2828 Program Standards for a Rated License for Family Child Care Homes
- .2829 Quality Point Options
Above eleven rules (.2818-.2829) - No change to this rule and therefore no discussion.

.2830 Maintaining the Star Rating

Mr. Walton discussed the problem of centers being able to recruit and hire adequate replacements for employees who leave employment; often the 30-day grace period is not enough time to find suitable replacements who maintain existing education requirement/achievement. He proposed increasing the grace period for replacing employee from 30 days to 90 days. The Commission voted whether its members would agree to amend the rule to grant 60 or 90 days? A majority vote was in favor of increasing the length of time during which facilities may find replacements for employees who leave a facility to 90 days.

.2831 How an Operator May Request or Appeal a Change in Rating - No change to this rule and therefore, no discussion.

Review of Previously Discussed Rules and Vote to Publish - All Center, FCCH and Special Programs

A discussion ensued concerning whether to vote to publish the proposed Center, FCCH and Special Programs Rules in their entirety, in sections or to wait to vote to publish all of the rules in February. Division staff stated that the Commission must vote to publish rules by February 2017. Once the rules have been published in the NC Register, the 60 day public comment time will begin. The Commission must vote to adopt the proposed permanent rules by July 14, 2017 in order for the temporary rules to remain in effect. Once the rules are adopted they will be submitted to the Rules Review Commission for approval.

Ms. Gruber and Ms. Burgon recommended that the Commission vote to publish the packet in its entirety today, with the three changes discussed today, and allow further changes to be requested and made during the public comment and public hearing process.

Commission Action: Ms. Lowrance motioned to publish the Child Care Center, FCCH and Special Program Rules with changes made to .1101(b), .1103(a) and .2508(e). Ms. Gayle seconded and the motion carried unanimously.

Meeting adjourned at 3:54 p.m.

The next meeting of the North Carolina Child Care Commission is scheduled for February 27, 2017, from 9:00 a.m. – 4:00 p.m. (Third Quarter Meeting)

Future Meeting Dates: February 28, 2017 - Special Rules Meeting
 March 20, 2017 - Special Rules Meeting
 May 8, 2017 - Special Rules Meeting
 June 27, 2017 - Special Rules Meeting