

Chapter 8: COMPLIANCE MONITORING

Purpose Of These Requirements

To ensure child care facilities provide a physically safe and healthy environment where the developmental needs of children are met. All regulated child care facilities must comply with all State laws, federal laws and local ordinances that pertain to child health, safety, and welfare. Child care facilities are monitored on a regular basis to assess compliance with these requirements.

SECTION 1: AUTHORITY TO INSPECT CHILD CARE PROGRAMS

General Statute 110-105 & Child Care Rule .0201

- ★ The Division will periodically visit and inspect all child care programs to insure compliance with North Carolina General Statutes and child care.
 - ★ A representative of the Division will conduct an announced visit prior to the initial issuance of the license. The prospective or current licensee will be notified in advance about the visit. This Rule does not apply to the investigation of centers that are operating without a license in violation of the law.
 - ★ An inspection may be conducted without notice, if there is probable cause to believe an emergency situation exists or there is a complaint alleging a violation of licensing requirements.
 - ★ An inspection may be conducted without notice, when the Division is notified or receives a report alleging child abuse or neglect has occurred in a child care facility.
 - ★ If an operator refuses to allow a Division representative to inspect the child care facility, the Division can seek an administrative warrant.
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- After a license is issued, the Division is responsible for monitoring the facility to assure that compliance is being maintained.

SECTION 2: TYPES OF VISITS

The following are the different types of visits that will be made by Division of Child Development Child Care Consultants to Family Child Care Homes.

- ★ Technical Assistance
- ★ Initial Assessment
- ★ Temporary Time Period
- ★ Annual Compliance
- ★ Complaint Investigation
- ★ Routine Unannounced or Announced
- ★ Rated License Assessment
- ★ Follow-up

- Each type of visit will be discussed in more detail on the following pages.

Technical Assistance Visits

- ★ A technical assistance visit is used to acquaint the operator with the child care requirements or have the consultant offer suggestions for improvements to the FCCH.

- A Technical Assistance visit can be requested by a provider at any time to receive advice and guidance for a particular part of the child care program.
- Examples of advice and guidance might involve information on programming, room arrangement, operator training, help understanding the child care regulations, violations and options for correcting them, recommendations for ways to improve quality, and community resources.

Initial Assessment Visit

- ★ Initial assessment visits are used to verify the FCCH is in compliance with all of the applicable child care requirements and local ordinances.
- ★ During initial assessment visits technical assistance is also provided on ways for the potential licensee to achieve and maintain compliance as well as consultation about best practices in the field of early care and education.

- A child care consultant will make on-site visits to assess compliance with the child care requirements.
- During the initial assessment visit, the child care consultant will review the following:
 - Child care law and rules
 - Available equipment and materials
 - All rooms/spaces to be used by children
 - Capacity of the FCCH
 - Copy of permits or inspections if required by local zoning ordinances
 - Forms and paperwork that will be used at the FCCH
 - Size of the FCCH indoor and outdoor areas used by children
 - Vehicle that will be used to transport children, if transportation will be provided
- If all requirements are met, the child care consultant can issue a One Star License to the FCCH at that time.

Initial Follow-Up Visits

- ★ During the first 6 months of operation, follow-up visits are conducted to monitor the FCCH for satisfactory compliance with all applicable requirements and work with the operator to address any identified concerns or problem areas.

- The unannounced Follow-Up visit is scored and can impact your compliance history rating.

Annual Compliance Visits

- ★ Annual Compliance Visits are conducted once per year to determine if the FCCH continues to comply with all applicable child care requirements.

- Although a license issued to a FCCH does not expire, the FCCH must continue to be monitored to make sure child care requirements continue to be met.
- Annual compliance visits are unannounced.
- Any violations of the requirements observed by the child care consultant during the visit will be documented and reviewed with the operator. The operator will be given the opportunity to correct the violations.
- Follow up visits may be conducted to assure that all violations have been corrected.

Licensing Complaint Visits

 Unannounced complaint visits will be made, when the Division receives a report alleging violation of the child care requirements or when the Division has reason to believe an emergency exists in the FCCH.

- When the complaint is related to a violation of child care licensing requirements and does not allege child abuse or neglect, it will be classified as a licensing complaint. Licensing complaints are investigated by the child care consultant or a child care abuse/neglect consultant.
- The child care consultant may need to interview/talk to you, review records, or observe in the FCCH to investigate the complaint allegations.

Child Abuse and Neglect Investigation Complaint Visits Child Care Rule .1903

-  Anyone from the public may contact the Division to report suspected child abuse or neglect in a child care setting. Once a report is received, the Division initiates an investigation.
-  The investigation may include interviews with you, staff, parents, or any other adult who has information regarding the allegation. Reports from law enforcement officers and other professionals, as well as photographs and other investigative tools, may be used as appropriate.
-  The Division and DSS share information with each other related to child abuse and neglect investigations.
-  At any time during the investigation, a representative from the Division may conduct an evaluation for compliance with all applicable child care requirements.
-  The Division will issue a written notice to you and the local DSS when the investigation is completed. The Division may also report to law enforcement officers and other professionals that have been involved in the investigation.
-  A written notice of findings and any further action, if appropriate, will be made within 90 days after the Division receives the allegation. If the investigation is not complete at that time, an interim report explaining the status of the investigation will be made to the operator 90 days after receipt of the allegation and every 30 days thereafter, until the final decision is made.

- When the complaint is related to a child abuse or neglect situation, it will be classified as a child abuse or neglect complaint.
- Investigations of child abuse and neglect in child care programs are conducted jointly between the local county DSS and the Division. Some investigations involve additional investigators, such as law enforcement, medical personnel, medical examiners, and others.
- The local county DSS determines whether a child or children are in need of protective services.
- The Division determines if violations of child care requirements have occurred.
- The Division must initiate an investigation for any case alleging child abuse or neglect within seven days of receiving a report.
- The child abuse/neglect representative from the Division may interview the child or children about the allegations of abuse or neglect only in those cases where the DSS does not conduct an investigation.

- Any information obtained during an investigation that is subject to confidentiality laws or regulations will be handled so as to preserve the confidential nature of the material.
- The Division must receive the local DSS case conclusion report before the case can be closed.
- After the Division receives all information from other investigators, including the DSS conclusion, the Division determines whether or not violations of child care requirements occurred related to the report. The Division notifies the facility operator of the outcome of the investigation and closes the investigation with either a letter or administrative action.
- The local Child Care Resource and Referral Agency (CCR&R) will also be sent a notification of the child abuse or neglect report and a copy of the document closing the case. The local CCR&R may have a policy that says they will cease referring children to a facility while an investigation of child abuse or neglect is underway or after an administrative action is issued until the matter has been resolved.
-  Refer to the handout, **Investigating Allegations of Child Abuse and/or Neglect in Child Care Programs**, for more information located in the resource section.

Routine Visits

 Announced and unannounced routine visits can be conducted at any time to monitor compliance with the child care requirements.

- There are several types of routine visits that can be made to a FCCH, such as:
 - Annual compliance follow-up
 - Rated license assessment follow-up
 - Complaint follow-up
 - Administrative action follow-up
 - Monitoring visits

Follow-up Visits

 Unannounced follow-up visits may be conducted to assess compliance, assure Division recommendations are put into practice, or to monitor the correction of violations.

Rated License Assessment Visits



Rated license assessment visits are conducted to determine compliance with voluntary enhanced standards for the issuance of a Two to Five Star Rated License, for the three year reassessment, or for a reapplication for a higher Two to Five Star Rated License.

- ☑ North Carolina's Star Rated License System provides voluntary standards for FCCHs that provide child care which exceeds the state's minimum licensing standards.
- ☑ An Application for a Self Assessment packet can be obtained by contacting a customer service representative at 1-800-859-0829 or can be requested on line at www.ncchildcare.net.
- ☑ Refer to *Chapter 6 – Star Rated License* for complete instructions and rules for a star rated license.

SECTION 3: PARENT MONITORING

In addition to child care consultants, parents must also have access to child care programs.

Parent's Right to Access Child Care Rule .0205

The parent, guardian or full-time custodian of a child enrolled in any FCCH must be allowed unlimited access to the FCCH during its operating hours for the purposes of contacting the child or evaluating the FCCH and the care provided by the FCCH.

- ☑ The parent, guardian or custodian should notify the operator of his or her presence immediately upon entering the premises.
- ☑ A FCCH cannot restrict access to any known parent. Even in situations where one parent does not have custody of a child, if the operator knows the person to be the parent of the child, they cannot prevent this person from visiting or removing the child without court order paperwork.
- ☑ The operator must also release a child to any person listed on an application as parent, guardian, custodian or authorized pick up person.
- HH Research shows parent involvement gives children better chances for success in school.
- HH Parent involvement can include parents playing in FCCHs with children, reading to children, participating in special events, eating lunch, and playing outside. Parents may also

want to initiate special projects such as gardening or cooking activities.

**Parent Education in the NC Child Care Law
General Statute 110-102**

- ★ Operators of FCCHS must provide a copy of a summary of the child care law to each child's parent, guardian, and full-time custodian before the child is enrolled in the center.
- ★ Each parent, guardian, or full-time custodian must sign a statement acknowledging that he or she received a copy of the summary before the child's enrollment.



A Summary: North Carolina Child Care Law and Rules is located in the resource section.



This summary is updated as changes occur to the child care law and rules. You may request a copy of the summary from the Division at 1-800-859-0829 or access it online at www.ncchildcare.net.

RESOURCE SECTION

Chapter 8: COMPLIANCE MONITORING

The following pages contain resource materials related to the content in the preceding chapter.

Some of the resources are forms created by the Division of Child Development and must be used by licensed child care centers. Other materials are provided as a resource only for child care centers and can be used at the discretion of the center.

Center operators may also wish to use this section to add any additional resource materials they have that are related to the chapter or information that is specific to their child care center.

INVESTIGATIONS OF CHILD ABUSE/NEGLECT ALLEGATIONS IN CHILD CARE FACILITIES

Who reports allegations of child abuse or neglect? - A parent, staff member, concerned citizen, volunteer, facility visitor, facility director, family child care provider, physician, social worker, law enforcement representative or other individuals with information about a situation.

Is the operator of a facility required to report incidents of possible or suspected child abuse/neglect that occur in the child care facility? - Yes. North Carolina General Statute 7B-301 is a Mandatory Reporting Law that requires all citizens to report suspected child abuse or neglect. Reporting on the facility and the investigation of that report may be a difficult experience for the facility operator. However, making a report helps protect the children in the facility and investigation of the report will help identify and correct conditions that may put children at serious risk of injury or death.

Why report? – To help protect a child or children and alert the appropriate investigating authorities when a person thinks or suspects a child is being, or may have been, harmed in some way as a result of neglect and/or abuse (physical, emotional, and/or sexual).

To whom is the report made? - A report must be made to the local Department of Social Services (DSS). In addition to making a report to the local DSS, a report may also be made to the Division of Child Development. If applicable a report can be made to the local Law Enforcement agency.

Does the reporter have to know for sure that child abuse or neglect is taking place? - No. A person only has to think or suspect there is a possibility the abuse or neglect is taking place. When a person reports, that person is making allegations that abuse or neglect may have happened. A report is investigated to find out if the allegations are true or not true, and whether or not a child was abused and/or neglected.

Is every allegation that is reported investigated? – The Department of Social Services only investigates allegations that meet the definitions of child abuse and child neglect given in the state’s juvenile law. However, the Division of Child Development will look into all reports or complaints regarding violations of child care requirements in licensed child care facilities (child care centers and family child care homes) and illegally operated child care facilities (centers and homes).

Does the reporter have to identify himself or herself? - No, the person making the report may remain anonymous.

What happens to the report after it is made? - When the report is made to the Department of Social Services (DSS), an Intake Worker will contact the Division of Child Development within 24 hours to give an Intake Consultant the information.

If a report is also made to the Division of Child Development (DCD), within 24 hours, an Intake Consultant will contact the Department of Social Services of the county in which the incident took place, and give an Intake Worker the information.

Who investigates? - When a family child care home or child care facility is named in the allegations, the report is investigated jointly by a Child Protective Services (CPS) Investigator from the local Department of Social Services, and a Child Abuse/Neglect (A/N) Consultant from the Division of Child Development. Both investigators will visit the facility, sometimes together, and interview all staff members who may be able to provide information about the allegations. The CPS Investigator will also interview the child(ren) and family members. The Child A/N Consultant may interview others as well. The Child A/N Consultant will determine whether or not violations of child care rules that apply to the report have occurred. The Child A/N Consultant will also identify violations of child care rules that are found during the visit to the facility. The CPS Investigator will obtain medical records if a child has been injured or treated by medical staff as a result of an injury that occurred at the child care facility. The CPS Investigator and Child A/N Consultant may request copies of documentation or records kept by the facility that are related to the allegations being investigated.

When allegations of physical abuse are made, an investigator from the local Police Department or Sheriff's Department will investigate the report to determine if any criminal act has taken place.

When allegations of sexual abuse are made, an investigator from the local Police Department or Sheriff's Department will investigate the report to determine if any criminal act has taken place. In addition, an investigator from the State Bureau of Investigation (SBI) may become involved in the investigation.

How does an investigation affect the facility? - During a child abuse/neglect investigation, the Division of Child Development will not issue a new license to the facility and will not allow any changes to the present license. In addition, the Division may not approve any other changes related to the operation of the facility. During a child abuse/neglect investigation, resource and referral agencies have policies that prevent them from making referrals to child care facilities that are under investigation.

How is an investigation closed? - The CPS Investigator completes all the required interviews and discusses the case with the Child A/N Consultant. Afterward, the CPS Investigator presents the information to a supervisor or team of social workers for consideration and decision-making. The decision will be to substantiate if there is evidence that a child was neglected or abused. The decision will be to unsubstantiate if there is not enough evidence that a child was neglected or abused. The CPS Investigator will notify the reporter, the operator of the facility, and the child's family of the decision, in writing. The CPS Investigator will send a report regarding the decision to the Division of Child Development.

The Child A/N Consultant reviews all of the information gathered from the investigation then submits a recommendation and information to support the recommendation to a Regulatory Services Supervisor at the Division of Child Development.

If the report is unsubstantiated and there were no violations of child care requirements, a representative of the Division of Child Development will send the operator of the child care facility a letter regarding the decision and closure of the case. Sometimes violations of child care requirements are determined to have occurred during the course of the

investigation and are included in the letter. An administrative action may be issued instead of a letter, even if DSS unsubstantiated child abuse and/or child neglect.

If the report is substantiated and/or there are violations of child care requirements, the recommended administrative action undergoes an internal review process to determine whether or not the Division of Child Development will issue the recommended administrative action to the facility. When administrative action is taken, the operator of the child care facility will receive written notice. The notice will tell the reason for the administrative action. The notice will also tell what the facility will be required to do correct the problems identified during the investigation and prevent similar incidents of child abuse or child neglect or violations of child care requirements in the future.

What happens when the Division of Child Development takes administrative action against a facility? – The administrative action provides the operator of the facility with information about why the action is being taken, what to do to correct the problems identified during the investigation (a Corrective Action Plan), and when the corrections must be completed. Corrective Action Plans often require operators to develop written policies and procedures for their staff, arrange for staff training, provide and/or participate in staff training, provide increased supervision for staff and develop plans for correcting violations. A Child A/N Consultant will make unannounced visits to the center to determine whether or not the Corrective Action Plan is being put into action. When every item in the Corrective Action Plan is successfully completed, the Child A/N Consultant will provide written documentation that the operator has done what the Division of Child Development required to correct the problems identified during the investigation.

What can operators do if they disagree with the administrative action taken by the Division of Child Development? – Operators may call the Division of Child Development and request an Informal Meeting with Division management to discuss the administrative action. Operators may also appeal the action, and have their case heard before an administrative law judge. Instructions for requesting an appeal are included with the administrative action.

The following requirements apply to both centers and homes.

Transportation

Child care centers or family child care homes providing transportation for children must meet all motor vehicle laws, including inspection, insurance, license, and restraint requirements. Children may never be left alone in a vehicle and child-staff ratio must be maintained.

Records

Centers and homes must keep accurate records such as children's attendance, immunizations, and emergency phone numbers. A record of monthly fire drills practiced with safe evacuation of children must also be maintained. A safe sleep policy must be developed and shared with parents if children younger than 12 months are in care.

Discipline

Each program must have a written policy on discipline, must discuss it with parents, and must give parents a copy when the child is enrolled. Changes in discipline policy must be shared with parents in writing before going into effect. Corporal punishment (spanking, slapping, or other physical discipline) is prohibited in all family child care homes and centers. Religious-sponsored programs which notify the Division of Child Development that corporal punishment is part of their religious training are exempt from that part of the law.

Parental Rights

- Parents have the right to enter a family child care home or center at any time while their child is present.
- Parents have the right to see the license displayed in a prominent place.
- Parents have the right to know how their child will be disciplined.

The law and rules are developed to establish minimum requirements. Most parents would like more than minimum care. Child care resource and referral agencies can provide help in choosing quality care. Check the telephone directory or talk with a child care provider to see if there is a child care resource and referral agency in your community. For more information visit the Resources in Child Care website at: www.ncchildcare.net. For more information on the law and rules, contact the Division of Child Development at 919-662-4499 or 1-800-859-0829, or visit our homepage at: <http://www.ncchildcare.net>.

Reviewing Files

A public file is maintained in the Division's main office in Raleigh for every center or family child care home. These files can be

- viewed during work hours;
- requested via the Division's web site at www.ncchildcare.net; or,
- requested by contacting the Division at 1-800-859-0829.

How to Report a Problem

North Carolina law requires staff from the Division of Child Development to investigate a licensed family child care home or child care center when there has been a complaint. Child care providers who violate the law or rules may be fined up to \$1,000 and may have their licenses suspended or revoked. If you believe that a child care provider fails to meet the requirements described in this pamphlet, or if you have questions, please call the Division of Child Development at 919-662-4499 or 1-800-859-0829.

Child Abuse or Neglect

Abuse occurs when a parent or caregiver injures or allows another to injure a child physically or emotionally. Abuse may also occur when a parent or caregiver puts a child at risk of serious injury or allows another to put a child at risk of serious injury. Neglect occurs when a child does not receive proper care, supervision, or discipline, or when a child is abandoned. **North Carolina law requires any person who suspects child abuse or neglect to report the case to the county department of social services.** In addition, any person can call the Division of Child Development at 919-662-4499 or 1-800-859-0829 and make a report of suspected child abuse or neglect in a child care operation. Reports can be made anonymously. A person cannot be held liable for a report made in good faith. The operator of the program must notify parents of children currently enrolled in writing of the substantiation of any abuse/neglect complaint or the issuance of any administrative action against the child care facility.

Summary: North Carolina Child Care Law and Rules

Division of Child Development
North Carolina Department of
Health and Human Services
319 Chapanoke Road
Raleigh, NC 27603

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The North Carolina Department of Health and Human Services does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or provision of services.

2,000 copies of this document were printed at a cost of \$179.64 or \$0.09 per copy.

What Is Child Care?

The law defines child care as:

- three or more unrelated children under 13 years of age
- receiving care from a non-relative
- on a regular basis, of at least once a week
- for more than four hours per day but less than 24 hours.

It is only when all of these conditions exist that regulation is required. The North Carolina Department of Health and Human Services is responsible for regulating child care. This is done through the Division of Child Development. The purpose of regulation is to protect the well-being of children while they are away from their parents. The law defining child care is in the North Carolina General Statutes, Article 7, Chapter 110.

The North Carolina Child Care Commission is responsible for adopting rules to carry out the law. Some counties and cities in North Carolina also have local zoning requirements for child care programs.

Star Rated Licenses

Centers and homes that are meeting the minimum licensing requirements will receive a one star license. Programs that choose to voluntarily meet higher standards can apply for a two through five star license. The number of stars a program earns is based upon the education levels their staff meet and the program standards met by the program.

Family Child Care Homes

A family child care home is licensed to care for five or fewer preschool age children, and can include three additional school-age children. This includes preschoolers living in the home but the provider's own school-age children are not counted (Individuals caring for one or two children are exempt from being licensed.) Licenses are issued to family child care home providers who meet the following requirements:

- Home providers must be 21 years old with at least a high school education or its equivalent, and mentally and emotionally capable of caring for children.
- He or she must undergo a criminal records background check initially, and every three years thereafter.
- All household members over age 15 who are present in family child care homes when children are in care must also undergo a criminal records background check. As of December 2008, criminal records rechecks are completed every three years.
- All family child care home providers must have current certification in CPR and first aid and complete an ITS-SIDS

training every three years. They also must complete a minimum number of training hours annually.

All family child care homes must meet basic health and safety standards. Providers must maintain verification of children's immunization and health status. They must provide developmentally appropriate toys and activities, as well as nutritious meals and snacks for the children in care.

Child Care Centers

Licensing as a center is required when six or more preschool children are cared for in a residence or when three or more children are in care in a building other than a residence. Religious-sponsored programs are exempt from some of the regulations described below if they choose to meet the standards of the Notice of Compliance rather than the Star Rated License. Programs that operate for less than four consecutive months, such as summer camps, are exempt from licensing. Child care centers may voluntarily meet higher standards and receive a license with a higher rating. Centers will be visited at least annually to make sure they are following the law and to receive technical assistance from child care consultants.

Licensed centers must meet requirements in the following areas.

Staff

The administrator of a child care center must be at least 21, and have at least a North Carolina Early Childhood Administration Credential or its equivalent. Lead teachers in a child care center must be at least 18 and have at least a North Carolina Early Childhood Credential or its equivalent. If administrators and lead teachers do not meet this requirement, they must begin credential coursework within six months of being hired. Staff younger than 18 years of age must work under the direct supervision of staff 21 years of age or older. All staff must complete a minimum number of training hours including ITS-SIDS training for any caregiver that works with infants 12 months of age or younger, and CPR and first aid training. All staff must also undergo a criminal records background check. As of December 2008, criminal records rechecks are completed every three years.

Ratios

Ratios are the number of staff required to supervise a certain number of children. Group size is the maximum number of children in one group. Ratios and group sizes for licensure are shown below and must be posted in each classroom.

0-12 months	1:5	10
12-24 months	1:6	12
2 years old	1:10	20
3 years old	1:15	25
4 years old	1:20	25
School-age	1:25	25

Small centers in a residence that are licensed for six to twelve children may keep up to three additional school-age children, depending on the ages of the other children in care. When the group has children of different ages, staff-child ratios and group size must be met for the youngest child in the group.

Space and Equipment

To meet licensing requirements, there must be at least 25 square feet per child indoors and 75 square feet per child outdoors. Outdoor play space must be fenced. Indoor equipment must be clean, safe, well maintained, and developmentally appropriate. Outdoor equipment and furnishings must be child size, sturdy, and free of hazards that could injure children.

Curriculum

The Division of Child Development does not promote or require any specific curriculum over another unless programs are using curriculum to get a quality point for the star-rated license. Child care programs choose the type of curriculum appropriate for the ages of the children enrolled. Activity plans must be available to parents and must show a balance of active and quiet, and indoor and outdoor activities. Rooms must be arranged to encourage children to explore and use materials on their own.

Health and Safety

Children must be immunized on schedule. Each licensed center must ensure the health and safety of children by sanitizing areas and equipment used by children. Meals and snacks must be nutritious, and children must have portions large enough to satisfy their hunger. Food must be offered at least once every four hours. Local health, building, and fire inspectors visit licensed programs to make sure standards are met. All children must be allowed to play outdoors each day (weather permitting) and must have space and time provided for rest.

Age	Teacher : Child Ratio	Maximum Group Size
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