

## TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Child Care Commission intends to adopt the rules cited as 10A NCAC 09 .2901-.2905 and amend the rules cited as 10A NCAC 09 .0505, .2318.*

**Proposed Effective Date:** July 1, 2010

**Public Hearing:**

**Date:** February 4, 2010

**Time:** 1:30 p.m. – 2:00 p.m.

**Location:** Division of Child Development, 319 Chapanoke Road, Suite 120, Room 300, Raleigh, NC

**Reason for Proposed Action:** *The NC Child Care Commission is proposing to adopt rules regarding Developmental Day Services. During the 2009 Legislative Session, the NC General Assembly passed H 1046, which transferred the rule-making authority from the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services to the NC Child Care Commission. In accordance to G.S. 110-88(14), the NC Child Care Commission is proposing to adopt rules for certified Developmental Day Centers, and for child care centers that are requesting to be certified as a Developmental Day Center. Rule .2318 is being amended to make the retention schedule for Family Child Care Homes consistent with the schedule for Child Care Centers. These amendments will simplify the record retention time periods by reducing the number of different retention rules, and will combine all retention schedules into one rule.*

**Procedure by which a person can object to the agency on a proposed rule:** *Anyone wishing to comment on these proposed rules or to request copies of the rules should contact Dedra Alston, Rule-making Coordinator, NC Division of Child Development, 2201 Mail Service Center, Raleigh, NC 27699-2201, at (919)890-7060 or Dedra.Alston@dhhs.nc.gov. Written comments will be accepted through March 16, 2010. Oral comments may be made during the public hearing. The Commission Chairperson may impose time limits for oral remarks.*

**Comments may be submitted to:** *Dedra Alston, Rule-making Coordinator, NC Division of Child Development, 2201 Mail Service Center, Raleigh, NC 27699-2201, at (919)890-7060 or Dedra.Alston@dhhs.nc.gov*

**Comment period ends:** March 16, 2010

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal Impact:**

- State  
 Local  
 Substantial Economic Impact (>\$3,000,000)  
 None

### CHAPTER 09 - CHILD CARE RULES

#### SECTION .0500 - AGE APPROPRIATE ACTIVITIES FOR CENTERS

##### 10A NCAC 09 .0505 DEVELOPMENTAL DAY CENTERS

Child care centers which meet the criteria for developmental day centers, as defined in 10A NCAC ~~09 .2901, 27G .2401 (contained in APSM 30-1, Rules for Mental Health, Developmental Disabilities and Substance Abuse Facilities and Services, published by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services)~~, shall be deemed to be in compliance with the provisions of Rules. 0508 through .0511 of this Section by complying with the requirements for activities for developmental day centers set forth in 10A NCAC ~~09 .2904, 27G .2403.~~

*Authority G.S. 110-85; 110-88(14); 110-91(2),(12); 143B-168.3.*

#### SECTION .2300 - FORMS

##### 10A NCAC 09 .2318 RETENTION OF FORMS AND REPORTS BY A CHILD CARE OPERATOR

Each child care center operator must retain records as specified in Items (1) through (6) of this Rule.

- (1) All children's records as required in this Chapter, except the Medication Permission Slip as referenced in Rule .0803(13) of this Chapter, shall be maintained on file for at least one year from the date the child is no longer enrolled in the center.

- (2) All personnel records as required in this Chapter shall be maintained on file at least one year from the date the employee is no longer employed.
- (3) Current program records shall be maintained on file for as long as the license remains valid. Prior versions shall be maintained based on the time frame in the following charts:
  - (A) A minimum of 30 days from the revision or replacement date:

Record	Rule
Activity Plan	.0508 (a)
Allergy Postings	.0901(e)
Feeding Schedule	.0902
Menu	.0901(b)
SIDS Sleep Chart/Visual Check	.0606(a)(7)

- (B) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	.0302(d)(3) and .1504
Daily Schedule	.0508(a)
Emergency Medical Care Plan	.0802(a)
Field Trip/Transportation Permission	.2507 and .0512
Fire Drill Log	.0302(d)(4)
Fire Evacuation Procedures	.0604(o)
Incident Log	.0802(e)
Playground Inspection	.0604(q)
Safe Arrival and Departure Procedures	.1003(b)

- (4) All building, fire, sanitation and pool inspections as referenced in G.S. 110-91, and Rules .0302 and .1403 of this Chapter shall remain on file at the center for as long as the license remains valid.
- (5) Records may be maintained in a paper format or electronically, except that records that require a signature of a staff person or parent shall be maintained in a paper format.
- (6) All records required in this Chapter shall be available for review by a representative of the Division.

Authority G.S. 110-85; 110-91(9); 143B-168.3.

## SECTION .2900 - DEVELOPMENTAL DAY SERVICES

### 10A NCAC 09 .2901 SCOPE

(a) The rules in this Section apply to all certified Developmental Day Centers, or to all child care centers requesting to be certified as a Developmental Day Center. A Developmental Day Center offers specialized developmental day services to children who are:

- (1) diagnosed with developmental delays or developmental disabilities, or
- (2) have been identified with a diagnosed physical or mental condition which has a high probability of resulting in a developmental delay as defined in 10A NCAC 43G .0110(c).

(b) The diagnosis or identification shall be completed by a licensed professional through a comprehensive clinical assessment. Developmental day services are designed to meet individualized needs of children in the following skill areas:

- (1) Self-help,
- (2) Physical (gross/fine motor),
- (3) Language and speech, and
- (4) Cognitive and psychosocial skills.

(c) A team of health and education professionals puts a detailed plan of care in place for each child who is diagnosed with, or at risk for, a developmental delay, developmental disabilities or atypical development. The goal is to assist exceptional children in preparing for ongoing growth and learning in less restrictive, inclusive environments. All rules in this Chapter apply except as provided in this Section. Nothing in this Section would preclude the enrollment of typically developing children in a Developmental Day Center.

Authority G.S. 110-85; 110-88(14).

### 10A NCAC 09 .2902 LICENSE

- (a) Developmental Day Centers shall maintain a four or five star rated license with an average score of 5.0 on the appropriate environment rating scale in each classroom evaluated.
- (b) A child care center with a temporary license may receive certification status if all rules in this Section are met, except for Paragraph (a) of this Rule, and an application for a two to five star rated licensed has been submitted. At the end of the temporary license period the child care center must receive a four or five star rated license as specified in Paragraph (a) of this Rule. Failure to receive a four or five star rated license shall result in the removal of certification status as a Developmental Day Center.
- (c) The license shall indicate certification as a Developmental Day Center.
- (d) The center shall comply with the staff-child ratio and maximum group size as follows:

<u>AGE</u>	<u>RATIO STAFF/CHILDREN</u>	<u>MAXIMUM GROUP SIZE</u>
<u>0-12 Months</u>	<u>1/4</u>	<u>8</u>
<u>1 to 2 Years</u>	<u>1/5</u>	<u>10</u>
<u>2 Years and Older</u>	<u>1/6</u>	<u>18</u>

- (e) A minimum of two staff members shall be on site at all times while children are in attendance at the facility.
- (f) A child care center may appeal the removal of certification status in accordance with G.S. 110-94; however, an appeal would not preclude a Local Education Agency from removing contracted children from the program before a final decision on the appeal is reached.

*Authority G.S. 110-85; 110-88(14).*

### **10A NCAC 09 .2903 STAFF QUALIFICATIONS**

- (a) Each center serving children ages birth to three years shall have a minimum of one staff who holds a Infant Toddler Family Specialist certification issued from the North Carolina Division of Public Health, or Birth-through-Kindergarten (B-K) Standard Professional I licensure or provisional licensure in B-K issued from the Department of Public Instruction. This staff shall provide program oversight and supervision for any caregivers in classrooms with children ages birth to three years.
- (b) During the 10 month school year (as defined by the State Board of Education), each group of preschool children aged three and older shall have at least one lead teacher who holds Birth-through-Kindergarten (B-K) Standard Professional I licensure or provisional licensure in B-K, or Preschool Add-on licensure issued from the Department of Public Instruction. During the time when school is not in session, each group of preschool children shall have at least one lead teacher with a minimum of an A.A.S. degree in early childhood education or child development or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development.
- (c) During the 10 month school year, (as defined by the State Board of Education), each group of school-age children shall have at least one teacher who holds State certification as a Special Education Teacher. During the time when school is not in session, each group of school-age children shall have at least one teacher who has completed at least two semester hours of school-age care related coursework and has completed or is enrolled in at least two additional semester hours of school-age related coursework.
- (d) Center administrators shall have a Level III North Carolina Early Childhood Administration Credential and two years of verifiable work experience with children with developmental delays or disabilities.

*Authority G.S. 110-85; 110-88(14).*

### **10A NCAC 09 .2904 PROGRAM REQUIREMENTS**

- (a) Children shall participate in daily activities outlined in a plan of care such as an Individualized Family Service Plan (IFSP), Individualized Education Program (IEP), Person Centered Plan (PCP), or for children who are typically developing, an activity plan developed by the center. Activities shall allow children to participate in whole group, as part of a group, or independently.
- (b) In addition to the restrictions specified in 10A NCAC 09 .0713 regarding ages and grouping of children, preschool children aged three and older shall not be grouped with school aged children except for special events or activities. Children aged birth to five years may be cared for in groups with older children for the first and last operating hour of the day provided the staff/child ratio for the youngest child in the group is maintained.
- (c) During the 10 month school year (as defined by the State Board of Education), seventy-five percent or more of classrooms with preschool children aged three and older, shall maintain an enrollment capacity of 50 percent or more typically developing children.

*Authority G.S. 110-85; 110-88(14).*

### **10A NCAC 09 .2905 FAMILY SERVICES**

The center shall facilitate family involvement as evidenced by meeting at least four of the following six activities:

- (1) Providing quarterly parent education sessions;
- (2) Holding parent/teacher conferences at least twice a year;
- (3) Communicating on an individual basis with parents via daily notes, progress reports or surveys;
- (4) Having parents as members of a center advisory board;
- (5) Providing opportunities for parent volunteers to assist with special classroom activities, field trips and other learning experiences for children; or
- (6) Providing parents with referral information about other community programs and resources serving young children.

*Authority G.S. 110-85; 110-88(14).*