

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3013

DEADLINE FOR RECEIPT: Thursday, September 9, 2021

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, Box 8, you state that there is no substantial economic impact. Since that was indicated in the Register, I am just checking – was the substantial economic impact created by the other Rule published by the agency in the Register at the same time?

In (a)(1), line 5, what is a “CDA credential”? Does your regulated public know? I note you spelled out the acronym in the current Rule language.

In (a)(2), line 9, I am simply asking – do you need to retain “minimum” here? (And please note the same query regarding “at least” in (b), line 19.)

On line 9, what do you mean by “documented”?

In (b), line 20, please insert a comma after “(CEUs)”

Also on line 20, what are “clock hours”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 25, 2021

1 **10A NCAC 09 .3013 is amended as published in 35:14 NCR 1557 as follows:**

2

3 **10A NCAC 09 .3013 NC PRE-K TEACHER ASSISTANT EDUCATION AND CREDENTIALS**

4 (a) All teacher assistants ~~shall~~ shall have a high school diploma or its equivalent and shall either:

5 (1) hold a Child Development Associate (CDA) credential; or

6 (2) hold or be working toward an Associate Degree or higher in birth-through-kindergarten,
7 child development, early childhood education, or an early childhood education related
8 field. Teacher assistants working toward the Associate Degree shall make
9 progress by completing a minimum of six documented semester hours per year.

10 ~~(1) have a high school diploma or GED and shall hold, or be working toward, an Associate Degree in~~
11 ~~birth through kindergarten, child development, early childhood education, or an early childhood~~
12 ~~education related field or a Child Development Associate (CDA) credential. Teacher assistants~~
13 ~~working toward the minimum of an Associate Degree or CDA shall make progress by completing~~
14 ~~a minimum of six documented semester hours per year; or~~

15 ~~(2) meet the employment requirements outlined by the Every Student Succeeds Act (ESSA), Pub.L.~~
16 ~~114-95, and have one of the following:~~

17 ~~(a) six documented semester hours of coursework in early childhood education, or~~

18 ~~(b) two years of work experience in an early childhood setting.~~

19 (b) All teacher assistants shall complete at least 15 hours of annual in-service professional development. A
20 combination of college coursework, Continuing Education Units (CEUs) or clock hours may be used to complete the
21 requirements of this Rule.

22 (c) The site-level administrator shall maintain document the progress of any teacher assistants who are working toward
23 the required education. This documentation must be maintained in the individual's staff record available for review
24 by the Division. Division of the progress in accordance with this Rule.

25

26 *History Note: Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a);*

27 *Eff. November 1, 2012;*

28 *Readopted Eff. October 1, 2017. 2017;*

29 *Amended Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 Section .3100

DEADLINE FOR RECEIPT: Thursday, September 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form for each Rule, in Box 8, should "Approved by OSBM" be checked?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: August 25, 2021

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3101

DEADLINE FOR RECEIPT: Thursday, September 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 6, I believe the cross-reference should be to .0102(42)

On line 11, consider stating, "... Chapter shall apply, except..."

And what do you mean by "as provided in this Section"?

Why are you citing to G.S. 110-86 in the History Note?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 25, 2021

1 **10A NCAC 09 .3101 is adopted as published in 35:23 NCR 2516 as follows:**

2

3 **SECTION .3100 – CARE FOR SCHOOL-AGE CHILDREN DURING STATE OF EMERGENCY**

4

5 **10A NCAC 09 .3101 SCOPE**

6 The rules in this Section apply to care for school-age children, as defined by 10A NCAC 09 .0102(41), during the
7 declared State of Emergency to coordinate the State's response and protective actions to address the Coronavirus
8 Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and
9 visitors located in North Carolina ("Declaration of a State of Emergency") and any subsequent declared State of
10 Emergency arising out of or related to the COVID-19 public health emergency. All rules in Section .2500 of this
11 Chapter apply except as provided in this Section.

12

13 *History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91;*
14 *Emergency Adoption Eff. August 13, 2020;*
15 *Temporary Adoption Eff. October 23, 2020;*
16 *Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3102

DEADLINE FOR RECEIPT: Thursday, September 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, do you mean "Section" rather than "Chapter"?

And on lines 4-5, what do you mean by "except when the context of the rule requires a different meaning"? If this is only for this Section, then would this language be needed?

In (1)(a), line 7, please replace "which" with "that" Please note the same change for (3)(b), line 24.

In (2), line 15, are the "information and documents" the same as "guidance or considerations" on line 13? Should they be called the same thing?

In (3), line 19, the citation is G.S. 155C-5(7a) (with a lowercase "a")

In (3)(b), line 25, do you need "Notwithstanding the foregoing"? Wouldn't "This provision shall not..." be sufficient?

In the History Note, why are you citing to G.S. 110-86?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 25, 2021

1 **10A NCAC 09 .3102 is adopted as published in 35:23 NCR 2516-2517 as follows:**

2
3 **10A NCAC 09 .3102 DEFINITIONS**

4 The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a
5 different meaning.

6 (1) "Public schools" means:

7 (a) any building that is approved for school occupancy and which houses school-age children
8 as part of the public school system during the school year; or

9 (b) a remote learning facility.

10 (2) "Remote learning facility" means any building that is used by a public school system, pursuant to a
11 contractual arrangement, to house school-age children enrolled in that public school system during
12 the school year for the purpose of facilitating online or remote learning programs, and that follows
13 any and all guidance or considerations offered by the Centers for Disease Control and Prevention
14 related to mitigation strategies, the protection of students, teachers, and staff, or slowing the spread
15 of COVID-19 in K-12 schools. The information and documents are hereby incorporated by
16 reference, including subsequent amendments and editions, and may be accessed at
17 <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html> at no cost.

18 (3) "Contractual arrangement" means a written agreement wherein the public school unit, as defined in
19 G.S. 115C-5(7A), agrees as follows:

20 (a) to be responsible for the enrollment and attendance of school-age children at a remote
21 learning facility; and

22 (b) that it shall be liable for any incidents or occurrences at the remote learning facility in the
23 same way it would be liable if the school-age child(ren) were in a building that is approved
24 for school occupancy and which houses any part of the public school system.
25 Notwithstanding the foregoing, this provision shall not prohibit the public school unit from
26 obtaining liability insurance or from contracting with the remote learning facility regarding
27 indemnification or other terms regarding the apportionment of liability between themselves
28 for incidents or occurrences.

29
30 *History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91;*
31 *Emergency Adoption Eff. August 13, 2020;*
32 *Temporary Adoption Eff. October 23, 2020;*
33 *Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3103

DEADLINE FOR RECEIPT: Thursday, September 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 9, I believe "full-time" should be hyphenated.

In the History Note, why are you citing to G.S. 110-86?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 25, 2021

1 **10A NCAC 09 .3103 is adopted as published in 35:23 NCR 2517 as follows:**

2

3 **10A NCAC 09 .3103 PUBLIC SCHOOLS**

4 Pursuant to G.S. 110-86(2)(e), public schools are not child care and are, therefore, exempt from licensure.
5 Notwithstanding any other provision of this Section, all NC Pre-K programs, as defined in Section .3000 of this
6 Chapter, and Developmental Day Services, as defined in Section .2900 of this Chapter, and any program or
7 arrangement housed in a public school that is not operated by the public school unit and provides care to three or more
8 infants, toddlers, or preschoolers on a regular basis of at least once per week for more than four hours from persons
9 other than their guardians or full time custodians or from persons not related to them by birth, marriage, or adoption
10 are child care as defined in G.S. 110-86(2) and requires a child care license.

11

12 *History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91;*

13 *Emergency Adoption Eff. August 13, 2020;*

14 *Temporary Adoption Eff. October 23, 2020;*

15 *Eff. October 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Child Care Commission

RULE CITATION: 10A NCAC 09 .3104

DEADLINE FOR RECEIPT: Thursday, September 9, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On lines 9 and 10, what is "in a manner that will notify parents and the public of the change"? I take it you are not issuing a new license but some other documentation to hang in the space?

On line 16, I suggest stating "school-age children that is not located within..." and deleting the comma after "children" and "facility"

On line 18, please delete the comma after "children"

On line 20, I take it "gross motor activities" is a known term, as it is used in Rule 09 .0508?

In the History Note, why are you citing to G.S. 110-86?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: August 25, 2021

1 **10A NCAC 09 .3104 is adopted as published in 35:23 NCR 2517 as follows:**

2
3 **10A NCAC 09 .3104 ADDING SPACE AT LICENSED CENTERS FOR CARE OF SCHOOL-AGE**
4 **CHILDREN**

5 If an operator of a licensed child care center wishes to use additional space not previously approved for child care,
6 regardless of location, to care for school-age children during the Declaration of a State of Emergency, the operator
7 shall notify the Division of the desired change pursuant to 10A NCAC 09 .0204, but shall have six months to obtain
8 any required inspections of the additional space by the local health, building, and fire inspections in accordance with
9 G.S. 110-91(1), (4), and (5). If all other standards set forth in G.S. 110-91 and this Chapter are met, the operator may
10 provide care to school-age children in the additional space and the Division shall document the same in a manner that
11 will notify parents and the public of the change. Once the operator provides documentation that the additional space
12 conforms to all applicable sanitation, building, and fire standards, and if all applicable requirements of G.S. 110,
13 Article 7 and this Chapter are met, the Division shall issue a new license pursuant to 10A NCAC 09 .0204. If a health,
14 building, or fire inspection reveals that the additional space does not conform to the required standards, the Division
15 may issue a provisional license as set forth in 10A NCAC 09 .2204. Any space that the operator desires to use as
16 additional space for care of school-age children, which is not located within the currently licensed facility, shall not
17 be required to meet the outdoor space and fencing requirements of G.S. 110-91(6). If there is no outdoor space at the
18 additional space to be used for care of school-age children, that is not located within the currently licensed facility,
19 operators shall not be required to meet the requirements of 10A NCAC 09 .0508(c). Notwithstanding any other
20 provision in this Section, operators shall provide indoor space for daily gross motor activities when outdoor space is
21 not available.

22
23 *History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91;*
24 *Emergency Adoption Eff. August 13, 2020;*
25 *Temporary Adoption Eff. October 23, 2020;*
26 *Eff. October 1, 2021.*