

Summary of Rule Changes Effective March 1, 2014

Child Care Centers and Family Child Care Homes

This past year, the North Carolina Child Care Commission worked on rulemaking in the areas of general safety requirements for school-age care, criminal history record checks, and staff qualifications for developmental day programs. These rule changes became effective March 1, 2014. Below you will find a summary of these rule changes. Please refer to the rulebook for complete rule text and take time to familiarize yourself with the new March 2014 revisions to the North Carolina Child Care Requirements. Consistent implementation of these requirements promotes the health, safety and well-being of all children in North Carolina. North Carolina's goal is to maintain its reputation for providing high quality child care.

10A NCAC 09 .0302, .1702, .2701, .2702, .2703, .2704 (*Criminal Record Checks*)

Rules were adopted and amended as a result of changes to the North Carolina General Statute 110-90.2 Mandatory Child Care Providers' Criminal History Checks. Below is an explanation of the rules changes.

10A NCAC 09 .0302 Application for a License for a Child Care Center

Applies to Child Care Centers

Section Number	Updates
.0302	<p><i>This rule is essentially the current .0302 rule with elimination of the requirement that individuals purchase a local criminal record check. Additional changes were made to eliminate duplication of requirements found in both Child Care Law and Rules.</i></p> <ul style="list-style-type: none"> ➤ .0302(a) was amended to identify where the Facility Profile (Application) form can be found on the Division's website: http://ncchildcare.dhhs.state.nc.us/general/mb_customerservice.asp ➤ .0302(b) was amended to identify the North Carolina General Statutes (NCGS) that require an applicant to provide to the Division copies of inspection reports. This is pursuant to NCGS 110-91(1), (4), and (5). The applicant is responsible for providing the Division with copies of inspection reports (building, fire, and sanitation) prior to the issuance of a license. ➤ .0302(c)(7) the requirement that individuals purchase a local criminal record check was removed from the rules since this check is now performed by the Department of Health and Human Services. ➤ .0302(f)(3) previously stated that the license shall be displayed in an area that parents are available to view daily. To avoid redundancy, this was removed from the child care rules since it is also written in the law. NCGS 110-99(b) states each child care facility shall display its current license in a prominent place at all times so that the public may be on notice that the facility is licensed and may observe any rating which may appear on the license. ➤ .0302(g)(7) amended to include additional language in the list of reasons for a denial of an application for a child care license. The Secretary may deny an applicant if their county, state or federal criminal background check disqualifies them from being a child care provider or if the applicant has a disqualified household member residing in a center or a center in a residence. This is in accordance with NCGS 110-90.2 Mandatory Child Care Providers' Criminal History Checks.

10A NCAC 09 .1702 Application for a License for a Family Child Care Home

Applies to Family Child Care Homes

Section Number	Updates
.1702	<p><i>This rule is essentially the current .1702 rule with elimination of the requirement that individuals purchase a local criminal record check. Additional changes were made to eliminate duplication of requirements found in both Child Care Law and Rules.</i></p> <ul style="list-style-type: none"> ➤ .1702(a) was amended to identify where the Facility Profile (Application) form can be found on the Division's website: http://ncchildcare.dhhs.state.nc.us/general/mb_customerservice.asp ➤ .1702(c)(1-2) the previous rule language related to family child care homes meeting the NC Residential Building Codes and Manufactured/Mobile Home Regulations was removed from the child care rules, since the requirement is part of NCGS 110-91(4), which states each child care facility shall be located in a building which meets the appropriate requirements for the NC Building Code, including facilities operated in a private residence. Removing these requirements from the

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	<p>rules cuts down on the redundancy of requirements located in law and rules. Since the previous .1702(c)(1-2) has been removed, the rest of the rule has been renumbered.</p> <ul style="list-style-type: none"> ➤ .1702(d)(1) amended to include a copy of a non-expired qualification letter must be submitted as supporting documentation with the application for a license to the Division. ➤ .1702(e) amended rule to include an announced visit is not required by a Division representative if the applicant is subject to circumstances in Rule .1702(g). ➤ .1702(g)(7) this rule outlines the reasons to deny an application. Rule language was added that states the Secretary may deny the application for the license if the applicant is a disqualified child care provider or has a disqualified household member residing in the FCCH. ➤ .1702(l) previously stated that the license shall be displayed in an area that parents are available to view daily. To avoid redundancy, this was removed from the child care rules since it is also written in the law. NCGS 110-99(b) states each child care facility shall display its current license in a prominent place at all times so that the public may be on notice that the facility is licensed and may observe any rating which may appear on the license.
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10A NCAC 09 .2700 Criminal Records Check

Applies to Child Care Centers, Family Child Care Homes and Nonlicensed Child Care Providers

Section Number	Updates
.2701	The Scope was amended to outline the procedural change from qualifying applicants, through the criminal record check process, to work in child care on an individual basis rather than qualifying them to work at a specific child care facility. Based on NCGS 110-90.2, the new process will qualify an individual to work at any child care facility during the three year time period the criminal record check qualification is valid without the burden of having to repeat the criminal record check process each time an individual changes employment.
.2702	<p>.2702(1-5) defines terms used in support of NCGS 110-90.2</p> <ol style="list-style-type: none"> (1) A “qualified child care provider” means an individual who the Division has determined is fit to have responsibility for the safety and well-being of children based on the criminal history as set forth in NCGS 110-90.2. (2) A “disqualified child care provider” means an individual who: <ol style="list-style-type: none"> (a) the Division has determined is not fit to have responsibility for the safety and well-being of children based on the criminal history in accordance with NCGS 110-90.2(a)(3); (b) is classified within the prohibited list provided in NCGS 110-90.2(a1); (c) the Division determines to be an habitually excessive user of alcohol, who illegally uses narcotic or other impairing drugs, or who is mentally or emotionally impaired to an extent that may be injurious to children; (d) refuses to consent to a criminal history record check; or (e) intentionally falsifies any information required to conduct a criminal history record check. (3) A “qualification letter” or “qualifying letter” means the letter issued by the Division notifying an individual that he or she is a qualified child care provider. (4) A “conviction” includes when a plea of guilty or no contest is accepted by the trial court, or entry of an order granting a prayer for judgment continued. (5) A “pending criminal charge” includes, but is not limited to, a charge that has been deferred pursuant to NCGS 15A-1341(a1).

10A NCAC 09 .2703 Criminal History Record Check Requirements for Child Care Providers

Applies to Child Care Centers and Family Child Care Homes

Section Number	Updates
.2703	<p><i>This rule is a consolidation of two sections of previous rules (.2701 and .2702) that outlines the requirements of a criminal record check and the process the Division will follow.</i></p> <ul style="list-style-type: none"> ➤ .2703(a)(1-3) amended to outline the items an individual must submit to the Division prior to the issuance of a license or prior to beginning employment: <ol style="list-style-type: none"> (1) a signed and completed Authority for Release of Information form;

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- (2) fingerprint impressions submitted on the form(s) required by the Division and State Bureau of Investigation; and
- (3) if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

All required forms can be found on the Division's website at:
http://ncchildcare.dhhs.state.nc.us/general/dhhscre_childcare.asp

- **.2703(b)** amended to outline the process an individual must follow when they have a criminal history of convictions, pending indictment of a crime, or pending criminal charges. The individual may submit to the Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. An additional item was added to the rule for the Division to consider when making its decision to qualify an individual:
 - (2) whether the child care provider is currently on probation
- **.2703(e)** Child care providers must have a valid qualification letter prior to employment or living in the family child care home and the qualification letter must be kept on file at the facility for review by representatives of the Division.
- **.2703(f)** Child care providers found to be disqualified are not eligible for employment in child care until a qualification letter has been issued by the Division.
- **.2703(g)** Child care providers determined by the Division to be disqualified shall be terminated (*from employment*) by the center or family child care home immediately upon receipt of the disqualification notice.
- **.2703(h)** Disqualification of a child care provider living in a family child care home shall be grounds for issuance of a summary suspension of the family child care home license in accordance with 10A NCAC 09 .2207.
- **.2703(i)** Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed during the appeal process.
- **.2703(j)** Operators, as defined by NCGS 110-86(7), shall include the criminal history mandatory reporting requirement in all new employee orientation information. Mandatory reporting requires all child care providers and household members who have incurred any pending charges, indictments or convictions (other than minor traffic offenses) since the last qualification letter was issued by the Division to notify the operator of such charges within five business days or before returning to work, whichever comes first. The operator shall notify the Division of any such pending charges, indictments or convictions within one business day of being notified.
- **.2703(k)** The qualification letter is valid for a maximum of three years from the date of issuance.
- **.2703(l)** Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the forms listed in Rule .2703(a)(1-3). (*This can be completed at any time prior to the expiration date of the qualification letter.*)
- **.2703(m)** After a child care provider has been qualified; the Division may complete a new criminal history record check at any time when the Department of Social Services or the Division of Child Development and Early Education conducts an investigation that references the child care provider.
- **.2703(n)** Any individuals who live in the household who have had their 16th birthday after the initial licensing of a family child care home, shall complete and submit the forms listed in Rule .2703(a)(1-3) to the Division within five business days.
- **.2703(o)** Child care operators must notify the Division of any new child care providers who are hired or moved into the home within five business days by submitting the form provided by the Division. (*The form referred to in this rule is the Change of Information form.*)

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10A NCAC 09 .2704 Criminal History Record Check Requirements for Nonlicensed Child Care Providers

Applies to Nonlicensed Child Care Providers

Section Number	Updates
.2704	<i>This rule is essentially the previous .2704 rule with elimination of requirements that no longer apply based on the law change in NCGS 110-90.2. Rules were amended to outline the criminal record check process for nonlicensed child care providers. Refer to the rulebook for the entire rule text.</i>

10A NCAC 09 .2506 (Supervision) - General Safety Requirements for School Age

Applies to Child Care Centers Serving School-age Children

Section Number	Updates
.2506	<ul style="list-style-type: none"> ➤ .2506(d) amended to allow for school-age children to be heard “or” seen instead of heard “and” seen. This amendment aligns with the current rules for preschool children. Refer to the rulebook for the entire Rule .2506(d)(1)(A-C)(2)&(3) related to adequate supervision.

10A NCAC 09.2903 (Developmental Day Services) - Staff Qualifications

Applies to Child Care Centers providing Developmental Day Services

Section Number	Updates
.2903	<p><i>The rule was amended based on a rule-making petition submitted to the NC Child Care Commission. The rule change relaxes the requirement for children three-years or older to be served by a B-K teacher by limiting its application only to children with an IEP. Children without an IEP would have to have turned three before the start of the school year for this requirement to be served by a B-K teacher to apply.</i></p> <ul style="list-style-type: none"> ➤ .2903(b) In accordance with NCGS 115C-84.2(a)(1), during the 185 day school year (as defined by the State Board of Education), each child aged three years old and older on or before the initial school entry date specified in NCGS 115C-364 (school entry date) shall be served in a classroom with at least one lead teacher who holds a B-K Standard Professional I licensure or provisional licensure in B-K, or Preschool Add-on licensure issued from the Department of Public Instruction. ➤ .2903(c) Children who turn three years old after the school entry date who are identified as a child with a disability as evidenced by an Individualized Education Program (IEP), shall be served in a classroom with a B-K licensed teacher.