



## NC Child Care Coalition InfoSheet on Regulatory Reform and Child Care Rules Review Updated February 28, 2014

### Introduction

This InfoSheet on Regulatory Reform and Child Care Rules Review process is intended only as a guide for general information purposes. The law requiring the rules review is very complex and broad in scope, and applies to all state agencies. The process and timetable provided in this document is the best information available as of this date, and may change. We will periodically update this handout as more information becomes available.

### Background

During the 2013 legislative session, the NC General Assembly passed [House Bill 74, The Periodic Review and Expiration of Rules](#) bill, that requires the Rules Review Commission (RRC) to review all of the state's administrative rules. To do this, the RRC has charged each state agency with completing a review of all of their rules according to a certain time schedule.

For early care and education, the Division of Child Development and Early Education (DCDEE), along with the [NC Child Care Commission](#) must review all child care rules. However, the [NC Social Services Commission](#) is responsible for reviewing all of the child care subsidy rules.

The state agencies and their respective Commissions will conduct an analysis of each existing rule and make a determination as to whether the rule falls into one of three categories:

- 1) **“Necessary with substantive public interest”** (e.g. the rule-making body has reason to know or should know that there has been public comment on this rule within the past 2 years).
- 2) **“Necessary without substantive public interest”** (e.g. this category will cover nonsubstantive rules that have not had any public comment within the past two years, and rules that identify information that is readily available to the public, such as an address or telephone number).
- 3) **“Unnecessary”** (e.g. rules that the rule making body determines to be obsolete, redundant, or otherwise not needed).

### Rule versus Law

It is important to note that this process does not apply to any existing law but only to rules. Any rule that is currently in law cannot be undone through this rule review process, and must remain in effect.

## Schedule for Child Care Rules

- **Child Care** - The Rules Review Commission (RRC) will review Child Care Rules ([10A NCAC Chapter 09](#)) in March, 2015. A total of 172 rules will be reviewed.
- **Subsidized Child Care** - The Rules Review Commission (RRC) will review the rules for the subsidized child care ([10A NCAC 10](#)) including requirements for participation in February, 2016. A total of 59 rules will be reviewed.

## Review Process

The review process has three phases and involves multiple reviewing bodies.

### 1) Phase One: Rules Review Process at the DCDEE/Child Care Commission level

Below are the basic steps in the Rules Review process that DCDEE and the Child Care Commission will follow. Key dates are underlined, but are subject to change because the process may take longer than currently anticipated. The Child Care Commission's report must be submitted not later than February 15, 2015.

- 1) DCDEE completes its review of the Child Care Rules and makes presentation to the NC Child Care Commission.
- 2) The NC Child Care Commission conducts its own review, and will likely do so at its February 24, 2014 and May 12, 2014 meetings.
- 3) NC Child Care Commission/DCDEE submits its report to the Office of Administrative Hearings (OAH), and the report will be posted on its website and also on DCDEE's website. This report will categorize all of the rules as either substantive, not substantive, or unnecessary as described above.
- 4) All child care providers and the public will be notified of this report through the DCDEE mailing list.
- 5) Comments will be accepted for 60 days.
- 6) After the comment period has ended, the Child Care Commission will review and respond to any comments that were in objection to the rules at their August 11, 2014 meeting.
- 7) The Commission will vote on the final report November 17, 2014 meeting and submit it to the RRC.

### 2) Phase Two – RRC Review

During Phase Two of the process, the RRC reviews the report and all written comments and submits its own report to the Administrative Oversight Committee (APO) by the scheduled date (see above).

### 3) Phase Three – APO Review and Final Determination

The APO has 60 days to review the RRC report, and if it agrees with the RRC report, the determination becomes effective, and the following actions will take place:

- the rule remains in code,
- the agency (DCDEE/Child Care Commission) initiates re-adoption of the rule,
- or the unnecessary rule expires.

If the APO does not meet within 60 days, the RRC determination remains effective, and the same set of actions as above will take place.

If the APO disagrees with the RRC regarding a specific rule contained in its report the APO may recommend to the General Assembly that the agency be directed to conduct a review of the specific rule the next year.

### **Re-adoption of Rules**

Once all of the rules have been reviewed by the RRC and APO as required, the NC Child Care Commission must go through the process of readopting all of the rules that have been designated as 'necessary and of substantive public interest'. Any person may file a petition to request the adoption, amendment, or repeal of a rule made by the Child Care Commission, and must follow the procedures outlined in section 10A NCAC 09 .2001 PETITIONS FOR RULEMAKING of the NC Child Care Rules.

### **Information Sources:**

- G.S. 150B-21.3A (House Bill 74)
- Communications with the NC Division of Child Development and Early Education, February 2014.
- NC Child Care Commission meeting on February 24, 2014.
- "H74 Periodic Review and Expiration of Rules," Office of Administrative Hearings, 6/1/13.