

## Impact Analysis – Proposed Rule Change

**Agency:** DHHS/Division of Child Development & Early Education

**Contact:** Arlette Lambert (919) 814-6368/Dedra Alston (919) 814-6307

**Rule citations:** 10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS  
10A NCAC 09 .2513 COOPERATIVE ARRANGEMENT FOR INSTRUCTIONAL NEEDS  
10A NCAC 09 .2809 ENHANCED SPACE REQUIREMENTS

**Statutory Authority:** G.S. 110-85; 110-88(7); 110-90(4); 110-91; 143B-168.3

**State Gov. Impact:** Yes  
**Local Gov. Impact:** No  
**Substantial Economic Impact:** No  
**Private Sector Impact:** Yes

### Introduction:

The Child Care Commission is proposing the following amendments and adoptions related to North Carolina's child care rules.

- Amend Rule 10A NCAC 09 .0713 to align it with statute and provide clarity pertaining to the staff/child ratios and multi-age group allowance. Minimal, unquantified benefits are expected in the form of time savings to the regulated community and the Division of Child Development and Early Education (DCDEE).
- Adopt Rule 10A NCAC 09 .2513 to clarify a 2020 statute change to G.S. 110-86(2)(i) that exempted cooperative arrangements for “instructional needs” from child care licensure requirements. Minimal, unquantified benefits are expected in the form of time savings to the regulated community and DCDEE. There are potential, unquantifiable benefits from avoiding the proliferation of unregulated, unlicensed cooperative arrangements for infant through pre-school age children. The likelihood of realizing this benefit is unknown, but the rule is expected to result in only an incremental benefit as compared to the baseline condition.
- Amend Rule 10A NCAC 09 .2809 to correct a conflict with another rule regarding outdoor space requirements in child care facilities. Potential, unquantifiable costs to a small fraction of child care facilities are possible for those that opt to follow enhanced outdoor space guidelines. Presumably, a facility would not opt to follow these guidelines unless they expected to receive benefits in the form of increased clients that would equal or exceed the costs.

### **Rule 10A NCAC 09 .0713 – Staff/Child Ratios for Centers** *(proposed for amendment)*

#### ***Background***

In October of 2017, child care rule .0712 Staff/Child Ratios for Centers with a License Capacity of Less Than 30 Children was repealed. The Child Care Commission decided a separate section of staff/child ratios for small centers was no longer necessary. The unintentional consequence of repealing this rule was that the groupings it allowed for in small centers, child care rule .0713 prohibits. In May 2018, a rule petition was submitted to address these concerns and it is the basis of the addition of paragraph (f) in Rule .0713 specific to multi-age groups. Proposed amendments to this rule supported the petition and resulted in the adoption of the multi-age group section in this rule.

After the adoption of the rule, the child care licensing consultants and the petitioner submitted questions and concerns regarding the interpretation of the rule, specifically around the expectation of staff/child ratios for children turning three years of age. After the adoption, the amended rule language caused issues with implementation and unintentional consequences with following it as written. Specifically, there was ambiguity in the language about how to implement and monitor because the rule was missing staff/child ratios for school age children, and it did not clearly state what happens when a child turns three. Amendments are needed to ensure group size options are clear, specifically noting what ages can be grouped together.

Rule .0713, as it is currently written, does not permit a child care center serving school-age children to choose the multi-age group ratio option and one of the ratio options conflicted with statutory multi-age group allowances (G.S. 110-91(7)). Specifically, the charts for the revised ratios create multi-age groups that take into consideration the statutory limitations for children under the age of four who may be grouped together and children four years of age and older may be grouped together. However, two-year-old children may not be grouped together with five-year-old children as is currently outlined in Rule. Lastly, as written, all the Paragraphs subsequent to the single age group ratios in Paragraph (a) do not apply to programs using mixed ratios. Three of these Paragraphs are important for all facilities, regardless of the ratio option chosen and have therefore been incorporated in the revised language.

### ***Proposed changes Rule .0713***

The proposed rule changes would include two additional options for a child care center to choose--one that would permit a center to group four-year-old children up to age six together and the other for six-year-old children through age 12 to be grouped together. The Commission is also proposing edits to two existing options:

1. a technical change in how three-year-old children are referenced in the chart--using 36 months instead of 3 years of age; and
2. changing the group option from 24 months to 60 months to 24 months to 47 months.

Other edits are to Subparagraph (f)(2) and adding an exception to Subparagraphs (a)(7), (a)(8), and (a)(9) and to (f)(3). Children 36 months through 47 months may remain in the classroom with infants provided there is an agreed upon transition plan between the child care center, the child's parents or legal guardian, and local partners if the plan includes future care outside of the center. Transition plans must be initiated at least six months prior to a child's third birthday, maintained in each child's file, and be available for review by the Division. To make this rule inclusive of all age groups served by licensed child care, the Commission has proposed adding in appropriate multi-age ratios for school age children.

This rule applies to a small number of child care centers statewide, primarily Early Head Start programs, who are already serving multi-age groups, as well as those that seek to serve multi-age groups in the future. At most, the only likely application of this rule would be for those programs who have a capacity less than 30. As of March 2022, there are only 847 programs across the state that have a capacity less than 30. That represents just 15% of all programs statewide. Based on research conducted by DCDEE, it was determined that there are less than 10 centers statewide that currently utilize the multi-age ratios, making the percentage of potentially impacted centers even smaller. Due to the limited number of children that can be served in each grouping and the reduced income smaller groupings would place on an owner, DCDEE doesn't anticipate many additional centers to request approval for multi-age group ratios.

### ***Impact Analysis Rule .0713***

Due to the fact that this rule has been in rulemaking status for the past several years, DCDEE has not been enforcing it. As a result, there are no costs or benefits associated with this rule change other than aligning the rule with statute and providing additional clarity. The additional clarity will make it easier for existing licensed child care centers, as well as those seeking to become licensed in the future to understand the requirements associated with staff/child ratios for school age children and multi-age group allowances.

### **Rule 10A NCAC 09 .2513 Cooperative Arrangement for Instructional Needs (*proposed for adoption*)**

#### ***Background***

Prior to September of 2020, N.C.G.S § 110-86(2)(i) read as follows: “Cooperative arrangements among parents to provide care for their own children as a convenience rather than for employment.” This statute was revised in September of 2020 when public schools were closed in response to the COVID-19 pandemic and parents needed a place for their school age children to go to participate in remote learning. N.C.G.S. § 110-86(2)(i) was revised to add: “This exemption shall include arrangements between a group of parents, regardless of whether the parents are working, to provide for the instructional needs of their children, provided the arrangement occurs in the home of one of the cooperative participants.” The language in statute only says for “instructional needs” and does not specify that it should apply only to school-age children. While this change provided much needed flexibility for child care arrangements during a time when public schools in NC were mostly closed, there is the potential that the statute could be misinterpreted such that it applies to infant through pre-school age children as well.

For purposes of this analysis, DCDEE made the conservative assumption that N.C.G.S § 110-86(2)(i) could potentially be interpreted such that it allowed pre-school aged children to be cared for in unlicensed cooperative arrangements. Although staff believe a more reasonable interpretation of the statute would be that it applies only to school-aged children since they are the population more likely to have “instructional needs,” DCDEE and the Commission felt strongly that the proposed rule is still needed to resolve this potential ambiguity so as to maintain a safe child care system in NC.

#### ***Proposed adoption Rule .2513***

The proposed rule defines “cooperative arrangements for instructional needs” to clarify that cooperative arrangements that are for the purpose of facilitating school-aged children’s education instruction would not be subject to licensure.

#### ***Impact Analysis Rule .2513***

There should be no costs or benefits associated with this rule change other than minimal benefits to the regulated community and DCDEE from the additional clarity.

#### **Licensed child care facilities**

DCDEE and the Commission believe that it is important to protect child care facilities that work diligently to maintain licensure and be compliant, particularly licensed family child care homes. Data pulled in October 2022 shows that there are 1,244 of licensed family child care homes serving infant through pre-school aged children in North Carolina.

DCDEE will not change how it enforces the exemptions to licensure requirements for child care as a result of the proposed rule. Nor will the proposed rule change the operations of currently licensed or future child care centers. Staff report that since the change to G.S. 110-86 to exempt cooperative arrangements for instructional needs, they have received inquiries from licensed family child care homes asking about whether the change

meant they would no longer need to be licensed. DCDEE has consistently communicated that licensure would continue to be required for family child care homes caring for infant through pre-school age children and that the exemption applies only to arrangements between parents for the purpose of facilitating school-age children's remote education.

In recent years (starting well before the Covid-19 pandemic), the number of licensed family child care homes has been trending down. Although DCDEE does collect some information about the reasons family child care homes request termination of their license, they are unable to tease out whether any of the recent terminations were related to the statute change. It stands to reason, however, that there would have been a significant increase in license terminations after 2020 if family child care home operators were misinterpreting the statute such that they believed they no longer needed a license to operate. As such, DCDEE does not believe that there have been many (if any) license terminations due to the statute change; thus, DCDEE does not believe the proposed rule will result in a change to the number of family child care homes that choose to terminate their license.

DCDEE has also received inquiries from parents asking if they could now have unlicensed cooperative arrangements for children of any age. DCDEE has consistently communicated that the new exemption applies only to school-aged children. These types of inquiries support the need for the proposed rule.

The additional clarity provided by the proposed rule may help to prevent the misinterpretation of statute. The misinterpretation of the statute could lead to the proliferation of unregulated, unlicensed child care arrangements for infant through pre-school age children. DCDEE does not have data to suggest that unlicensed cooperative arrangements for infants through pre-school aged children have been operating; however, there is no mechanism for unlicensed facilities to report this data, so it is possible there are some in operation. DCDEE does not have a way to track unlicensed child care other than through complaints. DCDEE staff report over the past four years, they have conducted 7,510 complaint investigations. Of these complaints, 232 resulted in the discovery of an illegally operating child care facility, representing 3% of all complaints. Since the statute was changed in 2020, DCDEE has completed 3,383 complaint investigations, with 113 found to be illegally operating child care facilities, which again represents 3% of all complaints. None of the investigations since 2020 appeared to be related to a misinterpretation of the statute. As such, DCDEE does not expect the proposed rule to result in a change in the number of complaint investigations conducted in the future.

## **Child welfare**

The biggest driving factor behind the proposed rule is the protection of the health, safety, and well-being of children in North Carolina. By clarifying that the statutory exemption for cooperative arrangements for instructional needs applies only to school-aged children, the proposed rule could incrementally help ensure a higher quality of care. The clarification may reduce the potential for unlicensed child care homes to operate illegally and help ensure that licensed facilities continue to adhere to requirements such as capacity limitations, child/staff ratios, and safety and sanitation. As of 2022, there are an estimated 151,000 children under the age of five who are being cared for in licensed NC child care facilities.

DCDEE regulations enforced through licensure help promote and maintain a higher quality of child care across the state. Research shows quality care does have benefits on child outcomes, particularly language, literacy, math, and social outcomes. For example, one large meta-analysis showed gains related to quality indicators (e.g., quality of teacher-child interactions, curriculum, and teacher and director education) for some preschoolers' outcomes.<sup>1</sup> These gains have been observed even after adjusting for external factors such as socio-economic status, gender, and

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<sup>1</sup> Soliday Hong, Sandra. (2019). ECE quality indicators and child outcomes: Analyses of six large child care studies. *Early Childhood Research Quarterly*. 49. 10.1016/j.ecresq.2019.06.009.

ethnicity.<sup>2</sup> Studies have also documented higher quality of care related to state licensing standards and that states with more stringent licensing requirements have a higher percentage of programs accredited by the National Association for the Education of Young Children (NAEYC).<sup>3</sup>

The proposed rule would continue to ensure the health and safety of children ages birth to five by safeguarding that they are cared for in licensed/regulated space. The Child Care Commission strives to adopt rules that support G.S.110-85(1) which reads as follows: The state should protect children in child care facilities by ensuring that these facilities provide a physically safe and healthy environment where developmental needs of these children are met and where these children are cared for by qualified persons of good moral character. DCDEE is unable to ensure the health, safety, and well-being of children if the use of cooperative arrangements is not clarified and limited.

## **DCDEE**

The additional clarity should make it easier for existing licensed child care facilities, as well as those seeking to open a child care facility to understand the exemptions and licensure requirements. This could, in turn, save DCDEE staff time in providing technical assistance. These benefits are expected to be minimal. No other changes to DCDEE staff operations are expected as a result of the proposed rule.

### **Rule 10A 09 .2809(a) Enhanced Space Requirements**

#### ***Background - Rule .2809(a)***

This section of the child care rules is part of North Carolina's star rated license program requirements. It's a voluntary section of rules that is used to qualify for a two through five star rated license. The rules in section .2800 are more stringent than those in the minimum standards. This rule is the enhanced version of child care rule .1402. The number of stars and associated program and education points are indicative of program quality. A minimum of a three-star rated license is required for any child care facility accepting subsidy. A star rated license is also an eligibility requirement for grant opportunities offered by DCDEE.

Prior to March of 2019, this rule read as follows: "There shall be at least 30 square feet inside space per child per the total licensed capacity and 100 square feet outside space per the total licensed capacity. Or there shall be at least 35 square feet inside space per child per the total licensed capacity and 100 square feet outside space per child for at least 50 percent of the total licensed capacity."

In March 2019, this rule was revised and read as follows: "There shall be at least 30 square feet inside space per child per the total licensed capacity and 75 square feet outside space for each child using the outdoor learning environment at any one time. In the alternative, there shall be at least 35 square feet inside space per child per the total licensed capacity and 75 square feet outside space per child for at least 50 percent of the total licensed capacity."

Changing the language in rule .2809 in March of 2019 had unintentional consequences. The new language specific to the outdoor space requirements was written to be less stringent than the outdoor space requirements in child care rule .1402 which reads as follows: "The outdoor play area shall be no smaller than 75 square feet times the total number of children for which the center is license. This discrepancy was found quickly after the March 2019 rules were adopted. DCDEE received comments regarding the space requirements in child care rule .2809(a) and through the review determined the minimum standards were more stringent than the enhanced option. To make it more explicit for providers to apply the enhanced standards, a revision was necessary.

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<sup>2</sup> Burchinal, M.R., et al (2000). Relating quality of center-based child care to early cognitive and language development longitudinally. *Child Development*. Vol. 71, Number 2, Pages 339-357.

<sup>3</sup> Hotz, V. Joseph, and Mo Xiao. 2011. "The Impact of Regulations on the Supply and Quality of Care in Child Care Markets." *American Economic Review*, 101 (5): 1775-1805.

In February 2021, the revised language for both rules .1402 and .2809 became effective. Child care rule .1402 reads as follows: “The outdoor play area shall be no smaller than 75 square feet for each child using the outdoor learning environment at any one time.” Child care rule .2809 reads as follows: “There shall be at least 30 square feet inside space per child per the total licensed capacity and 75 square feet outside space for one-third of the total number of the capacity for which the center is licensed. In the alternative there shall be at least 35 square feet inside space per child per the total licensed capacity and 75 square feet outside space per child for the total licensed capacity.”

The language in the 2021 revision did not correct the problem with these two rules. There was not a true alternative in .2809. The alternative was more stringent, and it should have been less stringent as there was more indoor space required. This was immediately brought to the attention of the Child Care Commission in April 2021. DCDEE licensing consultants shared the information with licensed child care providers and potential providers prior to licensure, alerting all this rule was under review. Due to this knowledge, licensed providers operating with 100 square feet of outdoor space did not choose to reduce to 75 square feet. Approximately 400 centers have been issued a rated license since 2019.

### ***Proposed changes Rule .2809(a)***

In 2021, the North Carolina Child Care Commission voted to alter the way the space is calculated--changing it from a percentage of the capacity to the number of children using it, which is how outdoor space is calculated in the minimum standards section. It was determined this was a more customer-friendly approach to understanding the space requirements and for those interested in a two through five star rated license, building from minimum standards to enhanced. This rule, as written, increases the square footage to 100 square feet of the outside learning environment for each child. The language proposed is as follows: “There shall be at least 30 square feet inside space per child per the total licensed capacity and 100 square feet outside space for each child using the outdoor learning environment at any one time.”

### ***Impact analysis Rule .2809(a)***

#### **Child welfare**

The proposed changes to Rule .2809 will require that children have more outside space in the child care centers of those who choose to follow the enhanced guidelines. Children benefit in multiple ways from spending time outdoors, so it stands to reason that having more space outdoors will provide an incremental improvement in the quality of time spent outdoors. According to information and research published on the National Association for the Education of Young Children (NAEYC) website<sup>4</sup> “time spent outside can lead to better physical and mental health, improved sleep, and cognitive, social, and emotional gains for young children.” NAEYC highlighted research by Deziel in 2017 that noted children ages two through five who play outdoors, have a better night’s rest. In another study (Coyle 2011), this enhanced sleep was attributed it to increased physical activity, natural sunlight exposure, and reduced stress. Active play outdoors also assists with problem solving and sensory development. For toddlers, being outdoors enhances several developmental skills, challenging them to try new things like jumping, climbing, and running faster. Having additional space provides more opportunity to explore and enhance skills, release energy, and assists in decision making for all ages.

Additionally, the majority of activities indoors can be transitioned to outdoor environment. This is encouraged as part of North Carolina’s QRIS system through the Environment Rating Scale assessments. There is an increased interest nationwide to have outdoor child care centers. This concept is currently being researched in North Carolina and discussions regarding this type of arrangement are ongoing.

#### **Child care centers**

The benefits for centers include increased flexibility in the size of outside space based on the actual number of

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<sup>4</sup> [Rocking and Rolling. Fresh Air, Fun, and Exploration: Why Outdoor Play Is Essential for Healthy Development | NAEYC](#)

children that will be outside at any given time. The language specifies the number of children using the space at any given time as opposed to a set percentage of total child capacity. This provides additional flexibility and benefit to larger facilities since they can rotate children between inside and outside space to minimize the amount of outside space needed per enrolled child while staying in compliance with the enhanced rule. Centers will no longer be forced to measure and provide outside space based on capacity. All this information will be shared during pre-licensing so that centers can plan accordingly.

The benefits specifically for small centers include the flexibility to have a smaller space that will be easier to afford with smaller profit margins. The rule is more inclusive of centers in urban areas who do not have as much space to use for outside areas. These benefits, specifically for smaller and urban centers, help children and families in terms of having access in all areas of the state and not creating an equity issue for families in urban areas.

In practice, the proposed change from 75 square feet per child to 100 square feet per child will have little to no impact on existing providers since, to date, no licensed providers have chosen to reduce their outdoor space to 75 square feet. This was confirmed in a survey conducted by DCDEE in June 2022 in which 90% of centers responded. In that survey, none of the centers reported having reduced their outdoor space below 100 square feet. This was likely because DCDEE consultants had advised programs that this rule was under review by the Commission and was likely to change to resolve the conflict with Rule .1402. For this reason, any potential costs from this change would be most likely be incurred by facilities that choose to comply with the enhanced space rule for the first time.

Under this voluntary option, facilities that choose to follow the enhanced guidelines will have to provide for the increased square footage requirement or make other costly operational concessions such as increased staffing, increased rotations, or decreased enrollment in order to comply with the revised rule. For these facilities, the additional costs over and above the costs to comply with the enhanced space requirements under Rule .2809, as it is currently written, would be relatively minimal. Additional costs would most likely be related to adding space which could involve purchase or lease of land. The costs for purchasing or leasing land varies widely across North Carolina depending on the specific location and economic characteristics of the area; as such, we did not attempt to estimate these costs. There could also be costs for purchasing additional fencing material, which is about \$15 to \$60 per linear foot installed according to a fencing cost estimator specific to North Carolina. Presumably, a facility would not purchase/lease additional land or fencing unless they expected they would receive benefits equal to or more than the cost to purchase/lease the land or fencing. These benefits would likely be in the form of increased customers or being able to charge higher tuition from having a star/enhanced rating.

## **Summary**

The biggest driving factor behind the proposed rule changes are the continued protection of the health, safety, and wellbeing of children in North Carolina.

- Minimal benefits should result from the proposed clarifications in Rule .0713 and its alignment with statute that will make it easier for the regulated child care community to understand the requirements associated with staff/child ratios for school age children and multi-age group allowances. This could, in turn, save DCDEE staff time in providing technical assistance.
- The proposed adoption of Rule .2513 will clarify that the exemption to what is considered “child care” for cooperative arrangements for instructional needs applies only to school-aged children. This clarification will not result in any changes to current operations of child care facilities or DCDEE’s enforcement of licensure requirements. It could, however, help to prevent the misinterpretation of statute and potentially help avoid the proliferation of unregulated, unlicensed cooperative arrangements for infant through pre-school age children. The additional clarity should make it easier for existing licensed child care facilities as well as those seeking to open a child care facility to understand the exemptions and licensure requirements. This could, in turn, save DCDEE staff time in providing technical assistance.

- The proposed rule changes will correct a conflict between Rule .2809 and Rule .1402 by reinstating more stringent outdoor enhanced space requirements into Rule .2809. Potential costs from this change would only be incurred by facilities that opt to follow the enhanced guidelines for the first time since existing facilities have not reduced their enhanced space requirements pending review of Rule .2809. Costs would be from adding outdoor space which could involve purchasing additional fencing materials or purchasing or leasing additional land. Presumably, a facility would not purchase additional land or fencing unless they expected to receive benefits equal to or more than the cost to purchase the land or fencing.



## **Attachment of rules**

10A NCAC 09 .0713 is proposed for amendment as follows:

**10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS**

(a) The staff/child ratios and group sizes for single-age groups of children in centers shall be as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5	10
12 to 24 Months	1/6	12
2 to 3 Years	1/10	20
3 to 4 Years	1/15	25
4 to 5 Years	1/20	25
5 Years and Older	1/25	25

- (1) when combining age groups, the staff/child ratio for the youngest child in the group shall be maintained for the entire group;
- (2) children of all ages may be cared for together in groups for the first and last operating hour of the day, provided the staff/child ratio for the youngest child in the group is maintained;
- (3) a child two years of age and older may be placed with children under one year of age when a physician certifies that the developmental age of the child makes this placement appropriate;
- (4) when determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed one age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per group;
- (5) except as provided in Subparagraphs (2) and (3) of this Paragraph, children under one year of age shall be kept separate from children two years of age and over;
- (6) children between the ages of 12 months and 24 months shall not be grouped with older children unless all children in the group are less than three years of age;
- (7) when only one caregiver is required to meet the staff/child ratio and no children under two years of age are in care, that caregiver may concurrently perform food preparation or other duties that are not direct child care responsibilities as long as supervision of the children as specified in 10A NCAC 09 .1801 is maintained;
- (8) except as provided in Subparagraph (7) of this Paragraph, staff members and child care administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently perform food preparation or other duties that are not direct child care responsibilities; and
- (9) when only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:
  - (A) the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief; or
  - (B) there shall be a second adult on the premises who is available to provide emergency relief.

(10) the staff/child ratio applicable to a classroom as described in this Paragraph shall be posted in that classroom in an area that parents are able to view at all times.

(b) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children when any preschool-age child is enrolled, or with a licensed capacity of 3 to 15 children when only school-age children are enrolled, are as follows:

Age of Children	Ratio Staff/Children
0 to 12 Months	1/5 preschool children plus three additional school-age children
12 to 24 Months	1/6 preschool children plus two additional school-age children
2 to 13 Years	1/10
3 to 13 Years	1/12
All school-age	1/15

(c) The staff/child ratio applicable to a classroom for a center located in a residence as described in Paragraph (b) of this Rule shall be posted in that classroom in an area that parents are able to view at all times.

(d) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties that are not direct child care responsibilities.

(e) When only one caregiver is required to meet the staff/child ratio for a center located in a residence, as described in Paragraph (b) of this Rule the operator shall select one of the following options for emergency relief:

- (1) the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2) there shall be a second adult on the premises who is available to provide emergency relief.

(f) Upon the Division's receipt of a written request, a center may choose to group children in multi-age groups rather than single-aged groups. The staff/child ratios and group sizes for multi-age groups of children in centers shall be as follows:

Age of Children	Ratio Staff/Children	Maximum Group Size
0 to <u>36 months</u> <del>3 years of age</del>	1/4	8
12 months to 36 months	1/5	10
24 months to <u>47</u> <del>60</del> months	1/6	10
<u>4 years of age to 6 years of age</u>	<u>1/9</u>	<u>18</u>
<u>6 years of age through 12 years of age</u>	<u>1/19</u>	<u>25</u>

- (1) Before meeting the ratios outlined in this Paragraph or before changing from multi-age group ratios to single-age group ratios, the Division must be notified in writing;

- (2) Paragraphs (a) through (e) of this Rule do not apply to centers that choose to meet the ratios outlined in this ~~Paragraph, and Paragraph~~, with the exception of Subparagraphs (a)(7), (8) and (9) of this Rule;
- (3) Children 36 months through 47 months may remain in the classroom with infants provided there is an agreed upon transition plan between the child care facility, the child’s parents or legal guardian, and local partners if the plan includes future care outside of the center. Transition plans must be initiated at least six months prior to a child’s third birthday, maintained in each child’s file, and be available for review by the Division; and
- (~~3~~) (4) The staff/child ratio applicable for a multi-age group as described in this Paragraph shall be posted in that classroom in an area that parents are able to view at all times.

*History Note: Authority G.S. 110-85; 110-91(7); 143B-168.3;  
 Eff. December 1, 1988;  
 Amended Eff. January 1, 2006; July 1, 1998; July 1, 1994; January 1, 1992; August 1, 1990; November 1, 1989;  
 Readopted Eff. October 1, 2017;  
 Amended Eff. \_\_\_\_\_; February 1, 2021.*

**10A NCAC 09 .2513 is proposed for adoption as follows:**

**10A NCAC 09 .2513 COOPERATIVE ARRANGEMENT FOR INSTRUCTIONAL NEEDS**

- (a) For purposes of this Rule, “cooperative arrangement for instructional needs” means an arrangement between a group of parents to provide care for their school-age children in one of the parent’s homes for the purpose of supervising and facilitating the children’s online, virtual, or remote elementary or secondary education instruction.
- (b) Pursuant to G.S. 110-86(2)(i), cooperative arrangements for instructional needs are not child care and therefore are exempt from licensure.

*History Note: Authority G.S. 110-85; 110-86; 110-88; 110-91;  
 Eff. \_\_\_\_\_.*

**10A NCAC 09 .2809 is proposed for amendment as follows:**

**10A NCAC 09 .2809 ENHANCED SPACE REQUIREMENTS**

- (a) There shall be at least 30 square feet inside space per child per the total licensed capacity and ~~75~~ 100 square feet outside space for ~~one-third of the total number of the capacity for which the center is licensed. each child using the outdoor learning environment at any one time.~~ In the alternative there shall be at least 35 square feet inside space per child per the total licensed capacity and 75 square feet outside space per child for the total licensed capacity.

(b) There shall be an area that can be arranged for administrative and private conference activities.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-68.3;*

*Eff. April 1, 1999;*

*Prior to amendment of May 1, 2006 this language was located in Rule .1604;*

*Amended Eff. May 1, 2006;*

*Readopted Eff. March 1, 2019;*

*Amended Eff. \_\_\_\_\_; February 1, 2021*