

Impact Analysis – Proposed Rule Change
May 2024

Agency: DHHS/Division of Child Development & Early Education
Contact: Julie Peck/919-814-1068
Rule citation: 10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS
(Proposed for Amendment)

Statutory Authority: G.S. 110-85; 110-91(7); 143B-168.3
State Gov. Impact: Yes
Local Gov. Impact: No
Substantial Economic Impact: No
Private Sector Impact: Yes

Background and Necessity for Proposed Rule Changes

The North Carolina Child Care Commission received a rulemaking petition from an operator of a center located in a residence in November 2023 requesting an amendment to staff/child ratios for centers located in a residence to be comparable with those allowed for child care centers in section (a) of the same rule. Specifically, the Petitioner proposed that the staff/child ratios for centers located in a residence be increased from 1/12 to 1/15 for children ages three and older. This aligns with existing staff/child ratios for child care centers who do not operate in a residential setting. This change would apply only to centers located in a residence that have a licensed capacity of 13 to 15 children.

The current rule allows centers located in a residence with a licensed capacity of 13 to 15 a staff/child ratio of up to 1/15 if all children are school-aged (Age 5, with some exceptions)¹. However, the current rule decreases the ratio to 1/12 if there are any children between the ages of three and school-age. The Petitioner noted that operational costs for centers located in a residence and child care centers are comparable and that the capacity of 15 with a 1/15 ratio is already allowed for centers located in a residence for school-aged children.

On December 11, 2023, the North Carolina Child Care Commission voted to approve the petition and proceed with publishing proposed amendments to rule and rulemaking process.

Proposed Rule Amendments

Petitioner proposed the following ratios and maximum group sizes in section (b) of this rule for centers located in a residence so as to align with section (a) allowances for child care centers:

(b) The staff/child ratios for a center located in a residence with a licensed capacity of 13 to 15 children are 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 13 Years	1/10	15
3 to 13 Years	1/15	15

¹ “School-age child” is defined in Rule 10A NCAC 09 .0102 as “any child who is attending or who has attended a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.”

(b)(1) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children 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

Impact Analysis

Owners of Centers located in a residence

As of October 2023, there were 175 centers located in a residence licensed in North Carolina. By allowing an increase in the number of preschool-aged children a center located in a residence can serve, the proposed amendments may have the following benefits for current and future owners of centers located in a residence:

- 1) Allow more flexibility in the age range of children in their care up to their licensed capacity of 15 children.
- 2) Potentially increased income from tuition and state-issued family subsidies² for childcare. Tuition and subsidies are typically higher for younger children.
- 3) Potentially making it more cost effective for current or future owners to pursue licensing capacity for more than 12 children as they would be able to enroll three more children (Age 3 to school-age) with one staff person.

The above benefits would only apply to those centers located in a residence with a licensed capacity of 13-15, which would provide the opportunity for these centers to enroll up to a total of 525 additional children across the state. The actual number of additional child care slots is likely to be lower depending on centers located in a residences' business and operational decisions as well as the impact of other restrictions such as zoning and homeowners' association requirements described in this section below. The amount of potential increased income will vary by center located in a residence depending on location in the state (state subsidies vary by county), how many preschool age children they opt to enroll, and how much additional tuition they charge. Specific tuition data for centers located in a residence (as well as for other types of child care facilities) is not available as tuition is based on rates set by each center for families to pay, and tuition varies across the state and between individual centers located in a residence.

Licensing requirements for centers located in a residence are the same as the licensing requirements for child care centers. As such, the proposed rule changes will not result in any impacts on licensing itself.

The changes to the staff/child ratio will provide owners of centers located in a residence greater flexibility to serve children of differing ages based on demand in the community. This may make owning and operating a center located in a residence more attractive for the current owners as well as potential future owners.

There are external factors that could reduce the potential benefit of the proposed rule amendments for some centers located in a residence. Local ordinances, North Carolina Building Codes, zoning, and/or homeowner's association (HOA) requirements may impact a center located in a residence's ability to take full advantage of the proposed ratios by limiting capacity. For example, while zoning requirements would likely not restrict allowable group size based on the specific numbers or ages of children in attendance, the minimum space requirements per child in zoning restrictions and building codes could limit the number of children allowed to less than permissible in the proposed amended rule. Whenever multiple rules or laws apply, the child care facility must comply with the strictest applicable requirement. In addition, the availability of state subsidies is limited, so there is no guarantee that a center located in a residence will

² [North Carolina Subsidized Child Care Assistance Program](#)

receive additional subsidy funds upon enrolling younger children.

Families

Families could also benefit as a result of the increased capacity flexibility allowed under the proposed rule. Presumably, having the ability to enroll more students and earn more from tuition and subsidies would make operating a center in a residence more profitable, thereby attracting future centers operating in a residence and making them more likely to remain in operation. Having more centers located in a residence would benefit families due to increased child care options and availability. DCDEE anticipates that at least some of the existing centers located in a residence will choose to increase their capacity, if allowable in their locations. While the total maximum number of additional slots (525) which could be added as a result is small relative to the full scope of child care available in North Carolina, this rule amendment does provide a meaningful opportunity for incremental improvement in child care availability at existing centers located in a residence. Additionally, the increased allowable capacity may create more interest for new operators considering pursuing licensure as a center located in a residence.

Child welfare

DCDEE regulations enforced through licensure help promote and maintain a higher quality of child care across the state. The proposed amendments would continue to ensure the health and safety and well-being of all children by safeguarding that they are cared for in licensed/regulated space. Based on the experiences with the same child/staff ratios in child care centers, negative impacts for quality and safety are not anticipated from allowing these same ratios for centers located in a residence. While we do not have specific information supporting the history of the staff/child ratios for centers located in a residence, we do know G.S. 110-91(7)(a)(2) is the statute that currently supports the language in rule. The statute references a child care center with a capacity of six through twelve. With the capacity of twelve, the statute also allows operators to also have additional enrollment options that mirror those for family child care homes. This statute and rule will continue to support those facilities who cap their enrollment at twelve, but G.S. 110-91(7)(a)(1) supports all child care centers and will be the statute referenced for this requested change.

State Government

The proposed amendments will promote consistency in the rules across these two types of centers. This improved consistency could provide an administrative benefit in the form of time savings to NC Division of Child Development and Early Education (DCDEE) staff responsible for licensing, consultation, and technical assistance to potential and existing child care providers. This benefit is expected to be minimal. No other changes to DCEEE staff operations are expected as a result of the proposed rule.

Summary

Proposed revisions to this rule will allow centers located in a residence to take advantage of staff/child ratios comparable to those already allowed in nonresidential child care centers for children ages 3 years and older. Owners of centers located in a residence could benefit from the increased flexibility in meeting their licensed capacity. This increased flexibility could result in higher net income for owners and higher likelihood to attract and retain centers located in a residence. It is likely that some subset of centers located in a residence will benefit from the proposed amendment. However, the magnitude of the benefit is unknown and will depend on center-specific factors such as location, tuition, demand for services, and number of students enrolled. There are external factors such as local zoning requirements and limited state child care subsidies that could diminish the ability of some centers to realize the full benefit. It is also likely that families in need of child care will benefit from potential increased child care options. Again, the magnitude of that benefit is highly variable and dependent on each individual's circumstances. Lastly, DCDEE staff could realize minimal time savings from the improved consistency in the rules.

1 **10A NCAC 09 .0713 is proposed for amendment as follows:**

2

3 **10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS**

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

5

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

6

7 (1) when combining age groups, the staff/child ratio for the youngest child in the group shall be
8 maintained for the entire group;

9 (2) children of all ages may be cared for together in groups for the first and last operating hour of the
10 day, provided the staff/child ratio for the youngest child in the group is maintained;

11 (3) a child two years of age and older may be placed with children under one year of age when a
12 physician certifies that the developmental age of the child makes this placement appropriate;

13 (4) when determined to be developmentally appropriate by the operator and parent, a child age two or
14 older may be placed one age level above his or her chronological age without affecting the staff/child
15 ratio for that group. This provision shall be limited to one child per group;

16 (5) except as provided in Subparagraphs (2) and (3) of this Paragraph, children under one year of age
17 shall be kept separate from children two years of age and over;

18 (6) except as provided in Subparagraph (2) of this Paragraph, children between the ages of 12 months
19 and 24 months shall not be grouped with older children unless all children in the group are less than
20 three years of age;

21 (7) when only one caregiver is required to meet the staff/child ratio and no children under two years of
22 age are in care, that caregiver may concurrently perform food preparation or other duties that are
23 not direct child care responsibilities as long as supervision of the children as specified in 10A NCAC
24 09 .1801 is maintained;

25 (8) except as provided in Subparagraph (7) of this Paragraph, staff members and child care
26 administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not
27 concurrently perform food preparation or other duties that are not direct child care responsibilities;
28 and

1 (9) when only one caregiver is required to meet the staff/child ratio, the operator shall select one of the
2 following options for emergency relief:

3 (A) the center shall post the name, address, and telephone number of an adult who has agreed
4 in writing to be available to provide emergency relief; or

5 (B) there shall be a second adult on the premises who is available to provide emergency relief.

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

8 (b) The staff/child ratios for a center located in a residence ~~with a licensed capacity of 3 to 12 children when any~~
9 ~~preschool age child is enrolled, or with a licensed capacity of 3~~ 13 ~~to 15 children when only school age children are~~
10 ~~enrolled,~~ are as follows:

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

12
13 (b) (1) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children are as
14 follows:

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

16
17 (c) The staff/child ratio applicable to a classroom for a center located in a residence as described in Paragraph (b) of
18 this Rule shall be posted in that classroom in an area that parents are able to view at all times.

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

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

6 (1) the center shall post the name, address, and telephone number of an adult who has agreed in writing
7 to be available to provide emergency relief and who can respond within a reasonable period of time;
8 or

9 (2) there shall be a second adult on the premises who is available to provide emergency relief.

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

13

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

14

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

17 (2) Paragraphs (a) through (e) of this Rule do not apply to centers that choose to meet the ratios outlined
18 in this Paragraph, with the exception of Subparagraphs (a)(7), (8) and (9) of this Rule;

19 (3) Children 36 months through 47 months may remain in the classroom with infants provided there is
20 an agreed upon transition plan between the child care facility, the child's parents or legal guardian,
21 and local partners if the plan includes future care outside of the center. Transition plans must be
22 initiated at least six months prior to a child's third birthday, maintained in each child's file, and be
23 available for review by the Division; and

24 (4) The staff/child ratio applicable for a multi-age group as described in this Paragraph shall be posted
25 in that classroom in an area that parents are able to view at all times.

26

27 *History Note: Authority G.S. 110-85; 110-91(7); 143B-168.3;*

28 *Eff. December 1, 1988;*

1
2
3
4
5
6

*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. July 1, 2023; February 1, 2021.*