

## **DHHS Directive Number II-35**

**Title:** Delegation of Authority to the Director, Division of Child Development  
**Effective Date:** November 3, 2008  
**Revision History:** January 1, 2002  
**Authority:** G.S. 143B-10

### **Purpose**

The purpose of this directive is to delegate, clarify and specifically confirm certain authorities of the Secretary of the North Carolina Department of Health and Human Services (NC DHHS) to the Director of the Division of Child Development. These authorities are delegated under the supervision of the Assistant Secretary for Long Term Care and Family Services, and the Director shall report to the Secretary through the Assistant Secretary of Long Term Care and Family Services.

### **Delegation of Authority**

As provided in G.S. 143B-10(a) the Secretary of the DHHS delegates the following functions and responsibilities concerning management and administration to the Director of the Division of Child Development, subject to state and departmental policy:

1. The functions of management, related to the Division of Child Development, as defined in G.S. 143B-10, which include: planning, organizing, staffing, directing, coordinating, reporting and budgeting.
2. Management and rulemaking authority (in coordination with the Office of the General Counsel) to develop and carry out programs, including, but not limited to:
  - A. The management functions, as defined in G.S. 143B-14(d), which include planning, organizing, staffing, directing, coordinating, reporting and budgeting for those commissions assigned to the division;

- B. The authority to provide staffing for enforcement and implementation of Child Care Commission rules and actions which include but are not limited to rules for licensure of child care facilities (G.S. 110, Article 7);
  - C. The authority to develop and carry out programs and to develop and approve rules under G.S. 150B for such programs, not inconsistent with law, including, but not limited to the Subsidized Child Care Program (including TANF funded child care, Social Services Block Grant, Child Care and Development Fund, Smart Start and State Child Care Funds) policies governing the allocation, budgeting, and expenditure of funds; contracting for and purchasing services; establishment, identification, and definition of services; and
  - D. The authority to develop and carry out programs and develop rules under G.S. 150B for such programs under commission rulemaking authority (for Commissions not staffed by the Division of Child Development), not inconsistent with law, including, but not limited to the Subsidized Child Care Program (including TANF funded child care, Social Services Block Grant, Child Care and Development Fund, Smart Start, and State Child Care Funds) policies governing eligibility for services, service standards, maximum rates of payment, and fees for services.
3. The Division of Child Development is a licensing unit within the department and shall work with other divisions and commissions having rulemaking authority over facilities and services subject to child care licensure by this division in accordance with departmental policy. The Division of Child Development's responsibilities include the obligation to determine if any person, program or facility is subject to child care licensure and to seek legal remedies to restrain persons from operating a facility without a license or in a manner that threatens the health, safety or welfare of the children in the facility.
4. If an administrative decision is appealed regarding any law, rule, or policy adopted by the Director or the Child Care Commission, and enforced by the Director, Division of Child Development, or regarding any permit or license issued, penalty imposed or other action taken by the division or other action which may be appealed, the division Director is delegated the authority to ensure that all applicable provisions of the Administrative Procedure Act, G.S. Chapter 150B, and all applicable statutes and rules are complied with. The division Director is specifically delegated the authority to make final agency decisions in these contested case hearings unless otherwise specified by statute or rule. However, if the initial administrative decision which is the subject matter of the appeal was made by the Director, then the Secretary shall ensure that the law and rules are complied with and make (or designate someone outside the division to make) the final agency decision.

5. The Director, Division of Child Development, shall be the “head of agency” under Rule 18 of NC Rules of Appellate Procedure with regard to settling the Record on Appeal.
6. The Director shall be responsible for coordinating the division’s monitoring functions with other divisions and local partners to ensure compliance with state and federal requirements.
7. The Director shall be responsible for ensuring that the division is familiar with and adheres to the department’s policy and procedures manual.

This delegation of authority shall not deprive the Secretary from performing, in lieu of the Director of the Division of Child Development, any of the acts set forth above. This delegation of authority may be amended or withdrawn by the Secretary at any time and without notice. This delegation of authority shall not apply to any actions which by law, state policy or NC Governor’s Executive Order, may only be executed by the Secretary.

APPROVED

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Dempsey Benton, Secretary  
Department of Health and Human Services