

**NC Department of Insurance  
Office of State Fire Marshal, Engineering Division**

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RE:   Appeal of the September 23,                    )  
      2022 Notice of Code Violation                )  
      by the Davidson County                        )  
      Fire Marshal’s Office                         )                    NCDOI DECISION

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In accordance with N.C.G.S. § 160D-1127, Chris Johnston and Kathryn Green, employees of Davidson County Schools and representing the Davidson County Schools has appealed the Davidson County Fire Marshal’s Office decision regarding application of the 2018 edition of the North Carolina Fire and Building Codes to pre-K classroom door latches in Davidson County schools where the classrooms contain special needs children.

N.C.G.S. § 160D-1127 allows appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws to the Commissioner of Insurance or his designee.

**PARTIES**

Appellant:     Chris Johnston and Kathryn Green,  
                  Davidson County Schools  
                  250 County Schools Road  
                  Lexington, NC 27292

Appellee:     Davidson County Fire Marshal’s Office  
                  935 North Main Street  
                  Lexington, NC 27292

**BACKGROUND**

On September 23, 2022 appellee issued a letter (hereinafter “the letter”) to the appellant indicating that devices added to door latch handles of pre-K classrooms were in violation of North Carolina Fire Code (NCFC) and North Carolina Building Code (NCBC) Sections 1010.1.9 (Door operations) and 1010.1.9.5 (Unlatching). The appellee also indicated in the letter that a permit was required for any change in an egress door hardware pursuant to NCFC Section 105.1.1 (Permits required).

On October 5, 2022 the appellant requested in writing an appeal of the conclusions of the letter.

## ISSUE RAISED IN APPEAL

The appellant questions the application of NCFC & NCBC Sections 1010.1.9 and 1010.1.9.5 to classroom doors for pre-K special needs children due to concerns that unsecured doors provide greater opportunities for special needs children to elope through the door. That in turn puts the children at a greater risk of injury or death than from a fire event.

Appellants' appeal reads, in part, as follows:

"DCS houses several preschool sites throughout our district. Within these preschool settings are students with disabilities. In order to maintain the safety of the students, we have attached plastic safety latches to the doors to prevent children from leaving the room and going outside. We have used these latches for a few years and have never received notice of a violation of fire code until this school year. Previous fire inspections from 2021-22 as well as inspections conducted at the beginning of the 2022 school year are attached for your review. The latches that we use require slight pressure to release the latch to open the door. It can be done with one hand. A picture and description of the latch are also attached for your review. Surrounding counties use this type of latch without fire code violations.

The nature of the disabilities of our students make an unlatched door very unsafe. Our teachers are not dealing with typical 3 and 4 year olds and things happen very unexpectedly. We have already had 3 students in the last week make their way to the road or parking lot and one almost got hit by a car. In all of these instances, the latches had been removed from the doors. We recognize that fire safety is important, but given the elopement tendencies of our students, fire poses less of a risk than leaving the classroom. Below are statistics from the National Autism Association on elopement which is a common behavior of children with this disorder. Without securing the doors, it is only a matter of time before a child leaves the class and gets seriously injured or killed.

- Roughly half, or 48%, of children with ASD attempt to elope from a safe environment, a rate nearly four times higher than their unaffected siblings.
- More than one third of ASD children who wander/elope are never or rarely able to communicate their name, address, or phone number.
- Two in three parents of elopers report their missing children had a 'close call' with a traffic injury.
- Wandering was ranked among the most stressful ASD behaviors by 58% of parents of elopers."

## FINDINGS

Based on information submitted by the appellant, the undersigned makes the following findings:

1. A copy of the appellee's notice of violation letter was provided with the appeal. The letter states in part: "Fire inspections have been conducted at several schools, and it has been brought to my attention that some schools are placing secondary locking devices on the exit doors in the pre-k classrooms. Anytime a means of egress door is altered, a permit is required, and an inspection must be performed to confirm that the door still meets the requirements of the NC Fire Prevention Codes and

the NC Building Codes.” The letter also includes reprints of NCFC Sections 105.1.1, 1010.1.9, and 1010.1.9.5.

2. NCFC, Section 105.1.1 – Permits Required states:

“A property owner or owner’s authorized agent who intends to conduct an operation or business, or install or modify systems and equipment that are regulated by this code, or to cause any such work to be performed, shall first make application to the fire code official and obtain the required permit.”

3. NCFC/NCBC Section 1010.1.9 – Door Operation states:

“Except as specifically permitted by this section, egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort.”

4. NCFC/NCBC, Section 1010.1.9.5 and NCBC Section 407.11 – Unlatching states:

“The unlatching of any door or leaf shall not require more than one operation.  
Exceptions:

1. Places of detention or restraint.
2. Where manually operated bolt locks are permitted by Section 1010.1.9.4.
3. Doors with automatic flush bolts as permitted by Section 1010.1.9.3, Item 3.
4. Doors from individual dwelling units and sleeping units of Group R occupancies as permitted by Section 1010.1.9.3, Item 4.”

5. NCFC Section 1010.1.9.6.2 and NCBC Section 407.11 – Locks and Latches (for Group I-2) states:

“Door-locking arrangements shall be permitted in Group I-2 where the clinical or security needs of the patients require specialized locking measures for their safety or the safety of others, provided keys are carried at all times by staff that are responsible for the evacuation of the occupants within the locked building unit(s). Provisions for remote locking and unlocking of occupied rooms are required where more than ten locks are necessary to be unlocked in order to move occupants from one smoke compartment to another smoke compartment. These locks may include mechanical locks, electromagnetic locks and other approved locking devices.”

6. The door lever lock in question is produced by Wappa Baby. Information on the door lever lock, which was included in an attachment to the appellant’s appeal, can be found at the following web address: [www.wappababy.com/collections/door-locks](http://www.wappababy.com/collections/door-locks). According to the distributor’s website, the device operates by applying pressure to the ends of the hinge that holds a lever in place, which, in turn, prevents the lever of the door latch from turning as would be required to unlatch a door. When “light” pressure is applied to the ends of the hinge the lever releases and allows operation of the door latch. According to the website, the mechanism can be released, and the door unlatched with a single hand.

## CONCLUSIONS

Based on the foregoing findings of fact, the undersigned makes the following conclusions:

1. NCFC/NCBC Section 1010.1.9.5 requires an egress door to be operable with a single action, but it provides an exception for places of restraint. As described by the appellant, the students in the rooms in question require restraint to prevent them from eloping and putting themselves in danger.
2. The Wappa Baby door lever lock requires special knowledge to operate. Egress door latches for normal occupancies are required by Section 1010.1.9 to be operable without special knowledge; however, NCFC Section 1010.1.9.6.2 and NCBC Section 407.11 allow the use of a key in Group I-2 where the security needs of the occupants are necessary, and the staff always has a key with them to unlock the door. The staff of the affected schools are knowledgeable with regards to operation of the door lever lock, which is equivalent to staff always carrying a key with them as there will always be staff present in the room with students.
3. Public school classrooms are typically classified as Group E, but pre-K classrooms containing autistic students with a propensity to run away (elope) resemble Group I-2 spaces that require restraint. As such, the application of NCFC Section 1010.1.9.6.2 (NCBC Section 407.11) and NCFC/NCBC Section 1010.1.9.5, exception #1 appear to be reasonable.

## APPEAL DECISION

Based on the above findings and conclusions:

The appellee's decision to not allow the door lever locks as shown in the appellants attachments on pre-K classroom egress doors where some of the students in the classroom are autistic is REVERSED.

This 7<sup>th</sup> day of October 2022.



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Carl Martin, RA  
Deputy Commissioner  
Division Chief of Engineering  
North Carolina Department of Insurance

## FURTHER APPEAL RIGHTS

The appellant and appellee have the right to appeal this decision to the NC Building Code Council. Please refer to N.C.G.S § 160D-1114 and the NC Administrative Code and Policies Section 202.9.2 for further appeal rights. In accordance with N.C.G.S § 143-141 you have 30 days in which to appeal this decision to the NC Building Code Council.

Cc:

Eric Barker, Deputy Fire Marshal, Davidson County

Nathan Childs, Special Deputy Attorney General – NCBC

Erin Gibbs, Assistant General Counsel, NCDO