



MEMORANDUM

DATE: October 18, 2001

TO: Carla Lewis, Pitt Community College
Mary Pat Omer, College of the Albemarle
Cindy Archie, Wayne Community College
Suzanne Mintz, Alamance Community College
Susan Monday, Isothermal Community College
Ronnie Hinson, Stanly Community College
Denise Sessoms, Wilson Technical Community College
Matlynn Yeoman, Brunswick Community College
Ray Harrington, NC Community College System Office
Carolyn Snell, NC Community College System Office
Judith Mann, NC Community College System Office

FROM: Kenneth L. Whitehurst, Director
Student Development Services

SUBJECT: Drug Testing and Criminal Background Checks

At the September 7, 2000 meeting of the Special Admissions taskforce, the committee proposed four recommendations to address criminal background checks and/or drug screening of students who participate in various community college programs that are affected by external licensing boards, agencies, etc. Those four recommendations and their final resolution are detailed below.

- (1). A survey of colleges should be conducted to identify programs whose faculty and students are affected by external agencies or bodies' requirements for criminal history checks and drug testing.**

The taskforce was composed of representatives from the System Office and colleges with programs affected by these requirements. Taskforce members reflected nursing, law enforcement/criminal justice, early childhood education and pharmacy technology. In addition, the memorandum from the Ad-Hoc Committee on Criminal Background Checks of the NC Conference of Associate Degree Nursing Directors (January 4, 2000) contain sufficient legal references to provide background for recommendations 2, 3 and 4. A survey that identifies colleges may invite penalties for those found to be operating outside the scope of their authority. The memorandum of August 31, 2001 provides notice to colleges of the interpretations of the System Office attorney and the State of North Carolina's Attorney General's office.

- (2). Propose a change to NCAC 2C.0301 to give individual institutions authority to adopt policies requiring criminal background checks and drug testing of students prior to enrollment in programs or courses that require clinical rotations, internships or work experiences.**

S01-035-E-mail

By memo dated October 12, 2000, a proposed change to 23 NCAC 2C.0301 to add subsection "c" was forwarded to Clay T. Hines for review. Language as proposed by the taskforce would allow local boards of trustees to adopt policies requiring criminal background checks and drug testing for admission to programs. Ms. Hines reviewed the memo and sought the advice of the state attorney general's office. The results of that process are reflected in numbered memo CC01-184 and distributed to all members of the taskforce as well as to campus presidents. Regulations in the NC Administrative Code must have a basis in the NC General Statutes. No such statutory authority currently exists to give support to the proposed administrative rule.

(3). College policies and procedures allow for admission of students "contingent upon" completion of criminal history check (similar to the language currently used for health and immunization requirements).

Health forms and the information required by them originate from legislative action of the NC General Assembly. The 1996 General Assembly enacted House Bill 53, sect. 17.5 to require the State Board of Community Colleges and the University of North Carolina to adopt a uniform student medical history form for use by all institutions in the North Carolina Community College System and by all of the constituent institutions of the University of North Carolina. Thus a statutory requirement authorizes the medical form. No such statute authorizes colleges to have policies requiring criminal history checks for programs other than G.S 17C and G.S. 17E that apply to enrollment of law enforcement officers or persons sponsored by law enforcement agencies.

(4). Clay Hines will be contacted by Ken Whitehurst regarding the process in recommendations 1, 2 and 3.

Ms. Hines has been involved continuously in the actions taken including the review of the proposed change to the NC Administrative Code as well as thorough review of the reply to the taskforce and presidents in CC01-184. The work of the taskforce is limited by lack of statutes authorizing the State Board to adopt policies that are contrary to the intent of the NC General Assembly to have community colleges maintain "open door" policies.

Your recommendations as members of the taskforce are deeply appreciated. The limitations cited above and the advice of the state attorney general preclude further action until such time as changes are made in the North Carolina general statutes.

Cc: Dr. Stephen Scott
Dr. Delores A. Parker
Clay T. Hines