

STATE BOARD OF COMMUNITY COLLEGES

Considerations for the State Board of Community Colleges' Process for Adopting Rules

For your consideration, Legal Affairs has provided a chart detailing current rule-making requirements, General Counsel's recommendations, and a platform to discuss your comments. For the Permanent Rule-Making process, if the rule adoption, amendment, or repeal does not require substantial State Board revisions, the time between the State Board considering the rule for the first time and the effective date of the rule is approximately **3 ½ months**.

Current Standard Procedure	General Counsel's Recommendation	Comments
Permanent Rule (150B-21.2)		
Any person requesting the adoption, amendment, or repeal of a rule made by the State Board of Community Colleges has the authority to submit a petition to the System President.	Maintain this procedure	
State Board of Community Colleges evaluates proposed rule adoption, amendment, or repeal for the first time on the agenda for Future Action.	Maintain this procedure	
State Board of Community Colleges evaluates proposed rule adoption, amendment, or repeal for initiation of the rule-making process on the agenda For Action the following month.	Maintain this procedure	
The text of the proposed rule adoption, amendment, or repeal (Notice of Text) published in the NC Register	The text of the proposed rule adoption, amendment, or repeal (Notice of Text) published on the	

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within 20 to 30 days from the date the Notice of Text is filed with the Office of Administrative Hearings (OAH).	NC Community College System Office website within two business days of the State Board of Community Colleges voting to initiate the rule-making process. The Notice of Text for the proposed rule shall have an explanation detailing the basis for the proposed adoption, amendment, or repeal.	
Accept oral or written comments on proposed rule (for at least 60 days after the text is published in the Register or until the date of a public hearing, whichever is longer).	Accept oral or written comments on proposed rule (for at least 30 days after the text is published on the NCCCS website or until the date of the public hearing, whichever is longer).	
<u>If</u> the State Board receives a written request for a public hearing within 15 days of publication on OAH website, we must hold a public hearing and publish the notice of the hearing in the NC Register (at least 15 days between notice and actual date of hearing).	<u>If</u> the State Board receives a written request for a public hearing within 15 days of publication on NCCCS website, we must hold a public hearing and publish the notice of the hearing on the NCCCS website (at least 10 days between notice and actual date of hearing).	

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If the State Board does not receive a written request for a public hearing, it is within the State Board of Community College's discretion to determine whether it will hold a public hearing.	Maintain this procedure.	
If there are any changes to the proposed rule, the State Board has the authority to adopt the proposed rule the month following its review of all comments. If any changes are made to the proposed rule after the comment period, the State Board of Community Colleges has the authority to adopt the rule without further public input.	If there are any changes made to the proposed rule after the comment period, the changes shall be posted to the NCCCS website within two business days of the Board amending the proposed rule. The public will have five business days from the date the amended proposed rule is published on the NCCCS website to provide written comments on the amended proposed rule.	
	The State Board reviews the new comments at the Policy Committee meeting immediately following the end of the five-day comment period. The State Board has the authority to adopt the proposed amended rule with any necessary changes at the Board meeting immediately	

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	following the close of the five-day comment period.	
The State Board has to adopt the proposed rule within 12 months of the end of the commenting period (rule must not be substantially different than rule published in NC Register unless it is republished and comments are accepted on the changed rule).	The State Board has to adopt the proposed rule within 6 months after the end of the initial commenting period (rule must not be substantially different than rule published on NCCCS website unless it is republished and comments are accepted on the changed rule).	
Submit adopted rule to Rules Review Commission (RRC) within 30 days of its adoption by State Board.	Publish adopted rule on NCCCS website within 7 days of adoption by the State Board.	
<u>If</u> a person asks the agency to explain why the rule was adopted, they must issue a concise written statement within 15 days of the rule's adoption.	<u>If</u> a person asks the agency to explain why the rule was adopted, they must issue a concise written statement within 15 business days of the rule's adoption.	

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Emergency Rule (150B-21.1.A.)		
After State Board adopts the emergency rule, submit rule and findings of need form to OAH codifier.	After State Board adopts the emergency rule, rule published on the NCCCS website within five business days . Expires 60 days from the date it was published on NCCCS website. If the Emergency Rule is to be continued, the process for the Permanent rule must be initiated simultaneously.	
Within 2 business days OAH codifier reviews rule.		
If acceptable by OAH, rule entered on the sixth business day . Expires 60 days from the date it was published in the register.		
Temporary Rule (150B-21.1): (When adherence to rulemaking would be contrary to public interest or by Executive Order/Session Law authority)		
Submit rule, Form 0700 and Notice of Hearing to OAH Codifier (publish on internet within 5 business days).	No temporary rule-making process needed.	
Notify persons on mailing list and other interested parties of intent to		

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adopt temporary rule.		
Accept written comments for at least 15 business days prior to adoption/state board meeting.		
Hold a public hearing at least 5 days after publishing.		
After adoption at State Board meeting, submit rule and findings of need to RRC; reviewed by RRC w/in 15 business days ; codifier approves within 2 business days ; rule entered on the 6th business day after codifier approves and becomes effective.		