



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

R. Scott Ralls, Ph.D.

President

22 July 2014

IMPORTANT INFORMATION

MEMORANDUM

TO: Members of the State Board of Proprietary Schools, North Carolina Proprietary School Directors, the Executive Director of Proprietary Schools, Members of the State Board of Community Colleges, Community College Presidents, & Other Interested Parties

FROM: Q. Shanté Martin, *NCCCS General Counsel*

RE: **Amendment of Title 2, "Proprietary Schools"**

On 18 July 2014, the State Board of Community Colleges (SBCC) voted to amend the following rule:

Title 2 of the State Board of Community Colleges Code, entitled "Proprietary Schools."

The new rule will be effective 1 August 2014. The new rule will be published on the NC Community College System's website, www.nccommunitycolleges.edu, under "SBCC Code." For your convenience, a copy of the rule is attached to this memorandum.

Thank you for your attention to this matter.

TITLE 2 – PROPRIETARY SCHOOLS

CHAPTER A. PROPRIETARY SCHOOLS

SUBCHAPTER 100. DEFINITIONS

2A SBCCC 100.1 Definitions

(a) The following definitions apply throughout this Chapter unless the context of a specific rule indicates otherwise:

- (1) “Catastrophic loss amount” - the amount of funds required to protect prepaid student tuition in case of a large-scale event that would draw against the Student Protection Fund. The amount is one million dollars (\$1,000,000).
- (2) “Classes or schools” as stated in G.S. 115D-88(4a) - classes or schools, which are offered by the seller of the equipment or the seller's agent.
- (3) “Equipment” as stated in G.S. 115D-88 includes software.
- (4) "Fund cap amount" - the catastrophic loss amount plus a reserve amount. The fund cap amount is one million five hundred thousand dollars (\$1,500,000).
- (5) “Proprietary school” - any business school, trade school, technical school, or correspondence school which:
 - (A) offers postsecondary education or training for profit or for a tuition charge or offers classes for the purpose of teaching, for profit or for a tuition charge, any program of study or teaching one or more of the courses or subjects needed to train and educate an individual for employment; and
 - (B) has any physical presence within the State of North Carolina; and
 - (C) is privately owned and operated by an owner, partnership or corporation.
- (6) “Remote sites” - approved instructional environments in the same county that do not have any administrative staff or administrative functions such as recruiting, accounting and record keeping taking place.
- (7) “Reserve amount” - the difference between the catastrophic loss amount and the fund cap amount. Its purpose is to reduce the possibility of the Student Protection Fund being completely depleted. The reserve amount is five hundred thousand dollars (\$500,000).

- (8) “Sale” - a change in ownership resulting in a new owner having ownership interest in greater than 50% of the company’s stock or assets. For the purposes of this Chapter, a sale does not include:
- (A) a transfer of the entire portion of the owner’s ownership interest and control to a member of the owner’s family (whether or not the family member works at the school) that includes parent, stepparent, sibling, step-sibling, spouse, child or stepchild, grandchild or step-grandchild; spouse’s parent or stepparent, spouse’s sibling or step-sibling, spouse’s child or stepchild, spouse’s grandchild or step-grandchild; child’s spouse, and sibling’s spouse; or
 - (B) a transfer of the entire portion of the owner’s ownership interest and control, upon the retirement or death of the owner, to a person (who is not a family member) with an ownership interest in the school who has been involved in management of the school for at least two years preceding the transfer, and who has established and retained the ownership interest for at least two years prior to the transfer.
- (9) “SBPS” – the abbreviation for State Board of Proprietary Schools.
- (10) “Student Protection Fund” is a statewide fee-supported fund. The Student Protection Fund is further defined in Subchapter 500 of this Chapter.
- (11) “Users” as stated in G.S. 115D-88(4a) - employees or agents of purchasers.

*History Note: Authority G.S. 115D-88; 115D-89; 115D-90; 115D-91; 115D-92; 115D-95.1;
Eff. September 1, 1993;
Amended Eff. August 1, 2014; July 1, 2010; August 13, 2005; December 1, 2004.*

SUBCHAPTER 200. EXEMPTIONS

2A SBCCC 200.1 Exemption

In accordance with G.S. 115D-88(2), employers may contract with third party agencies to provide training for their employees. Schools or classes conducted by third party agencies for an employer to train the employer’s employees are also exempt from the provisions of Chapter 115D, Article 8.

*History Note: Authority G.S. 115D-88; 115D-89; 115D-90; 115D-91; 115D-92; 115D-95.1;
Eff. September 1, 1993;
Amended Eff. August 1, 2014; July 1, 2010; August 13, 2005; December 1, 2004.*

SUBCHAPTER 300. LICENSURE

2A SBCCC 300.1 Application for Initial License

- (a) Any person or persons operating a proprietary school in the State of North Carolina shall obtain a license from the North Carolina State Board of Community Colleges except as exempt by G.S. 115D-88.
- (b) Any person or persons seeking to operate a proprietary school that requires licensure shall submit a preliminary application setting forth the proposed location of the school, the qualifications of the Chief Administrator of the school, a description of the facilities available, courses to be offered, and financial resources available to equip and maintain the school. Upon approval of the preliminary application, a final application may be submitted. The final application shall be verified and accompanied by the following:
- (1) A certified check or money order made payable to the North Carolina State Treasurer in the amount established by the State Board of Proprietary Schools and published annually under the North Carolina Proprietary School Fee Schedule;
 - (2) A guaranty bond or alternative to a guaranty bond as set forth in G.S. 115D-95. Except as otherwise provided herein, the bond amount for a proprietary school shall be at least equal to the maximum amount of prepaid tuition held at any time during the fiscal year. During the initial year of operation, the guaranty bond amount or an alternative to a guaranty bond amount shall be based on the projected maximum amount of prepaid tuition that will be held at any time during that year. In any event, the minimum surety bond shall be twenty five thousand dollars (\$25,000);
 - (3) A certified check or money order for the Student Protection Fund in the amount of one thousand two hundred and fifty dollars (\$1,250) made payable to the North Carolina State Treasurer;

- (4) A copy of the school's catalog or bulletin. The catalog shall include a statement addressing each item listed in G.S. 115D-90(b)(7);
 - (5) A financial statement showing capital investment, assets and liabilities, and the proposed operating budget which demonstrates financial stability or a financial statement and an accompanying opinion of the school's financial stability by either an accountant, using generally accepted accounting principles, or a lending institution;
 - (6) A detail of ownership; (This must show stock distribution if the school is a corporation, or partnership agreement if the school will be operated as a partnership.)
 - (7) Information on all administrative and instructor personnel who will be active in the operation of the school, either in full- or part-time capacity; (This information must be submitted on forms provided for this purpose.)
 - (8) Enrollment application or student contract form;
 - (9) School floor plan showing doors, windows, halls, and seating arrangement; also offices, rest rooms, and storage space; the size of each room and seating capacity shall be clearly marked for each classroom; lighting showing kind and intensity shall be indicated for each room; the type of heating and cooling system used for the space occupied shall be stated;
 - (10) Photostatic copies of inspection reports or letters from proper officials to show that the building is safe and sanitary and meets all local city, county, municipal, state, and federal regulations such as fire, building, and sanitation codes; and
 - (11) If the building is not owned by the school, a photostatic copy of the lease held by the school for the space occupied.
- (c) A person or persons purchasing a proprietary school already operating as a licensed school shall comply with all of the requirements for securing an initial license. A license is not transferable to a new owner. All application forms and other data shall be submitted in full. Such terms as "previously submitted" when referring to a former owner's file are not acceptable. If a proprietary school offers classes in more than one county, the school's operations in each such county constitutes a separate school requiring a separate license. Classes conducted by the school in separate locations shall be reported and approved prior to advertising and commencement of classes.

- (d) Remote sites shall not have any administrative staff or any administrative functions such as recruiting, accounting or record keeping. Each remote site shall be subject to an initial remote site fee and an annual renewal fee to be paid by a certified check or money order made payable to the North Carolina State Treasurer, in the amount established by the SBPS and published annually under the North Carolina Proprietary School Fee Schedule. Each remote site shall have an initial site visit and a visit during each annual audit.
- (e) Classes conducted at remote sites by licensed schools shall be approved prior to advertising and commencement of classes. Any course offered at a remote site shall be a part of an approved program of study for that licensed school.
- (f) Changes in application information presented for licensure or relicensure relating to mission, programs, location or stock distribution require prior approval and licensure amendment by the State Board of Community Colleges.
 - (1) Program additions require curriculum reviews and program or course approvals prior to initiation. A certified check or money order in the amount established by the SBPS and published annually under the North Carolina Proprietary School Fee Schedule made payable to the North Carolina State Treasurer shall accompany each additional program approval request.
 - (2) Single course additions or revisions may be individually approved when schools submit a request for license amendment. Course additions or revisions requiring curriculum review, instructor evaluation, and equipment site assessment are subject to the curriculum review fee established by the SBPS and published annually under the North Carolina Proprietary School Fee Schedule to be paid by a certified check or money order made payable to the North Carolina State Treasurer.
 - (3) School relocations require site visits and approvals prior to use. A certified check or money order in the amount established by the SBPS and published annually under the North Carolina Proprietary School Fee Schedule made payable to the North Carolina State Treasurer shall accompany each site relocation approval request.
 - (4) Other site assessment visits, such as for program additions and revisions, shall require a certified check or money order made payable to the North Carolina State Treasurer in the

amount established by the SBPS and published annually under the North Carolina Proprietary School Fee Schedule.

History Note: Authority G.S. 115D-88; 115D-89; 115D-90; 115D-91; 115D-92; 115D-95.1;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; July 1, 2010; August 13, 2005; December 1, 2004.

2A SBCCC 300.2 Application for License Renewal

- (a) All licenses issued shall expire on June 30.
- (b) All issued licenses shall extend from July 1 through June 30, inclusive; except that any license initially issued on or after April 1 shall expire on June 30 of the following calendar year.
- (c) Schools desiring the renewal of their license shall submit an application on or before March 15 of each year. The application shall be accompanied by the following:
 - (1) All information required of schools applying for an initial license that has not been previously submitted;
 - (2) For a school that has been licensed for one year but less than six years, verification that the guaranty bond or alternative to the guaranty bond is in an amount equal to the greatest amount of unearned paid tuition in the school's possession at any time during the prior fiscal year. This verification shall be in the form of quarterly reports to the President of the North Carolina Community College System evaluating the amount of the guaranty bond or alternative to the guaranty bond. Quarterly evaluation reports requiring an increase of five percent or more in the amount of the bond held by the school must show an immediate increase in the bond amount at the time of the evaluation. At the time of the school's annual license renewal, the guaranty bond or alternative to the guaranty bond shall be an amount equal to the greatest amount of unearned paid tuition in the school's possession at any time during the prior fiscal year;
 - (3) Copy of current catalog containing all information required of schools applying for initial license; and
 - (4) Any supplementary information necessary to bring information on the school up to date.

- (d) A certified check or money order in the amount established by the SBPS and published annually under the North Carolina Proprietary School Fee Schedule made payable to the North Carolina State Treasurer shall be received on or before March 15.
- (e) Proprietary schools shall make payment to the Student Protection Fund in the amount set forth in G.S. 115D-95.1. The full and timely payment into the Student Protection Fund is a condition of licensure. The State Board of Community Colleges shall not refund any payment to the Student Protection Fund in the event that a school's license is suspended or revoked.
- (f) Proprietary schools shall make adjustments to the guaranty bond or alternative to the guaranty bond requirements of schools based on G.S. 115D-95. A guaranty bond or alternative to the guaranty bond shall be required for license renewal for a school that has been continuously licensed to operate for more than five years in the State, as follows:
 - (1) If the balance of the Student Protection Fund in G.S. 115D-95.1 is below the catastrophic loss amount, the school shall file a guaranty bond or alternative to the guaranty bond in an amount equal to the maximum amount of prepaid tuition held by the school during the prior fiscal year multiplied by the percentage amount the fund is deficient.
 - (2) If the school held prepaid tuition in excess of the Student Protection Fund catastrophic loss amount during the prior fiscal year, in addition to any guaranty bond or alternative to a guaranty bond amount required by Subparagraph (1) of this Paragraph, the school shall file a guaranty bond for the difference between the prepaid tuition amount held in the previous fiscal year and the Student Protection Fund catastrophic loss amount.
- (g) The SBPS will tabulate the balance of the Student Protection Fund as of December 31 of each year and establish the percentage amounts identified in Subparagraph (e)(1) of this Rule.

History Note: Authority G.S. 115D-89; 115D-91; 115D-92; 115D-95.1; S.L. 2009-562 s.4;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; July 1, 2010; August 13, 2005; December 1, 2004.

2A SBCCC 300.3 Application to Amend License

Reserved for Future Codification

History Note: Authority G.S. 115D-88; 115D-89; 115D-90; 115D-91; 115D-92; 115D-95.1;
Eff. September 1, 1993;
Amended Eff. August 1, 2014; July 1, 2010; August 13, 2005; December 1, 2004.

2A SBCCC 300.4 Application Upon Sale of Proprietary School

Reserved for Future Codification

History Note: Authority G.S. 115D-88; 115D-89; 115D-90; 115D-91; 115D-92; 115D-95.1;
Eff. September 1, 1993;
Amended Eff. August 1, 2014; July 1, 2010; August 13, 2005; December 1, 2004.

2A SBCCC 300.5 Suspension, Revocation, or Failure to Renew License

REPEALED by State Board of Community Colleges, eff. 1 August 2014.

History Note: Authority G.S. 115D-93; 150B-22 thru 150B-37;
Eff. September 1, 1993;
Amended Eff. December 1, 2004;
Repealed Eff. August 1, 2014.

2A SBCCC 300.6 North Carolina Proprietary School Fee Schedule

Each proprietary school subject to Article 8 of Chapter 115D shall make payment as directed by the SBPS according to the following fee schedule:

- (1) Initial license - \$2,500
- (2) Annual license renewal - \$1,250 plus an additional \$50 per licensed program
- (3) Program additions submitted at any point outside of the annual license renewal period - \$200
- (4) Program revisions - \$200
- (5) School relocations - \$400
- (6) Remote sites - \$1,000 initial site fee, plus annual renewal fee of \$750
- (7) Site assessments to verify and approve program additions or changes - \$200

*History Note: Authority G.S. 115D-89.3; 115D-92;
Eff. August 1, 2014.*

SUBCHAPTER 400. GENERAL PROVISIONS

2A SBCCC 400.1 Administration

- (a) One person shall be designated as the chief administrator of the school or branch thereof. The chief administrator shall be qualified in accordance with the requirements listed in Paragraph (c) of this Rule.
- (b) The chief administrator is defined as the person directly responsible for the school's program, the methods of instruction, the employment of instructors, the organization of classes, the maintenance of the school plant and the equipment, the advertising used, and the maintenance of proper administrative records and all other procedures related to the administration of the school or class.
- (c) The chief administrator shall have the following qualifications:
 - (1) Be a person of good moral character;
 - (2) Be a graduate of an accredited college or university accredited by an agency that is recognized by the U.S. Department of Education; and,
 - (3) Have the experience, competency, and capacity to lead the school.
- (d) Chief administrators and other administrative personnel who possess qualifications which are equivalent to the requirements prescribed herein for chief administrators may be approved individually by the North Carolina Community College System President or designee.

*History Note: Authority G.S. 115D-87; 115D-89; 115D-90;
Eff. September 1, 1993;
Amended Eff. December 1, 2004.*

2A SBCCC 400.2 Admission Requirements

- (a) The admission requirements for schools licensed under Article 8 of Chapter 115D of the General Statutes of North Carolina shall be made available to the public and administered as written.

(b) As a prerequisite to enrolling in a certificate or diploma course offered by the school, the school shall require one of the following:

- (1) Graduation from a public or private high school that operates in compliance with State or local law;
- (2) Graduation from a state registered home high school;
- (3) A certificate of high school equivalency;
- (4) The student's signed, notarized attestation of either graduation from a public or private high school that operates in compliance with State or local law, graduation from a state registered home school, or receipt of a certificate of high school equivalency;
- (5) For persons at least 18 years old who did not graduate from a public, private, or state registered home high school or obtain a certificate of high school equivalency, demonstration of an ability to benefit as determined by any test instrument approved by the Department of Education.
- (6) The school shall only admit a student pursuant to Subsection(b)(4) if the student provides the school with written evidence of the student's inability to obtain a copy of the student's high school transcript or certificate of high school equivalency.

The school shall not permit high school students to attend the school during the time that high schools are in regular session, except in individual cases approved by the student's high school principal in writing. The proprietary school shall include a copy of the approved form in the student's record.

- (c) Schools shall maintain a copy of the high school transcript in the student's record for students the school admits pursuant to Subsections (b)(1) and (b)(2) of this Section.
- (d) Schools shall maintain a copy of the certificate of high school equivalency in the student's record for students the school admits pursuant to Subsection (b)(3).
- (e) Schools shall maintain a copy of the student's signed, notarized attestation for students the school admits pursuant to Subsection (b)(4).
- (f) Schools shall maintain the results of the ability to benefit test in the student's record for students admitted pursuant to Subsection (b)(5).

- (g) The school may admit students to special courses or subjects which are part of the approved curriculum offered by the school when the school deems the student can benefit from the instruction offered.
- (h) If total tuition is greater than five-thousand dollars (\$5,000), the school may collect up to 50 percent of the total tuition prior to that mid-point of the program. The remainder of the tuition may be collected only when the student has completed one-half of the program. Federal regulations regarding the disbursement of tuition shall supersede state disbursement regulations stated in this Rule.

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; December 1, 2004.

2A SBCCC 400.3 Advertising

- (a) A licensed school shall not advertise through any media that it offers courses that the school has not been licensed to offer.
- (b) Printed catalogs, bulletins, or prospectus information shall be specific with respect to prerequisite training required for admission to the school courses, the curricula, the contents of courses, graduation requirements, tuition and other fees, refunds and allowances for withdrawals and unavoidable or extended absences.
- (c) Schools shall not use any name, title, or other designation, by way of advertising or otherwise, that is misleading or deceptive as to character of the institution, or its influence in training and employment for students.
- (d) Schools shall not use a photograph, cut, engraving, or illustration in catalogs, sales literature, or otherwise in such a manner as to convey a false impression as to the size, importance, or location of the school's equipment.
- (e) Schools shall not use endorsements, commendations, or recommendations by students in favor of a school unless it is with the consent of the writer and without financial compensation or offer of financial compensation. These materials shall be kept on file by the school.

- (f) Schools shall publish tuition rates, payment methods, and refund policies in their catalogs or as a catalog addendum and shall not deviate from these rates and policies. All catalog addenda shall show an effective date and be readily available to the student.
- (g) Schools shall not make, cause, permit to be made, or publish any false, untrue, or deceptive statement or representation by way of advertising or otherwise concerning other proprietary schools or their activities in attempting to enroll students or concerning the character, nature, quality, value, or scope of any course of instruction or educational service offered or in any other material respect.
- (h) A school or class shall not solicit students to enroll by means of "blind" advertisements or advertisements in the "help wanted" or other employment columns of newspapers, publications, and Internet job banks.
- (i) Schools shall not make false, untrue, or deceptive statements of representatives regarding the opportunities in any vocation or field of activity as a result of the completion of any given course of instruction or educational service.
- (j) Advertisement shall not use salary-related terms or phrasing such as, "up to", "top", or "high salary".
- (k) Any salary claims shall show comparisons between local and national employment data and shall be for entry-level positions.
- (l) Any salary claims shall be documented and on file at the institution for public viewing.
- (m) Advertisements shall not offer promotions or special inducements to prospective students or enrollees.
- (n) Advertisements and school representatives shall not guarantee or imply positions or employment to prospective students.
- (o) If a licensed proprietary school, in any of its advertisements, printed materials or media, use the phrase or a similar phrase "Licensed by the North Carolina State Board of Community Colleges" then that phrase must be immediately succeeded by the following disclaimer: "The North Carolina State Board of Community Colleges is not an accrediting agency."

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. December 1, 2004.

2A SBCCC 400.4 Ethics

- (a) Schools licensed under Article 8 of Chapter 115D of the General Statutes of North Carolina shall not offer premiums or special inducement to prospective students or enrollees. Scholarships may be offered provided terms of scholarship are published in the school catalog.
- (b) Failure to maintain tuition rates as published is grounds for suspension or revocation of the license of a school.
- (c) No officer or representative of the school shall solicit any student to leave any school in which the student is enrolled or attends.
- (d) A school representative shall not guarantee positions or employment to prospective students.

History Note: Authority G.S. 115D-89; 115D-90; 115D-93;

Eff. September 1, 1993;

Amended Eff. December 1, 2004.

2A SBCCC 400.5 Faculty

- (a) An application for approval to teach in a licensed proprietary school shall be made on forms provided for this purpose. The application shall be filed with the Office of Proprietary Schools within 30 days of an instructor's beginning date.
- (b) An instructor shall be qualified by education or work experience background and must meet the following qualifications as minimum requirements:
 - (1) Be a person of good moral character;
 - (2) Be at least 18 years of age;
 - (3) Be a graduate of a college or university accredited by an agency that is recognized by the U.S. Department of Education, and hold at least an associate degree in a related field or meet the requirements of other occupational licensing, certification, or approval bodies requested to approve instructor adequacy; and,

- (4) Personnel who lack the educational requirement in Subsection (b)(3) above, but who are otherwise qualified based on relevant work experience, may be approved on an individual basis by the State Board of Proprietary Schools.

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; December 1, 2004.

2A SBCCC 400.6 Facilities and Equipment

- (a) The school plant, premises, and facilities shall be adequate, safe, and sanitary and shall be in compliance with the statutory provisions and the rules and regulations of all local ordinances pertaining to fire, health, safety, and sanitation.
- (b) The equipment, supplies, and instructional materials of the school shall be satisfactory and adequate in type, quality, and amount, and shall be suitable for satisfactory use in administering the course or courses of instruction. They shall also meet all requirements of statutory provisions and local ordinances, and rules and regulations adopted thereunder in regard to fire, health, safety, and sanitation.

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. December 1, 2004.

2A SBCCC 400.7 Financial Stability

A school licensed under G.S. 115D, Article 8, shall have sufficient finances to establish and carry out a program of education on a continuing basis.

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; December 1, 2004.

2A SBCCC 400.8 Instructional Program

- (a) Schools shall not publish in their catalogs courses which they have not been licensed to offer. When a school is licensed to offer a course or program and enrolls students in the course or program, the school shall maintain sufficient and qualified faculty to teach all subjects required for completing the course or program during the time stipulated in the school's bulletin as the required time to complete the course or program and classes shall be scheduled so that the students will be able to receive instruction in all subjects for the number of instructional hours as advertised in the school's bulletin under which the students enrolled. When a school previously licensed to offer a course or program fails to maintain the qualifications for continuing the course or program, the course or program shall be removed from the catalog or stamped "not offered."
- (b) The number of curriculum programs offered by a school shall be realistic in relationship to faculty employed and students enrolled. As a general rule, the number of curriculum programs offered shall not exceed the number of faculty employed on a full-time basis.
- (c) The school shall establish its calendar one calendar year in advance and give full information to prospective and enrolled students about holidays; beginning and ending dates of each term and other important dates.
- (d) Schools may measure instruction on a clock-hour or credit-hour basis. The catalog shall provide a clear definition of the method used. The school catalog shall show the number of clock hours or credit hours for each subject offered and the minimum clock hours or credit hours a student shall carry for full-time enrollment. Courses offered on a credit-hour basis shall show class hours, laboratory hours, and credit hours.
- (e) The ratio between student and instructor shall be reasonable at all times and in keeping with generally accepted delivery modes, including technology and course content.
- (f) Class period shall permit a minimum of 50 minutes net instruction. Class shall not be scheduled for more than two consecutive class periods without a break.
- (g) Certificates and diplomas shall be issued only upon successful completion of a standard program of study.
- (h) Students enrolled in diploma or certificate programs shall not be enrolled except at the beginning of each term or within the drop/add period which shall not exceed 10 percent of a semester

course or 25 percent of quarters or clock hour courses. This provision is not applicable to classes offered on a multi-entry basis.

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; December 1, 2004.

2A SBCCC 400.9 Issuance of Certificates and Diplomas

A school licensed under G.S. 115D, Article 8, shall limit its offering in certificate and diploma programs and special subjects to the courses and subjects for which it has been licensed to offer. At the beginning of each term, each school shall post the schedule of subjects being offered during the term. This schedule will show the time and instructor for each subject and designate the room in which the subject will be taught. Each student shall be provided a schedule of classes for each term to show the student's individual schedule.

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; December 1, 2004.

2A SBCCC 400.10 Student Complaints

Reserved for Future Codification

2A SBCCC 400.11 Student Records

(a) A school licensed under G.S. 115D, Article 8, shall maintain current, complete, and accurate records to show the following:

- (1) An application for admission that includes the student's educational and personal background, age, and other personal characteristics.
- (2) Progress and attendance including date entered, dates attended, subjects studied, and class schedule; this record shall be in a form which permits accurate preparation of transcripts of educational records for purpose of transfer and placement, providing reports to government

services or agencies, or for such other purposes as the needs of the student might require. Such transcripts shall be in the form understandable by lay persons and educators alike. The grading system on such transcripts shall be explained on the transcript form. Subjects appearing on the transcripts shall be numbered or otherwise designated to indicate the subject matter covered.

- (3) All student enrollment agreements shall include at a minimum, the program of study, program tuition and fees, date programs are to begin, time period covered by the tuition payment, and statement of or reference to the school's tuition refund policy.
 - (4) All student account ledgers shall include, at a minimum, monies owed and paid by each student, and refunds issued by the school.
 - (5) A copy of the student's high school transcript or certificate of high school equivalency; or a signed, notarized attestation of either graduation from a public or private high school that operates in compliance with State or local law, graduation from a state registered home high school, or receipt of a certificate of high school equivalency, if the student provides the school with written evidence of the student's inability to obtain a copy of the student's high school transcript or certificate of high school equivalency; or for persons at least 18 years old who did not graduate from a public, private, or state registered home high school or obtain a certificate of high school equivalency, demonstration of an ability to benefit as determined by any test instrument approved by the Department of Education.
- (b) Records of students shall be open for inspection by properly authorized officials of the State Board of Community Colleges.
- (c) Financial records of the school shall be open for inspection by properly authorized officials of the State Board of Community Colleges.

History Note: Authority G.S. 115D-89; 115D-90;

Eff. September 1, 1993;

Amended Eff. August 1, 2014; December 1, 2004.

2A SBCCC 400.12 Student Refunds

- (a) Any proprietary school that is licensed by the State Board of Community Colleges shall maintain and publish a policy relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter a course or withdraws or is discontinued therefrom. The policy and implementing regulations shall provide for, at a minimum, a full refund if a student withdraws before the first day of class or the school cancels the class and a seventy-five percent (75%) refund if the student withdraws within the first twenty-five percent (25%) of the period of enrollment for which the student was charged.
- (b) To comply with applicable federal regulations regarding refunds; federal regulations regarding refunds will supercede state refund regulations in this Rule.
- (c) Proprietary schools are not required to deposit funds collected for tuition with the State Treasurer's Office.

History Note: Authority G.S. 115D-89; 115D-90.

Eff. April 1, 1997;

Amended Eff. August 1, 2014; July 1, 2007; December 1, 2004.

2A SBCCC 400.13 Teach-Out Plan and Record Retention

- (a) Each proprietary school shall adopt a teach-out plan. The plan shall be kept on file in the school's administrative office. A copy of the plan shall be submitted to the North Carolina SBPS with any application for initial licensure or license renewal. Amendments or revisions to the plan shall be submitted to the SBPS as they are made.
- (b) The plan shall include the procedure for notifying students of a pending school closure and the teach-out arrangements with other educational or training institutions. The teach-out arrangements shall include provisions for students to complete their programs, to transfer to other equivalent programs at other institutions, and to be refunded that portion of their prepaid tuition and fees not earned by the school.
- (c) Each student shall be given a minimum 30-day written notice of the school's intent to close. Prior to closure, school officials shall assist students with:
 - (1) completing their programs at the school;
 - (2) identifying equivalent programs at other institutions;

- (3) transferring to other institutions, and
- (4) receiving refunds.
- (d) Prior to closure, a school shall file a copy of all student permanent academic and financial aid records with the Department of Cultural Resources.

History Note: Authority G.S. 115D-90;
Eff. December 1, 2004;
Amended Eff. August 1, 2014.

SUBCHAPTER 500. STUDENT PROTECTION FUND

2A SBCCC 500.1 Administration of the Student Protection Fund

- (a) The State Board of Proprietary Schools shall administer the Student Protection Fund.
- (b) If the Student Protection Fund balance is equal to or exceeds the Student Protection Fund cap amount, the State Board of Community Colleges shall suspend payments into the Student Protection Fund for schools that have been continuously licensed in North Carolina for more than eight years. The State Board of Community Colleges shall require schools to resume payments into the Student Protection Fund if the balance of the Student Protection Fund is less than the catastrophic loss amount.
- (c) If claims against the Student Protection Fund exceed the catastrophic loss amount, the State Board of Proprietary Schools may assess additional fees to compensate students qualified for repayment under the Student Protection Fund. The amount of the catastrophic assessment shall not exceed one-half of the amount of the annual revenue payment required by G.S. 115D-95.1. If the amount of the catastrophic assessment will be insufficient to cover qualified claims, the State Board of Proprietary Schools shall allocate funds among claims proportional to the amount of student loss and the amount in the Student Protection Fund.
- (d) A student, or the student's parent or guardian, who has suffered a loss of tuition, fees, or any other instruction-related expenses paid to a proprietary school licensed under G.S. 115D-90 by reason of the school ceasing to operate for any reason, including, but not limited to the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure, may

qualify for repayments under the Student Protection Fund. The State Board of Proprietary Schools must first issue repayment from the guaranty bonds and alternatives to the guaranty bond issued under G.S. 115D-95. If the Student Protection Fund is insufficient to cover the qualified claims, the State Board of Proprietary Schools must allocate funds among claims proportional to the amount of student loss and the amount in the Student Protection Fund.

History Note: Authority G.S. 115D-89; 115D-95.1;

Eff. July 1, 2010;

Amended Eff. August 1, 2014.

2A SBCCC 500.2 Purpose of the Student Protection Fund

The purpose of the Student Protection Fund is to compensate students enrolled in a proprietary school licensed under G.S. 115D-90 who have suffered a loss of tuition, fees, or any other instruction-related expenses paid to the school by reason of the failure of the school to offer or to complete student instruction, academic services, or other goods and services related to course enrollment. Students are eligible to be compensated under the Student Protection Fund only if the school ceases to operate for any reason, including, but not limited to the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

History Note: Authority G.S. 115D-89; 115D-95.1;

Eff. August 1, 2014.

CHAPTER B. DUE PROCESS

SUBCHAPTER 100. PROCESS FOR REFUSAL TO ISSUE OR RENEW LICENSE

2B SBCCC 100.1 Standard for Refusing to Issue or Renew License

The State Board of Community Colleges, by and through the SBPS, may refuse to grant or renew a proprietary school license in accordance with G.S. 150B, Article 3, when it is found that the school has failed to meet the requirements of the law and the rules adopted by the State Board of Community Colleges.

History Note: Authority G.S. 115D-89; 115D-93;

Eff. August 1, 2014.

2B SBCCC 100.2 SBPS Recommendation to Refuse Licensure or License Renewal

- (a) If the SBPS recommends refusal of a proprietary school's license or recommends nonrenewal of a proprietary school's license, the SBPS, by and through its Executive Director, shall document the rationale for its recommendation to the State Board of Community Colleges in a document to be titled, "Refusal to Recommend Initial Licensure or License Renewal."
- (b) The Executive Director shall send a copy of the "Refusal to Recommend Initial Licensure or License Renewal" to the chief administrator of the proprietary school at issue within five business days of the SBPS' recommendation with a copy to the following: 1) the Chair of the SBPS; 2) the NCCCS Executive Vice President for Operations; 3) the NCCCS General Counsel; and 4) the NCCCS Director of Marketing and Public Affairs.
- (c) In the "Refusal to Recommend Initial Licensure or License Renewal," the Executive Director of the SBPS shall advise the chief administrator or other agent of the proprietary school at issue of the right to provide a written response to the "Refusal to Recommend Initial Licensure or License Renewal" within 10 business days of receipt of the "Refusal to Recommend Initial Licensure or License Renewal."
- (d) If the Executive Director of the SBPS receives a written response within 10 business days of the proprietary school administrator's receipt of the "Refusal to Recommend Initial Licensure or License Renewal," the Executive Director of the SBPS shall submit the written response to the following: 1) the Chair of the SBPS; 2) the NCCCS Executive Vice President for Operations; 3) the NCCCS General Counsel; and 4) the NCCCS Director of Marketing and Public Affairs.
- (e) The SBCC shall consider the SBPS' "Refusal to Recommend Initial Licensure or License Renewal" and the proprietary school's written response that is received by the Executive Director of the SBPS within the time specified in 2B SBCCC 100.2(d) at its regularly scheduled meeting that occurs at least 10 business days after the deadline for the proprietary school's written response to the SBPS' "Refusal to Recommend Initial Licensure or License Renewal."

*History Note: Authority G.S. 115D-89; 115D-93;
Eff. August 1, 2014.*

2B SBCCC 100.3 SBCC's Evaluation of the SBPS' Recommendation

The SBCC will evaluate the SBPS' "Refusal to Recommend Initial Licensure or License Renewal" and the proprietary school's written response, if any, and after due consideration, vote to grant the proprietary school licensure or initiate denial of the proprietary school's license to operate one or more programs. Within three (3) business days of the SBCC's disposition on the investigation report, the NCCCS General Counsel shall notify the proprietary school of the SBCC's decision to grant the proprietary school licensure or initiate denial of the proprietary school's licensure.

*History Note: Authority G.S. 115D-89; 115D-93;
Eff. August 1, 2014.*

2B SBCCC 100.4 Right to Hearing

- (a) If the SBCC votes to initiate denial of a proprietary school's application for license to operate one or more programs, in the letter notifying the proprietary school of the SBCC's intent to deny the proprietary school's request for a license to operate one or more programs, the NCCCS General Counsel shall notify the proprietary school of its right to an informal hearing prior to the SBCC's final agency decision on denial of licensure.
- (b) The proprietary school shall have 10 business days from the date it receives the SBCC's notice of its intent to deny the proprietary school's application for a license to operate one or more programs to notify the SBCC of its request to be heard. The proprietary school's request for hearing must be in writing and signed by the chief administrator or other authorized agent of the proprietary school and directed to the NCCCS General Counsel on behalf of the SBCC.
- (c) If the NCCCS General Counsel does not receive the proprietary school's signed request for hearing within 10 business days from the date the proprietary school receives the written notification of the SBCC's intent to deny the proprietary school's application for a license to operate one or more programs, the SBCC's intent to deny the proprietary school's application for a license will become the SBCC's final agency decision to deny licensure.

History Note: Authority G.S. 115D-89; 115D-93; 150B-22;

Eff. August 1, 2014.

2B SBCCC 100.5 Hearing Process

- (a) If the NCCCS General Counsel receives the proprietary school's signed request for hearing within 10 business days from the date the proprietary school receives the written notification of the SBCC's intent to deny the proprietary school's application for a license to operate one or more programs, the NCCCS General Counsel shall calendar the informal hearing no longer than 45 days and no sooner than 15 business days after receiving the signed request for hearing. The NCCCS General Counsel will serve as the Hearing Officer on behalf of the SBCC. The Hearing Officer shall provide the notice of hearing with the date, time, and location to the parties at least 10 business days prior to the hearing.
- (b) The party appearing on behalf of the SBPS shall be the Executive Director of the SBPS or the SBPS attorney; and the party appearing on behalf of the proprietary school at issue shall be an official of the proprietary school or attorney representing the proprietary school. No later than five (5) business days prior to the hearing, both parties shall exchange the following information and documents with the opposing party or their counsel and deliver three (3) copies to the Hearing Officer:
 - (1) A written summary of each party's position.
 - (2) A brief of any legal issues the parties believe are applicable to the case.
 - (3) The exhibits the parties want the Hearing Officer to consider when making a final recommendation to the SBCC. The three (3) copies for the Hearing Officer shall be separately numbered and placed behind a tab in a notebook or other binder with a table of contents in the front.
 - (4) A list of witnesses each party intends to call along with a brief summary of each witnesses' testimony.
 - (5) The findings of fact and conclusions of law the parties would like the Hearing Officer to include in the recommendation to the SBCC. Provide one copy of the proposed findings of fact and conclusions of law electronically to the Hearing Officer in Microsoft Word.

(c) The Hearing Officer will conduct the hearing as follows:

- (1) The total length of the hearing will be no longer than three (3) hours. Each party will have a maximum of one (1) hour to present evidence in their case in chief. The SBPS Executive Director or SBPS attorney will present evidence for no more than one (1) hour to support the recommendation to deny the proprietary school's application for a license to operate one or more programs first. At the conclusion of the SBPS Executive Director or the SBPS attorney's case, the proprietary school's representative has the opportunity to present evidence for no more than one (1) hour to support why the proprietary school's application for a license should be approved. After the proprietary school's presentation of evidence, the SBPS Executive Director or SBPS attorney may provide rebuttal evidence for no more than 15 minutes. After the SBPS Executive Director or SBPS attorney's rebuttal evidence, the proprietary school's representative may present rebuttal evidence for no more than 15 minutes.
- (2) Documents that have not been provided to the opposing party and to the Hearing Officer at least five (5) business days prior the hearing will not be considered at the hearing
- (3) The legal rules of evidence will not be enforced, but the Hearing Officer has the discretion to direct the presentations so that the parties address those issues that are relevant to the claims against the proprietary school.
- (4) Parties have the discretion to proceed in a question and answer format for their own presentation of evidence. Alternatively, parties have the discretion to present evidence in a narrative form.
- (5) If either party believes that the Hearing Officer should not give credence to evidence offered by the other party, that party may bring that to the Hearing Officer's attention during the presentation of their own case. The Hearing Officer will consider those objections when weighing the evidence.
- (6) In making a final recommendation to the SBCC, the Hearing Officer will only consider documents introduced and offered into evidence at the hearing. The parties may offer all of their exhibits into evidence at once.
- (7) The Hearing Officer may ask questions at any time throughout the hearing.
- (8) A court reporter will transcribe the hearing.

History Note: Authority G.S. 115D-89; 115D-93; 150B-22;

Eff. August 1, 2014.

2B SBCCC 100.6 SBCC Final Agency Decision

After the hearing detailed in 2B SBCCC 100.5, the Hearing Officer shall make a final recommendation regarding denial of the proprietary school's application for license to the SBCC at the next regularly scheduled board meeting that occurs at least 10 business days after the hearing. The SBCC's decision is the final agency decision.

History Note: Authority G.S. 115D-89; 115D-93; 150B-22;

Eff. August 1, 2014.

SUBCHAPTER 200. SUSPENSION OR REVOCATION OF LICENSE

2B SBCCC 200.1 Standard for Suspending or Revoking License

The license of a proprietary school may be suspended or revoked in accordance with G.S. 150B, Article 3, when the SBCC finds that the school has failed to comply with the requirements of the law and the rules adopted by the SBCC.

History Note: Authority G.S. 115D-89; 115D-93;

Eff. August 1, 2014.

2B SBCCC 200.2 Complaints or Evidence of Proprietary School Noncompliance

(a) The SBPS, by and through the SBPS Executive Director shall initiate and conduct an investigation of a proprietary school subject to Article VIII of Chapter 115D for either of the following reasons:

- (1) The SBCC, acting by and through the NCCCS President or the SBPS receives a written complaint alleging that a proprietary school subject to Article VIII of Chapter 115D has failed to comply with either the requirements of the law or the rules adopted by the SBCC; or

- (2) The SBCC, acting by and through the SBPS has evidence that a proprietary school subject to Article VIII of Chapter 115D has failed to comply with either the requirements of the law or the rules adopted by the SBCC.
- (b) If the SBCC, acting by and through the SBPS has evidence that a proprietary school failed to comply with either the requirements of the law or the rules adopted by the SBCC, the SBPS shall document all of the evidence of noncompliance in a document to be titled, “Documentation of Noncompliance.”
- (c) Upon receipt of a written complaint or upon written documentation of a proprietary school’s failure to comply with either the law or SBCC rules, the SBPS Executive Director shall send a “Notice of Investigation” with the written complaint or with the “Documentation of Noncompliance” attached, to the chief administrator of the proprietary school at issue within five (5) business days of receiving the complaint or within five (5) business days of documenting the noncompliance with a copy to the following: 1) the Chair of the SBPS; 2) the NCCCS Executive Vice President for Operations; 3) the NCCCS General Counsel; and 4) the NCCCS Director of Marketing and Public Affairs. In the Notice of Investigation, the SBPS Executive Director shall request that the chief administrator or other agent of the proprietary school at issue submit a written response to the written complaint or to the documented noncompliance within ten (10) business days from the proprietary school’s receipt of the SBPS Executive Director’s request for a written response to the written complaint or to written response to the documented noncompliance.

*History Note: Authority G.S. 115D-89; 115D-93;
Eff. August 1, 2014.*

2B SBCCC 200.3 Investigation

- (a) The SBPS Executive Director or the SBPS Executive Director’s designee shall conduct an investigation into the written complaint or into the documented noncompliance. Pursuant to G.S. 115D-93(c)(3), the proprietary school under investigation shall permit the SBPS Executive Director or the SBPS Executive Director’s designee to obtain any information necessary to conduct the investigation.

- (b) When conducting an investigation of a written complaint against a proprietary school, the SBPS Executive Director or the SBPS Executive Director's designee shall constitute a properly authorized official of the SBCC. The investigation shall conclude within 45 days from the date the SBCC or the SBPS receives a written complaint or within 45 days from the date of the "Documentation of Noncompliance."

History Note: Authority G.S. 115D-89; 115D-93;

Eff. August 1, 2014.

2B SBCCC 200.4 Initial Recommendation to the SBCC

- (a) Upon the conclusion of the investigation in 2B SBCCC 200.3, the SBPS Executive Director shall submit a written investigation report to the SBPS that includes the following:
- (1) Copy of the written complaint or Documentation of Noncompliance;
 - (2) Specification of the laws or rules the proprietary school allegedly violated and a detailed description of how the proprietary school allegedly violated each of the specified laws or rules;
 - (3) Description of investigation process; and
 - (4) Recommendation of revocation of the proprietary school's license to operate one or more programs with a supporting rationale for revocation rather than for suspension; or
 - (5) Recommendation of suspension of the proprietary school's license to operate one or more programs with a supporting rationale for suspension rather than for revocation; or
 - (6) Recommendation to allow the proprietary school to retain its license to operate one or more programs with a supporting rationale for why revocation or suspension is not warranted.
- (b) The SBPS shall evaluate the written investigation report and after due consideration, recommend that the SBCC:
- (1) Initiate suspension of the proprietary school's license to operate one or more programs; or
 - (2) Initiate revocation of the proprietary school's license to operate one or more programs; or (3) Take no further action.
- (c) The SBPS Executive Director shall submit the written investigation report and SBPS recommendation to the SBCC for the SBCC's consideration at its regularly scheduled meeting

that occurs at least 10 business days after the SBPS recommendation with a copy to the following: 1) chief administrator of the proprietary school, 2) the Chair of the SBPS; 3) the NCCCS Executive Vice President for Operations; 4) the NCCCS General Counsel; 5) the Executive Director of the SBCC, and 6) the NCCCS Director of Marketing and Public Affairs.

(d) The SBCC will evaluate the written investigation report and SBPS recommendation, and after due consideration, vote to

- (1) Initiate suspension of the proprietary school's license to operate one or more programs;
- (2) Initiate revocation of the proprietary school's license to operate one or more programs; or
- (3) Take no further action.

Within three business days of the SBCC's disposition on the investigation report, the NCCCS General Counsel shall notify the proprietary school of the SBCC's decision to initiate suspension, initiate revocation, or take no action.

History Note: Authority G.S. 115D-89; 115D-93;

Eff. August 1, 2014.

2B SBCCC 200.5 Right to Hearing

- (a) If the SBCC votes to initiate suspension or revocation of a proprietary school's license to operate one or more programs, in the letter notifying the proprietary school of the SBCC's intent to suspend or revoke the proprietary school's license to operate one or more programs, the NCCCS General Counsel shall notify the proprietary school of its right to an informal hearing prior to the SBCC's final agency decision on suspension or revocation.
- (b) The proprietary school shall have 10 business days from the date it receives the SBCC's notice of its intent to suspend or revoke the proprietary school's license to operate one or more programs to notify the SBCC of its request to be heard. The proprietary school's request for hearing must be in writing and signed by the chief administrator or other authorized agent of the proprietary school and directed to the NCCCS General Counsel on behalf of the SBCC.
- (c) If the NCCCS General Counsel does not receive the proprietary school's signed request for hearing within 10 business days from the date the proprietary school receives the written notification of the SBCC's intent to suspend or revoke the proprietary school's license to operate

one or more programs, the SBCC's intent to suspend or revoke will become the SBCC's final agency decision to suspend or revoke.

*History Note: Authority G.S. 115D-89; 115D-93;
Eff. August 1, 2014.*

2B SBCCC 200.6 Hearing Process

If the NCCCS General Counsel receives the proprietary school's signed request for hearing within 10 business days from the date the proprietary school receives the written notification of the SBCC's intent to suspend or revoke the proprietary school's license to operate one or more programs, the hearing process detailed above in 2B SBCCC 100.5 shall apply. For the purpose of this rule, all references to denial of the proprietary school's application for license in 2B SBCCC 100.5 shall be replaced by references to the suspension or revocation of the proprietary school's license.

*History Note: Authority G.S. 115D-89; 115D-93;
Eff. August 1, 2014.*

2B SBCCC 200.7 SBCC Final Agency Decision

After the hearing detailed in 2B SBCCC 200.6, the Hearing Officer shall make a final recommendation of suspension, revocation, or no action to the SBCC at the next regularly scheduled board meeting that occurs at least 10 business days after the hearing. The SBCC's decision is the final agency decision.

*History Note: Authority G.S. 115D-89; 115D-93;
Eff. August 1, 2014.*