NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
R. Scott Ralls, Ph.D.
President

24 August 2015

IMPORTANT INFORMATION

MEMORANDUM

TO: Members of the State Board of Community Colleges
Community College Presidents
Boards of Trustees Chairs
Community College Chief Academic Officers, Chief Admissions Officers, Business Officers, Chief Financial Officers, Financial Aid Officers, Student Development Administrators, Public Information Officers, Registrars & Other Interested Parties

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

RE: **Proposed Amendment of Title 1, Chapter H – "Fiscal Management"**

The State Board of Community Colleges has initiated the rulemaking process to amend the following:

Title 1, Chapter H – "Fiscal Management"

The State Board of Community Colleges proposes to amend Title 1, Chapter H in order to clarify existing rules. **The proposed amendments are published on the NC Community College System's website, www.nccommunitycolleges.edu, under "State Board Code."** For your convenience, a copy of the proposed rules, with the changes indicated, is attached to this memorandum. Please post a copy of the proposed rules in prominent places so that all individuals affected by the proposed changes will be informed.

Any member of the public has the right to submit written comments on the proposed rules. **Written comments on the rules must be received by no later than 5:00 p.m. on September 23, 2015.** Any member of the public has the right to request a hearing on the proposed rules. **Requests for a hearing must be received by no later than 5:00 p.m. on September 8, 2015.** Written comments and requests for hearing shall be directed to the following address: Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to publiccomments@nccommunitycolleges.edu. Thank you for your attention to this matter.

CC15-022
E-mail Copy

Attachments

State Board of Community Colleges Code

Notice of Proposed Rulemaking Form

Date: 24 August 2015

Title, Chapter, Subchapter, and Rule Number of Rule Proposed to be Adopted, Amended, or Repealed	Amend Title 1, Chapter H – "Fiscal Management"

Specify whether the SBCC proposes to adopt amend, or repeal a rule:	**Adopt** (new rule)	**Amend** (change existing rule)	**Repeal** (delete entire rule)
		X	

Rationale for proposed adoption, amendment or repeal:	Title 1, Chapter H governs fiscal management for the community colleges. The proposed amendments located in Title 1, Chapter H are warranted to clarify existing rules.

Proposed Effective Date of Rule	January 1, 2016

Title 1, Chapter H is proposed for amendment as follows:

State Board of Community Colleges Code
TITLE 1 – COMMUNITY COLLEGES

CHAPTER H. FISCAL MANAGEMENT

SUBCHAPTER 100. DEFINITIONS

1H SBCCC 100.1 Definitions

The following definitions apply to this Chapter:

(a) "County funds" – Funds appropriated to the college by the local tax-levying authority.

(b) "Institutional funds" – Funds budgeted and expended through college accounts that are not allocated to the college by the State Board of Community Colleges, nor appropriated to the college by the local tax-levying authority.

(c) "State funds" – All funds that are allocated to colleges by the State Board of Community Colleges, regardless of the revenue source.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

SUBCHAPTER 200. STATE FUNDS

1H SBCCC 200.1 Allocation of Funds

(a) The State Board shall allocate State funds to colleges using one or more of the following methods:

(1) Formula allocation: Allocations calculated using a formula of objective, verifiable factors.

(2) Competitive allocation: Allocations determined through a competitive process through which colleges apply for funds and the colleges' requests are evaluated and ranked based on identified criteria.

(3) Direct allocation: Funds allocated directly to a specific college when one of the following conditions apply:

(A)The General Assembly directs that funds shall be allocated to a specific college;

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(B) The terms of a grant award require that grant funds be allocated to a specific college; or

(C) A college has programmatic ability unique among colleges and the desire to fulfill the objectives for which the funds allocated.

(b) At the time of allocation, the System Office shall notify colleges of the allocation period, which is the time period during which the college is authorized to expend the allocation. The System Office shall extend the allocation period if additional time is needed for the college to complete the objectives for which the funds were allocated, funds remain available, and the extension of the allocation period is in the best interest of the NC Community College System as determined by the System President.

(c) The System Office may reduce a college's allocation under the following circumstances:

(1) At the System Office's request, a college voluntarily forgoes an amount of its approved allocation because it is not able to fully expend the funds and other colleges have a need for those funds; or

(2) A college fails to meet pre-determined programmatic or expenditure benchmarks that were communicated to the college when the State Board initially allocated funds and other colleges have a need for those funds; or

(3) Revenue collections are not meeting budget projections and there is a projected cash shortfall of greater magnitude than one that can be covered through projected unexpended allocations.

(d) If a college's allocation is reduced as provided in subsection (c), the System Office shall reallocate those funds to other colleges that demonstrate need and an ability to utilize the funds if there is no projected cash shortfall.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

1H SBCCC 200.2 Withholding of State Funds or Administrative Support

(a) Institutions shall be operated in compliance with G.S. 115D and all rules in this Title. In order for an institution to continue receiving State financial and administrative support, the institution shall:

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(1) Maintain accreditation with the Southern Association of Colleges and Schools and acquire and maintain accreditation or licenses for each program offered which has an individual accreditation or licensure requirement in accordance with G.S. 115D-5(a) and 1B SBCCC 400.96.

(2) Employ faculty, assign teaching and non-teaching loads, and provide technical assistance to faculty consistent with the criteria of the Southern Association of Colleges and Schools in accordance with 1C SBCCC 300.97; 1D SBCCC 200.93; and 400.93.

(3) Submit required data to the System Office on each of the performance measures and publish the ratings on each measure in accordance with G.S. 115D-31.3 and 1B SBCCC 400.98.

(4) Complete and submit to the System Office all reports in accordance with the North Carolina Community College System Annual Reporting Plan that the System Office communicates to the colleges.

(5) Manage institutional operations and resources consistent with law. An institution that receives four or more written findings in its final published financial statement audit conducted under G.S. 115D-58.16 for two consecutive audit cycles shall be in violation of this Rule.

(6) Report the intentional damage, theft, embezzlement, or misuse of any state-owned personal or real property by institutional officials or employees to the Director of the State Bureau of Investigation in accordance with G.S. 143B-920.

(7) Comply with 1C SBCCC 200.94.

(8) Comply with any request for information, documents, or any other request of the State Board.

(b) In addition to the provisions of G.S. 115D-6, the State Board may withhold funds for the president's salary or terminate state financial and administrative support of any institution that fails to comply with any provision of Paragraph (a) of this Rule.

History Note: Authority G.S. 114-15.1; 115D-4.1; 115D-5; 115D-6; 115D-31.3; 115D-32;
Eff. January 1, 2016.

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1H SBCCC 200.3 Disbursement of State Funds

State funds expended by the colleges shall be disbursed through a disbursing account that the State Treasurer has established for each college. The signature of college officials that are authorized by the college president to sign vouchers issued on State funds shall be maintained on file with the State Treasurer and the State Board. The State Treasurer will furnish signature cards for this purpose.

History Note: Authority G.S. 115D-58.3;
Eff. January 1, 2016.

1H SBCCC 200.4 Expenditure of State Funds

State funds shall be expended consistent with the purposes for which the State Board allocated the funds. In the event that a college expends State funds for an unauthorized purpose, the college shall reimburse the State for the amount from non-State funds.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

1H SBCCC 200.5 Expenditure of State Funds: Travel and Allowances

State funds shall be expended for travel consistent with travel procedures prescribed by the Office of State Budget and Management in the State of North Carolina Budget Manual or a policy adopted by the college's board of trustees that is more restrictive than the procedures prescribed in the North Carolina Budget Manual.

History Note: Authority G.S. 115D-5; 115D-54;
Eff. January 1, 2016.

1H SBCCC 200.6 Expenditure of State Funds: Accreditation Expenses & Dues

(a) Accreditation expenses relative to Southern Association of Colleges and Schools may be paid from State funds within the institution's current allotment. These expenses shall be limited to payment of travel, subsistence, lodging, and honorarium incurred by members of visiting

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committees, other bona fide representatives, and members of the staff of accrediting organizations. This Rule permits payment of only those expenses for which an institution is customarily invoiced by an accrediting organization following a visit.

(b) The institution may pay from State funds the required annual dues of the Southern Association of Colleges and Schools, and such institutional association membership dues as the board of trustees deems to benefit the institution. Regarding membership dues in the Southern Association, this Rule applies to annual dues of correspondents and candidates for membership, as well as accredited members.

(c) The institution may also pay from State funds the fees for accrediting individual programs offered by the institution if the college president determines that the accreditation provides value to graduates of the program.

History Note: Authority G.S. 115D 5; 115D 55;
Eff. January 1, 2016.

1H SBCCC 200.7 Expenditure of State Funds: Campus Security

Colleges may use up to a specific amount of State funds designated by the State Board for campus security. Under this authority, colleges may:

(1) Hire security or campus police personnel;

(2) Contract for professional security services and other security-related services; and

(3) Purchase surveillance cameras, call boxes, alert systems, and other equipment-related expenditures, excluding vehicles.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

1H SBCCC 200.8 Expenditure of State Funds: Employee Recognition

Colleges may use State funds for purchases related to the recognition of employees for meritorious service through programs such as the one authorized by the State for State employees. In addition, State funds may be expended, not to exceed $50, for the purchase of a plaque or for the printing

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and framing of a certificate to recognize employee service or performance. The expenditure of State funds for these purposes is subject to the availability of funds within the college.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

1H SBCCC 200.9 Expenditure of State Funds Prohibited: Athletics

Colleges shall not use State funds to create, support, maintain, or operate an intercollegiate, club, or intramural athletics program. Athletic programs may only be supported by student activity fees or other non-State funding sources that are authorized for that purpose. Intercollegiate athletics programs shall be operated consistent with 1B SBCCC 600.99.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

1H SBCCC 200.10 Expenditure of State Funds Prohibited: Promotional Giveaway Items and Other Gifts

Colleges shall not use State funds to purchase promotional giveaway items or other gifts for any reason, including promotional giveaway items purchased for college marketing and advertising. "Promotional giveaway items" are items given to an individual or entity for less than fair market value that do not serve an instructional or institutional purpose. Items that serve "an instructional or institutional purpose" are those used for classroom instruction and daily, routine operations of the college not associated with marketing, advertising, recruiting, or fundraising. See 1E SBCCC 700.7(a), 1H SBCCC 300.3(b)(1), and 1H SBCCC 300.4 for rules related to sources of institutional funds that may be used for giveaway items.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

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1H SBCCC 200.11 Expenditure of State Funds Prohibited: Purposes

Unless otherwise authorized by law, colleges may not use State funds for the budget items listed in G.S. 115D-32, since these items are the responsibility of the tax-levying authority as defined in G.S. 115D-2.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

~~**1H SBCCC 200.86 Withholding of State Funds or Administrative Support**~~

~~a) Institutions shall be operated in compliance with G.S. 115D and all rules in this Title. In order for an institution to continue receiving state financial and administrative support, the institution shall:~~

~~(1) Maintain accreditation with the Southern Association of Colleges and Schools and acquire and maintain accreditation or licenses for each program offered which has an individual accreditation or licensure requirement in accordance with G.S. 115D-4.1 and 1B SBCCC 400.96.~~

~~(2) Employ faculty, assign teaching and non-teaching loads, and provide technical assistance to faculty consistent with the criteria of the Southern Association of Colleges and Schools in accordance with 1C SBCCC 300.97; 1D SBCCC 200.93; 300.94; and 400.93.~~

~~(3) Submit required data to the System Office on each of the 12 performance measures and publish the ratings on each measure in accordance with G.S. 115D-31.3 and 1B SBCCC 400.98.~~

~~(4) Complete and submit to the System Office all reports conditioned upon receipt of federal funds in accordance with the North Carolina Community College System Annual Reporting Plan.~~

~~(5) Manage institutional operations and resources consistent with program and revenue audit policies. An institution that receives four program or revenue audit exceptions per year for two consecutive years shall be in violation of this Rule.~~

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~~(6) Report the damage, theft, embezzlement, or misuse of any state-owned personal or real property by institutional officials or employees to the Director of the State Bureau of Investigation in accordance with G.S.114-15.1.~~

~~(7) Adopt and publish personnel policies addressing the issues listed in Rule 1C SBCCC 200.94, and submit them to the System President's office.~~

~~(8) Terminate employment of institutional officials or employees for participation in activities involving moral turpitude.~~

~~(9) Comply with any request for information, documents, or any other request of the State Board.~~

~~(b) The State Board may withhold funds for the president's salary or terminate state financial and administrative support of any institution that fails to comply with any provision of Paragraph (a) of this Rule.~~

~~(c) In addition, the State financial and administrative support of an institution may be as set out in G.S. 115D-6.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 114-15.1; 115D-4.1; 115D-5; 115D-6; 115D-31.3; 115D-32;*
Eff. ~~*December 1, 2004.*~~*December 1, 2004;*
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.87 Operating Budget Requests: Distribution of Funds~~

~~(a) Projections of full-time equivalent (FTE) students shall be based on the following:~~

~~(1) Curriculum FTE projections shall be based on the academic year (fall and spring semesters).~~

~~(2) Continuing education FTE projections shall be based on the latest spring, summer, and fall FTE figures. Annual continuing education FTE is determined by totaling the student hours in membership for the three reporting periods and dividing by 688. Note definition of annual continuing education FTE in 1G SBCCC 100.1(8).~~

~~(3) Projections shall be made, program by program, as stated in Subparagraphs (a)(1) and (2) of this Rule. If the actual FTE for the semesters needed are not available, the latest actual semester FTE shall be multiplied by the latest five-year retention~~

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~~ratio to determine the appropriate estimates. Retention ratios are FTE comparisons between Fall Semester and the Spring Semester which are used to predict FTE totals when actual figures are not available.~~

~~(4) The State Board may adjust the projections based on additional factors brought to its attention.~~

~~(5) The State Board shall adopt an official projection of FTE.~~

~~(b) Appropriation Requests:~~

~~(1) Continuation Budget Requests. The continuation budget request shall be based on the number of FTE and amount per FTE currently appropriated and increases in the continuation budget as directed by the Office of State Budget and Management. Also included in the continuation budget requests shall be continuing categorical programs. Categorical programs are educational programs funded for specific purposes such as the Customized Training Program for job growth, productivity enhancement, or technology investment as opposed to general formula programs such as occupational extension.~~

~~(2) Expansion Budget Requests. The expansion budget request shall consist of at least the following items:~~

~~(A) an adjustment in the number of FTEs in existing programs based on the difference between the official FTE projections of the State Board and the existing level of FTEs requested in the continuation budget;~~

~~(B) an adjustment in expenditure per FTE;~~

~~(C) additional funding for new and special programs of instruction.~~

~~(c) State Board Reserve. A reserve shall be requested from the General Assembly and shall be retained by the State Board for the purpose of making later allocations for feasibility studies, pilot projects, innovative ideas, and start-up of new programs or as otherwise directed by the General Assembly.~~

~~(d) Formula distribution of funds for the current operation budget. Funds appropriated to the State Board for current operation shall be allocated to the system colleges as directed by the General Assembly.~~

~~(e) JTPA Administrative Allotment. Student class hours for class size projects funded by the Job Training Partnership Act (JTPA) shall not be included in the full-time equivalent (FTE) formula~~

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~~for earning budget/FTE. Administrative funds for operating these class size projects shall be allocated on the same basis as all other administrative formula funds.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-3; 115D-5; 115D-54; S.L. 1995, c. 625;*
Eff. February 1, 1976;
Amended Eff. September 30, 1977;
Emergency Amendment Eff. July 1, 1978 for a period of 120 days to expire on October 29, 1978;
Emergency Amendment Made Permanent Eff. July 24, 1978;
Amended Eff. June 1, 1987; July 1, 1983;
Temporary Amendment Eff. August 25, 1988 for a period of 180 days to expire on February 20, 1989;
Amended Eff. September 1, 1993; April 1, 1989;
Temporary Amendment Eff. June 1, 1997;
Amended Eff. May 1, 2009; ~~July 1, 1998.~~July 1, 1998;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.88 – Distribution of Federal Vocational Education Funds~~

~~Federal funds allocated to the state from the Carl D. Perkins Vocational and Applied Technology Education Act shall be distributed one-third to the community college system and two-thirds to the public school system and in accordance with the approved State Plan. In the event that the community college system or the public school system is unable to use the federal funds as provided for in this Rule as determined by the System President and the State Superintendent, the excess funds may be used by the other system as needed.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115C-154; 115C-158; 115D-5; 115D-31; P.L. 101-392;*
Eff. February 1, 1976;
Amended Eff. September 1, 1993; August 17, 1981; ~~January 6, 1978.~~January 6, 1978;
Repealed Eff. January 1, 2016.

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~~*Editor's Note: As mentioned in the Editor's Note at the beginning of this Subchapter, numbering errors have been discovered in rules filed in 1976 and 1977. In particular, 23 SBCCC 2D .0315 and .0316 appear to have been repealed on November 4, 1976 due to miscommunication between our office and the Department of Public Education. These Rules have been treated by the agency as still in effect since that date as evidenced by amendments as noted in the history file. Though our office will certify these Rules as repealed, such certification will include all related materials and forms and an affidavit by the Attorney General that the rules were repealed due to administrative error rather than agency intent.*~~

~~1H SBCCC 200.89 Equipment Budget Requests: Distribution of Funds~~

~~The State Board shall approve budget requests and the allotment of funds to colleges for equipment upon recommendation by the Department.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Filed as an Emergency Amendment Eff. July 1, 1978 for a period of 120 days to expire on October 29, 1978;*
Authority G.S. 115D-5; 115D-55;
Eff. February 1, 1976;
Emergency Amendment Made Permanent Eff. July 24, 1978;
Amended Eff. September 1, 1993; July 1, 1984; August 1, 1983; ~~July 1, 1981.~~July 1, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.90 Library Book Funding System and Budgetary Application~~

~~The State Board shall provide allotment of funds to colleges for library books and non-equipment learning resources upon recommendation of the Department.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Filed as an Emergency Amendment Eff. July 1, 1978 for a period of 120 days to expire on October 29, 1978;*

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Authority G.S. 115D-5; 115D-31;
Eff. February 1, 1976;
Emergency Amendment Made Permanent Eff. July 24, 1978;
Amended Eff. September 1, 1993; August 1, 1983; ~~July 1, 1981.~~July 1, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.91 Appropriation Requests and Allocation Policy~~

~~The State Board shall approve appropriation requests and the allotment of funds to colleges for capital improvements based on need and utilization of space.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: Filed as an Emergency Amendment Eff. July 1, 1978 for a Period of 120 Days to Expire on October 29, 1978;
Statutory Authority G.S. 115D-5; 115D-54;
Eff. February 1, 1976;
Amended Eff. January 6, 1978;
Emergency Amendment Made Permanent Eff. July 24, 1978;
Amended Eff. September 1, 1993; September 1, 1985; ~~August 17, 1981.~~August 17, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.92 Disbursement of State Funds~~

~~State funds expended by the colleges shall be disbursed through a disbursing account established for each college with the State Treasurer. The signature of persons authorized to sign vouchers issued on state funds shall be maintained on file with the State Treasurer and the State Board. The State Treasurer will furnish signature cards for this purpose.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: Authority G.S. 115D-58.3;
Eff. February 1, 1976;

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Amended Eff. September 1, 1993; December 1, 1984; ~~August 17, 1981.~~August 17, 1981;

Repealed Eff. January 1, 2016.

~~1H SBCCC 200.93 Expenditure of State Funds: Accreditation Expenses & Dues~~

~~(a) Accreditation expenses relative to Southern Association of Colleges and Schools may be paid from state funds within the institution's current allotment. These expenses shall be limited to payment of travel, subsistence, lodging, and honorarium incurred by members of visiting committees, other bona fide representatives, and members of the staff of accrediting organizations. This Rule permits payment of only those expenses for which an institution is customarily invoiced by an accrediting organization following a visit.~~

~~(b) The institution may pay from state funds the required annual dues of the Southern Association of Colleges and Schools, and such institutional association membership dues as the board of trustees deems to benefit the institution. Regarding membership dues in the Southern Association, this Rule applies to annual dues of correspondents and candidates for membership, as well as accredited members.~~

~~(c) The institution may also pay from state funds the fees for accrediting individual programs offered by the institution in the following circumstances:~~

~~(1) Where such an accreditation is an official prerequisite for graduates of such programs to be licensed, certified, or registered by legally designated professional or occupational boards or agencies that license, certify, or register in the State of North Carolina;~~

~~(2) When the accrediting agency from which the accreditation is sought, is officially listed by the U.S. Department of Education or the Council on Higher Education Accreditation as a recognized accrediting agency or organization; or~~

~~(3) When the accrediting agency is a member of the Association of Specialized and Professional Accreditors.~~

~~(d) Except as provided by this Rule, state funds may not be used to pay the accreditation costs of any other accrediting organizations or agencies.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

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History Note: *Authority G.S. 115D-5; 115D-55;*
Eff. February 1, 1976;
Amended Eff. April 1, 2009; August 1, 1983; August 17, 1981; ~~September 30, 1977.~~September 30, 1977;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.94 Expenditure of State Funds: Postage Machines~~

~~State funds may be used to rent postage machines.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5;*
Eff. February 1, 1976;
Amended Eff. September 1, 1993; ~~August 17, 1981.~~August 17, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.95 Expenditure of State Funds: Certificate Costs~~

~~Printed certificates, diplomas, or degrees produced through printshops at the institution may be paid from state funds available for Supplies and Materials. If these certificates, diplomas, or degrees are ordered from a commercial printshop, the cost can be a part of the graduation fee charged to the student.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 115D-39;*
Eff. February 1, 1976;
Amended Eff. November 1, 1983; ~~August 17, 1981.~~August 17, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.96 Expenditure of State Funds: Special Funds~~

~~Expenditure items directly related to operations under a special fund may not be paid from state funds.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

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History Note: *Authority G.S. 115D-5; 115D-54;*
Eff. ~~*February 1, 1976.*~~*February 1, 1976;*
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.97~~ ~~Expenditure of State Funds: Travel and Allowances~~

~~Travel regulations governing travel for institutional personnel are published in section number five of the Accounting Procedures Manual published by the State Board. These Regulations can be obtained from the Department of Community Colleges, Raleigh, North Carolina.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Filed as an Emergency Amendment Eff. September 13, 1978 for a period of 90 days to expire on December 12, 1978;*
Authority G.S. 115D-5; 115D-54;
Eff. February 1, 1976;
Amended Eff. September 30, 1977;
Emergency Amendment Made Permanent with Change Eff. December 8, 1978;
Amended Eff. August 17, 1981; ~~*July 1, 1980.*~~*July 1, 1980;*
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.98 Maintenance of Plant Flexibility~~

~~(a) Notwithstanding any other provision of law, a community college that received State funds for maintenance of plant pursuant to G.S. 115D-31.2 for the 2008-2009 fiscal year may use non-instructional State funds allocated to it through the institutional support allotment for maintenance of plant for the 2009-2010 and 2010-2011 fiscal years.~~

~~(b) The amount of these funds used for the 2009-2010 fiscal year for maintenance of plant shall not exceed the total amount of maintenance of plant funds received for the 2008-2009 fiscal year. The amount of these funds used for the 2010-2011 fiscal year for maintenance of plant shall not exceed 50 percent of the amount of maintenance of plant funds received for the 2008-2009 fiscal year. This Rule is effective for the 2009-2011 fiscal biennium.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

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History Note: *Authority G.S. 115D-5; S.L. 2009-451, s. 8.17(b);*
Emergency Adoption Eff. September 30, 2009;
Temporary Adoption Eff. December 29, 2009;
Eff. ~~April 1, 2010.~~April 1, 2010;
Repealed Eff. January 1, 2016.

~~1H SBCCC 200.99~~ ~~Expenditure of State Funds Prohibited: Intercollegiate Athletics~~

~~a) No college shall operate an intercollegiate athletic program or team unless the college maintains a membership in good standing with the National Junior College Athletic Association and Region 10. For the purposes of this Rule, "intercollegiate athletic program or team" does not include club teams.~~

~~(b) A college shall not participate in intercollegiate athletics unless any foundation associated with the college pursuant to G.S. 115D-20(9) adopts a policy requiring that the total amount of all athletic scholarships awarded to an individual student-athlete does not exceed the participating student's expenses for tuition, college fees, and course-related books and materials required for the courses in which that student is enrolled.~~

~~(c) A college shall not participate in intercollegiate athletics unless the total amount of all athletic scholarships the college awards plus the total amount of all athletic scholarships awarded by any foundation associated with the college pursuant to G.S. 115D-20(9) does not exceed the participating student's expenses for tuition, college fees, and course-related books and materials required for the courses in which that student is enrolled.~~

~~(d) State funds shall not be used to create, support, maintain, or operate an intercollegiate athletics program.~~

~~(e) Colleges shall neither provide nor offer room and board as part of an intercollegiate athletic scholarship to any student participating in an intercollegiate athletics sport except for temporary room and board associated with specific athletic events.~~

~~(f) For the purposes of this Rule, tuition waivers granted are limited to those authorized by statute. Tuition waivers obtained by students participating in any intercollegiate athletics sport shall be deemed to be a scholarship for tuition.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

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History Note: Authority G.S. 115D-5;
Eff. ~~August 1, 2009.~~August 1, 2009;
Repealed Eff. January 1, 2016.

SUBCHAPTER 300. INSTITUTIONAL FUNDS

1H SBCCC 300.1 Live Client Projects

(a) Definition. Live client projects are defined as:
(1) educational programs in which students, as part of their educational experiences and as part of the instructional course requirements, repair or remodel non-college owned personal property or real property; or
(2) educational programs that construct structures that are sold, produce goods that are sold, or provide services for a fee, such structures, goods or services being the normal and necessary product of learning activities of students.

(b) Local Procedures. If a college elects to engage in live client projects, college management shall adopt procedures for the administration of such projects, consistent with State laws and rules, that include, at minimum, the following elements:
(1) Definition of criteria that will be used to select project clientele,
(2) Methodology for determining client charges,
(3) Management of liability issues for students participating in live projects,
(4) Assignment of liability for the integrity of the finished product or service, and
(5) Required administrative approvals prior to beginning a live project.

Colleges shall select clientele and establish client charges through an objective process that prevents private individuals or entities from accruing, from the live client project, benefits a college shows to be unreasonable. Colleges shall not engage in live client projects that repair or remodel property for companies or individuals that are in the business of equipment resale unless the property undergoing repair or remodeling is used in the usual course of the business and is not being resold.

(c) Live Client Project Charges. Colleges are authorized to charge project clientele for goods or services produced through a live client project. In the case of (a)(1) of this Rule, the owner of the property shall supply or pay for all parts required. In the case of (a)(2) of this rule, the

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college shall charge all clientele for the value of the goods and services provided through a live customer project. Live client project receipts shall be deposited into an unrestricted institutional account. A college may determine locally whether discrete live client projects are accounted for in separate institutional accounts or in one account used for multiple live client projects.

(d) Use of Live Client Project Receipts. All costs that otherwise would not have been incurred absent the live client project shall be supported by funds from the institutional account that receives the live client project receipts and shall not be supported from State funds. These costs include, but are not limited to, supplies and materials used in producing the good or service, additional personnel required to serve clients, specialized equipment, liability insurance, and other costs directly related to the live client project as distinguished from an instructional program that does not produce income. In the context of construction live client projects, these costs include, but are not limited to, all building materials, land, land improvements, amounts paid to subcontractors for work not performed by students or employees of the college, any actual interest paid on construction loans or financing arrangements provided for by a partnering third-party entity, and any legal fees and closing costs that may be required. Live client project receipts may also be used to supplement instructional costs of those programs engaging in live client projects. The college shall maintain detailed records so that the college may prepare annual financial statements and a complete audit of the account may be made after the close of the fiscal year.

(e) Surplus Equipment Live Client Projects. For live client projects that involve the repair of equipment purchased with State funds or federal surplus property, with a subsequent sale as surplus under the rules of the State Division of Purchase and Contract, the proceeds of such sales shall be deposited as a refund of expense to the equipment budget of the college.

(f) Construction Live Client Projects. For construction live client projects where a permanent building is constructed on the college's campus or on property owned by the college, the board of trustees shall follow all requirements of the General Statutes in acquiring the building materials and any subcontracted work, as well as in disposing of the building and property. College employees on the permanent payroll of the college are permitted to perform construction or repair work as long as project costs do not exceed the maximum thresholds

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established in G.S. 143-135. A project cannot be subdivided to evade the provisions of G.S. 143-135.

(g) Patron Service Live Client Projects. Notwithstanding subsection (d) of this section, a college may use a combination of State funds and live client project receipts to support costs associated with providing services to patrons, such as cosmetology and dental hygiene services.

(h) Disposition of Discontinued Live Client Project Fund Balance. If a college decides to discontinue a live client project activity, any unexpended funds in the live client project institutional account shall be used for other live client projects or used consistent with the provisions of 1E SBCCC 700.7.

History Note: Authority G.S. 115D-5; 115D-14; P.L. 97-300;
Eff. January 1, 2016.

1H SBCCC 300.2 RESERVED FOR FUTURE CODIFICATION

1H SBCCC 300.3 Bookstore and Bookstore Commissions

(a) Bookstore operations. All financial transactions pertaining to bookstore operations shall be accounted for in a proprietary institutional account and kept separate from all other activities of the college. At least every four years, the board of trustees of each college shall review the college's mark-up on textbooks and other instructional materials sold through the bookstore to determine if the mark-up is appropriately balanced between affordability for students and other priorities identified by the local board of trustees.

(b) Use of bookstore operating revenues. Bookstore receipts shall first be used to support bookstore operating expenses including, but not limited to salaries and benefits of bookstore personnel, purchase of inventory, marketing, supplies, travel, equipment associated with the operation of the bookstore, enhancement of the bookstore, and bookstore facility support costs, such as, utilities, housekeeping, maintenance, and security.

(c) Excess bookstore revenues. Receipts in excess of the above operating expenses shall be transferred to the appropriate account and expended consistent with the following provisions:

(1) Funds may be used to support instruction, student support services, student financial aid (e.g. scholarships, grants, loans, Work Study), student refunds, student activities,

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giveaways to students, curriculum development, program improvement, professional development, instructional equipment, and capital improvements related to facilities associated with the bookstore and student activities.

(2) Funds shall not be used to support any supplemental salary, benefit, or other form of compensation for the college president. Funds shall not be used to support administrative costs, promotional giveaways to individuals other than students, entertainment expenses, fundraising expenses, and capital improvements not allowed under (c)(1) above.

History Note: Authority G.S. 115D-5; 115D-58.13;
Eff. January 1, 2016.

1H SBCCC 300.4 Vending and Concession Activities

The board of trustees of each college shall adopt local policies consistent with G.S. 115D-58.13 for the depositing, budgeting, appropriating, and expending of funds generated through vending machines and other concession activities. Funds generated through vending facilities, vending machines, and other concession activities shall be deposited into an unrestricted institutional account. These funds shall not be used to support the salary, benefits, or any other compensation reportable as income to the Internal Revenue Service of the college president.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

~~**1H SBCCC 300.97 Live Projects**~~

~~(a) Live projects are defined as:~~

~~(1) educational programs in which students, as part of their educational experiences, repair or remodel equipment not owned by the college; or~~

~~(2) educational programs that produce goods that are sold or services for which charges are made, such goods or services being the normal and necessary product of learning activities of students.~~

~~(b) In the case of (a)(1) of this Rule, the owner of the equipment must supply or pay for all parts required. In the case of (a)(2) of this Rule, the following regulations apply:~~

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(1) Where federal programs are involved, rules do not permit goods to be sold. In such programs, goods produced may be used for the benefit of the college or donated to another non-profit charitable or educational agency or institution.

(2) For live projects that involve the purchase of equipment from the state or federal surplus property agency, the repair of this equipment and its sale as surplus under the rules of the State Division of Purchase and Contract, the proceeds of such sales shall be deposited with the State Board and credited to the equipment budget of the college.

(3) In other programs that fall under the above definition of live projects:

(A) The local board of trustees shall approve rules, consistent with state laws and rules, covering the disposal of goods and services, charges made, etc.

(B) The local board of trustees shall provide that the receipts be deposited to the State Treasurer (unless a "special local" fund account arrangement has been worked out in keeping with rules of the department). Receipts deposited to the State Treasurer under this provision shall be allotted back to the college for expenditures during the same fiscal year.

(C) Where a "special local" fund arrangement is set up as provided in (b)(3)(B) of this Rule, all costs made necessary because goods or services are produced and then sold shall be paid from the "special local" account that receives the income. This includes materials used in producing the goods and services, extra personnel required to serve customers, specialized equipment that would not otherwise be required for instruction alone, and other costs directly related to a live project as distinguished from an instructional program that does not produce income. Detailed records must be maintained on the special local fund account in order that periodic financial statements may be prepared and a complete audit of the account made after the close of the fiscal year.

(D) Where a "special local" fund arrangement is set up as provided in Part (b)(3)(B) of this Rule, the local board of trustees shall adopt regulations which set forth the purposes for which funds from the special local fund [in excess of those required under Part (b)(3)(C) of this Rule] may be used.

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~~Such funds shall not be used to supplement regular salaries of permanent employees whose base salaries are paid from state or local appropriations.~~

~~(E) Approval as a Special Fund. If a project is expected to continue over an extended period of time or if the cost of providing the goods or services is difficult to trace to a particular patron, the project may be accounted for as a "special fund". Expenses of these projects may be paid out of receipts. The approval of the Department will be required to set up projects as special funds.~~

~~(c) The clientele served in providing clinical experience for students by carrying on live projects shall be limited to students and employees in the system so far as possible. Where, however, outside clients become necessary in order to provide enough experience to carry out educational programs, clients shall be selected from the general public on the basis of standing criteria adopted and published by the college, not inconsistent with State Board rules.~~

~~(d) The above rules, except those under Subparagraph (b)(2) of this Rule, do not apply to the disposal of any state-owned equipment, which must be declared surplus and sold by the State Board.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 115D-14; P.L. 97-300;*
Eff. February 1, 1976;
Amended Eff. September 1, 1993; ~~August 17, 1981.~~August 17, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 300.98 Handling Overhead Receipts and Allowances~~

~~Funds accruing to an institution as federal allowances, including overhead allowances on federal grant projects, veteran student processing per capita allowances work study processing allowances, and similar items and similar allowances derived from private grant projects, shall be deposited in a special local fund to be used by the institution to fund special projects proposed by the institution and approved by the State President consistent with provisions set forth in the Accounting Procedures Manual.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

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History Note: Authority G.S. 115D-5; 115D-54;
Eff. February 1, 1976;
Amended Eff. ~~August 17, 1981.~~August 17, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 300.99 Bookstore: Vending Machine~~

~~The board of trustees of each college shall adopt local policies consistent with G.S. 115D-58.13 for the budgeting, accounting and expenditure of funds generated through vending machines and other convenience concession activities.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: Authority G.S. 115D-5; 115D-58.13;
Eff. February 1, 1976;
Amended Eff. December 1, 2004; September 1, 1993; December 1, 1984; ~~August 17, 1981.~~ August 17, 1981;
Repealed Eff. January 1, 2016.

SUBCHAPTER 400. ~~PROPERTY/CAPITAL IMPROVMENT~~PROPERTY AND CAPITAL IMPROVEMENTS

1H SBCCC 400.1 Definitions

The following definitions apply to this Subchapter:

(a) "Capital improvement project" - real property acquisition, new construction or rehabilitation of existing facilities, and repairs and renovations as defined in G.S. 143C-1-1.

(b) "Formal capital improvement project" - a project requiring the estimated expenditure of public money in an amount equal to or more than the monetary threshold as defined in G.S. 143-129(a).

(c) "Informal capital improvement project" - a project requiring the estimated expenditure of public money in an amount less than the monetary threshold as defined in G.S. 143-129(a).

History Note: Authority G.S. 115D-5;

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Eff. January 1, 2016.

1H SBCCC 400.2 Surplus and Irreparable Books and Book-Like Media

Books and book-like media originally purchased from State or federal funds, when they are no longer useful to an institution shall be disposed of by the institution. Book-like media include audio visual materials, CD's, electronic resources, and other learning resources of durable nature. These materials may be destroyed locally through standard recycling methods or disposed of by the institution through a local sale; disposed of through a profit-sharing arrangement with a company that resells and recycles books and book-like media; through donations to non-profit, tax-exempt organizations (including college foundations) or tax-supported agencies or institutions; or through public bid sale by the State Surplus Property Agency. Colleges shall maintain records and receipts of each sale for auditing purposes. Colleges shall use any receipts generated from the sale of surplus books and book-like media to purchase additional books and book-like media.

History Note: Authority G.S. 115D-5; 115D-31;
Eff. January 1, 2016.

1H SBCCC 400.3 Donated or Loaned Property

(a) A board of trustees may accept property donated to the college for any lawful educational purpose that is consistent with the mission and purpose of the community college system.

(b) A board of trustees shall obtain State Board approval prior to accepting a donation of real property.

(c) Any funds derived from the sale or lease of property donated to a college for a specific educational purpose shall be used to accomplish that purpose.

(d) A board of trustees may permit a private business enterprise that loans or donates instructional equipment to the college to use the college's facilities to demonstrate the donated or loaned equipment to customers or potential customers of the private business enterprise provided that:

(1) The board of trustees shall develop procedures to regulate the use of its facilities for this purpose; and

(2) The lender's or donor's use of the college facilities shall not interfere with the education of students.

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History Note: Authority G.S. 115D-5; 115D-15; 115D-20;
Eff. January 1, 2016.

1H SBCCC 400.4 Capital Project Approval and Obtaining Capital Funds

State Board Approval. The State Board shall approve all formal capital improvement projects, regardless of the source of funds, and all informal college capital improvement projects that are supported in part or in total with State funds. As part of the request submitted to the State Board, the college shall certify that its board of trustees has voted to approve the project.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

1H SBCCC 400.5 Open-End Design Agreements

A board of trustees of a community college may enter into open-end design agreements. An open-end design agreement is an annual service agreement for professional design services provided on a routine or as needed basis for miscellaneous projects as described in 01 NCAC 30D .0302(f). These open-end design agreements are subject to the following limitations:

(1) The college shall publicly announce an open-end design agreement pursuant to 23 NCAC 02D .0605 to inform interested designers of the college's need for an open-end agreement for design services.
(2) The college board of trustees shall select the designer for open-end design agreements in accordance with the college's designer selection procedures for informal capital improvement projects.
(3) The total estimated cost of each informal capital improvement project shall not exceed the maximum expenditure established by G.S. 143-64.34 for each informal capital improvement project that can be designed using the services of a designer secured through an open-end design agreement.
(4) The initial term of the open-end design agreement shall be the same as the initial term established for fixed term contracts in 01 NCAC 30D .0302(f).

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(5) Design fees for any single project designed under an open-end design agreement shall not exceed the single project monetary limit established for a fixed term contract by 01 NCAC 30D .0302(f).

(6) Regardless of the number of projects during the initial term of an open-end design agreement, the total amount of fees paid under an open-end design agreement during its initial term shall not exceed the maximum fees payable under a fixed term contract during the fixed term contract's initial year as established by 01 NCAC 30D .0302(f).

(7) A board of trustees of a community college may extend the initial term of the original open-end design agreement for a maximum of one additional year.

(8) The maximum amount payable under an open-end design agreement during any additional term after the initial term shall not exceed the maximum amount payable under a fixed term contract during any additional term after the initial term as established by 01 NCAC 30D .0302(f).

(9) If the term of an open-end design agreement is extended for one additional year and regardless of the number of projects, the sum of the fees paid for the initial term of the agreement and for the yearlong extension shall not exceed the limitation established by the State Building Commission for the maximum amount payable under fixed term contracts in 01 NCAC 30D .0302(f).

(10) A community college shall not have more than one open-end design agreement with the same firm at the same time.

History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

1H SBCCC 400.6 Construction Prequalification Policy

Community colleges shall use the State Construction Office (SCO) prequalification policy, assessment ratings matrix, and prequalification forms when prequalifying bidders for construction projects as allowed under G.S. 143-135.8. The policy and forms are available from the SCO. This requirement is for colleges choosing to prequalify bidders. Colleges are not required to prequalify bidders.

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History Note: Authority G.S. 115D-5;
Eff. January 1, 2016.

~~1H SBCCC 400.93 Surplus and Irreparable Books and Book Like Media~~

~~Books and book like media originally purchased from state or federal funds, when they are no longer desired by an institution shall be de accessioned at the institution. These materials may be disposed of by the institution through a local sale; through donations to non profit, tax exempt organizations or tax supported agencies or institutions; through public bid sale by the State Surplus Property Agency; or by using other procedures prescribed by the Department. Records and receipts of each sale shall be maintained for auditing purposes.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: Authority G.S. 115D-5; 115D-31;
Eff. February 1, 1976;
Readopted Eff. January 5, 1978;
Amended Eff. ~~November 1, 1983.~~November 1, 1983;
Repealed Eff. January 1, 2016.

~~1H SBCCC 400.94 Equipment Purchases~~

~~In order to make the best use of available state appropriations for the acquisition of equipment, to assure each college of its fair share of equipment funds, to achieve full utilization of all idle equipment in the system before similar equipment is purchased for any college, and to arrange for the most effective administration of the equipment program, the following criteria are adopted:~~

~~(1) Equipment (other than purchases from capital improvement funds), library books, and book-like materials provided each college are purchased by funds from the appropriate Budget Code.~~

~~(2) Equipment and library collections for each college will be provided by its annual equipment and library book budgets. The funds allocated each college for equipment and for library collections will be determined by the Department using the "equipment formula" and the "library book formula" and will be submitted to the State Board for approval.~~

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~~(3) The board of trustees and the president are responsible for managing and administering the funds provided for equipment and library collections to ensure that the college has the proper equipment and the library collection needed to support the authorized curricula and courses.~~

~~(4) Title to administrative and instructional equipment purchased with state-allocated funds is held by the State Board and will become a part of the community college system equipment inventory. Such equipment will be eligible for transfer to other colleges.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 115D-31; 115D-54;*
Eff. February 1, 1976;
Amended Eff September 1, 1993; December 1, 1984; July 15, 1978; ~~September 30, 1977.~~September 30, 1977;
Repealed Eff. January 1, 2016.

~~1H SBCCC 400.95 Surplus Property~~

~~The State Board hereby delegates to the local governing boards of the respective colleges the power to dispose of personal property to which the governing boards of the colleges hold legal titles as prescribed by law.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 115D-14; 115D-54;*
Eff. February 1, 1976;
Readopted Eff. January 5, 1978;
Amended Eff. September 1, 1993; ~~December 1, 1984.~~December 1, 1984;
Repealed Eff. January 1, 2016.

~~1H SBCCC 400.96 Donated or Loaned Property~~

~~(a) A board of trustees may accept property donated to the college for any lawful educational purpose that is consistent with the mission and purpose of the community college system.~~

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~~(b) Prior to a board of trustees accepting any property that restricts the use of funds derived from the sale or lease of the property, the college shall submit to the System Office a copy of the document transferring the property for review.~~

~~(c) Any funds derived from the sale or lease of property donated to a college for a specific educational purpose shall be used to accomplish that purpose.~~

~~(d) A board of trustees may permit a private business enterprise that loans or donates instructional equipment to the college to use the college's facilities to demonstrate the donated or loaned equipment to customers or potential customers of the private business enterprise provided that:~~

~~(1) The board of trustees develop procedures to regulate the use of its facilities for this purpose;~~

~~(2) The procedures must comply with G.S. 115D-15; and~~

~~(3) The lender's or donor's use of the college facilities shall not interfere with the education of students.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 115D-15; 115D-20;*
Temporary Adoption Eff. October 21, 1998;
Temporary Adoption Expired August 13, 1999;
Eff. August 1, 2000;
Amended Eff. August 1, 2010; ~~May 1, 2006.~~May 1, 2006;
Repealed Eff. January 1, 2016.

~~1H SBCCC 400.97 Acquisition of Equipment~~

~~(a) Boards of trustees may use state funds to support lease purchase and installment purchase contracts to acquire equipment. Contracts that exceed one hundred thousand dollars ($100,000) or a three-year term shall meet the following conditions:~~

~~(1) Prior to obligating any state funds, the State Board shall approve each lease purchase or installment purchase contract.~~

~~(2) Prior to submitting a lease purchase or installment purchase contract to the State Board for approval, the college board of trustees shall have approved the contract.~~

~~(b) A board of trustees shall not have in effect at any one time more than five state-funded contracts which are permitted under this rule.~~

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~~(c) The Department shall make an annual report to the State Board on system-wide use of state-funded lease purchase and installment purchase contracts exceeding one hundred thousand dollars ($100,000) or three-year terms. The report shall include the amount of state funds obligated for the next fiscal year.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-58.5(b); 115D-58.15;*
Temporary Adoption Eff. October 21, 1998;
Temporary Adoption Expired August 13, 1999;
Eff. ~~August 1, 2000.~~August 1, 2000;
Repealed Eff. January 1, 2016.

~~1H SBCCC 400.98 Capital Project Approval and Obtaining Capital Funds~~

~~The State Board is charged with the responsibility to approve sites and building plans, among other things, for all colleges, regardless of source of funds.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5;*
Eff. February 1, 1976;
Amended Eff. September 1, 1993; ~~August 17, 1981.~~August 17, 1981;
Repealed Eff. January 1, 2016.

~~1H SBCCC 400.99 Open-End Design Agreements~~

~~A board of trustees of a community college may enter into open-end design agreements subject to the following limitations:~~

~~(1) The open-end design agreement must be publicly announced in a manner reasonably expected to inform interested designers of the college's need for an open-end agreement for designer services.~~

~~(2) Designers or consultants for open-end design agreements shall be selected in accordance with the college's designer selection procedures for minor projects.~~

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~~(3) The total estimated cost of each small project shall not exceed the maximum expenditure established by G.S. 143-64.34(c) for each small project that can be designed using the services of a designer secured through an open-end design agreement.~~

~~(4) The initial term of the open-end design agreement shall be the same as the initial term established for fixed term contracts in 01 SBCCC 30D .0302(f).~~

~~(5) Design fees for any single project designed under an open-end design agreement shall not exceed the single project monetary limit established for a fixed term contract by 01 SBCCC 30D .0302(f).~~

~~(6) Regardless of the number of projects during the initial term of an open-end design agreement, the total amount of fees paid under an open-end design agreement during its initial term shall not exceed the maximum fees payable under a fixed term contract during the fixed term contract's initial year as established by 01 SBCCC 30D .0302(f).~~

~~(7) A board of trustees of a community college may extend the initial term of the original open-end design agreement for a maximum of one additional year.~~

~~(8) The maximum amount payable under an open-end design agreement during any additional term after the initial term shall not exceed the maximum amount payable under a fixed term contract during any additional term after the initial term as established by 01 SBCCC 30D .0302(f).~~

~~(9) If the term of an open-end design agreement is extended for one additional year and regardless of the number of projects, the sum of the fees paid for the initial term of the agreement and for the year long extension shall not exceed the limitation established by the State Building Commission for the maximum amount payable under fixed term contracts in 01 SBCCC 30D .0302(f).~~

~~(10) A community college shall not have more than one open-end design agreement with the same firm at the same time.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 143-64-34;*
Eff. ~~*May 1, 2006.*~~*May 1, 2006;*

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Repealed Eff. January 1, 2016.

SUBCHAPTER 500. PROCUREMENT

1H SBCCC 500.1 Noncertified Source Purchases

(a) Community colleges may purchase the same or substantially similar supplies, equipment, and materials from noncertified sources as provided in G.S. 115D-58.5(b) and G.S. 115D-58.14. "Noncertified sources" are defined as vendors that do not provide supplies, equipment, and materials through a State term contract. "Substantially similar" is defined as items having comparable, but not identical characteristics in terms of quality, service and performance as items available under State term contracts.

(b) Each college shall submit to the System Office an annual report showing the number of purchases made from noncertified sources for supplies, equipment, or materials; the amount of funds expended for each purchase; and the amount of funds that would have been expended under the State term contract. When exercising the purchasing authority granted by G.S. 115D-58.14, each college shall also document the use of this authority on the purchase order.

(c) The System Office shall monitor the use of noncertified source purchases and shall make an annual report to the State Board. The report shall include the number of noncertified source purchases made by the colleges and the amount of funds expended.

History Note: Authority G.S. 115D-5; 115D-20; 115D-58.14; S.L. 2009-132;
Eff. January 1, 2016.

1H SBCCC 500.2 Special Purchasing Delegations

(a) For the purposes of this Section, "purchasing delegation" means the maximum authorized dollar limits for purchases of commodities, printing, and services by community colleges.

(b) The State Board of Community Colleges shall not increase a community college's purchasing delegation in any calendar year without the concurrence of the Department of Administration, Division of Purchase and Contract. If the Department of Administration, Division of Purchase and Contract does not respond within 60 days of the State Board of Community Colleges notifying the Department of Administration, Division of Purchase and Contract of a college's

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request to increase its purchasing delegation, the State Board of Community Colleges may increase a community college's purchasing delegation consistent with Paragraph (d) of this Rule without the concurrence of the Department of Administration, Division of Purchase and Contract.

(c) The maximum purchasing delegation for a community college shall be no greater than one hundred thousand dollars ($100,000).

(1) Tier Structure:

(A) Each community college's purchasing delegation shall correspond to the following four-tiered structure:

Tier 1	Tier 2	Tier 3	Tier 4
$10,000	$25,000	$50,000	$100,000

(B) A college's tier designation placement is based upon its current delegation limit. A college may request an increase in delegation only to the next tier; and

(C) If the State Board approves a college's request for an increase in delegation, the new delegation shall be effective for two years from the effective date of approval. If during this 2 year period the college receives a negative compliance review from the Department of Administration, Division of Purchase and Contract or upon additional investigation, demonstrates the inability to manage the increased delegation, the State Board of Community Colleges at its discretion and in consultation with the Department of Administration, may rescind the new delegation prior to the end of the two years. A college may only request a delegation increase to the next tier after being at the current tier for two years.

(2) Required Documents. When requesting an increase in purchasing delegation, a college shall submit the following hard copy items to the System Office:

(A) Original letter signed by the college President on college letterhead requesting the next tier delegation and the rationale for the request;

(B) Request for Increase in Purchasing Delegation (Form 490) as provided by the System Office;

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(C) College Internal Purchasing Manual with policy and procedures for all transaction types;

(D) Proof that the college has posted any "Request for Bid" and a copy of the bid on the North Carolina Interactive Purchasing System within the 12 months prior to the date the System Office receives the college's request to increase its purchasing delegation;

(E) A copy of any posted E-Quote within the 12 months prior to the date the System Office receives the college's request to increase its purchasing delegation;

(F) Copy of a compliance review report from the Department of Administration, Division of Purchase and Contract. The compliance review report shall have been conducted within 12 months prior to the date the college requests an increase in purchasing delegation. The compliance review shall cover a time period during which the college's current lead purchasing agent was in his or her position for at least six months. If any findings are noted in the compliance review report, the college shall provide documentation that the college has corrected all findings by the date the college requests an increase in purchasing delegation. An increase in delegation will not be approved if the compliance report contains findings that are considered significant by the System Office or by the Department of Administration, Division of Purchase and Contract.

(d) Evaluation Process. The State Board, acting by and through the System Office, will evaluate the following factors before submitting a recommendation to increase the purchasing delegation to the Department of Administration, Division of Purchase and Contract:

(1) The college's overall capabilities including:

(A) Staff capacity to absorb additional volume and complexity;

(B) Experience and training of the procurement staff of the requesting college; and

(C) Frequency of procurement staff turnover;

(2) Purchasing compliance reviews;

(3) College internal purchasing procedures; and

(4) Audit reports from the North Carolina Office of the State Auditor or from a certified public accountant pursuant to G.S. 115D-58.16.

(e) If the State Board approves a college's request to increase its purchasing delegation, the approval will be effective on the first day of the month following the State Board's approval.

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(f) If a college receives compliance findings on a compliance review from the Department of Administration, Division of Purchase and Contract or received audit findings related to purchasing on its most recent financial statement audit, the State Board at its discretion based upon the type of findings and the college's official response may decrease the delegation amount.

History Note: Authority G.S. 115D-5; 115D-58.14(b); S.L. 2009-132, s. 1;
Eff. January 1, 2016.

~~**1H SBCCC 500.95 Purchase/Computer Hardware: System Software/State Contract**~~

~~(a) The State Board of Community Colleges authorizes the following classes of full-time employees to purchase microcomputers, related peripheral equipment and system software under state contract at state contract prices:~~

~~(1) classroom instructors;~~

~~(2) other professional personnel in the Department and institutions, including supervisors and administrators, engaged in delivering or supervising classroom instruction, or engaged in curriculum development;~~

~~(3) other personnel in the Department and the local institutions engaged in delivering services through computer related equipment.~~

~~(b) In addition to any procedures or requirements of the Department of Administration or the State Budget Office, an institutional employee included within a class defined in Paragraph (a) of this Rule who desires to purchase computer equipment or system software under state contract at state contract prices shall submit a request to his president. This request shall contain a certification by the employee that:~~

~~(1) he is a member of one of the classes of employees defined in Paragraph (a) of this Rule;~~

~~(2) he intends to continue employment with the community college system;~~

~~(3) the computer equipment or system software to be purchased by the employee will assist the employee in performing his assigned duties or will enable the employee to improve the performance of his assigned duties;~~

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~~(4) the computer equipment or system software to be purchased will not be resold for at least three years from the date of purchase; and~~

~~(5) the computer equipment to be purchased will not be used primarily for the employee's private benefit.~~

~~(c) Upon receipt of a request from an employee the president shall determine whether the information provided therein by the employee is accurate. If the president is satisfied that the information contained in the request is accurate the president, in accordance with any procedures or requirements established by the Department of Administration or State Budget Office, shall initiate the process for the purchase of the requested computer equipment or system software. A request which is incomplete or which contains inaccurate information shall not be approved by the employee's president.~~

~~(d) Each employee shall be limited to one approved purchase order under the application of this Rule per three year period from the date of first purchase.~~

~~(e) All requests for the purchase of computer equipment or system software shall be submitted on a form prepared by the Department of Community Colleges which incorporates the requirements of Subparagraph (b)(2) of this Rule.~~

~~(f) In addition to any procedures or requirements of the Department of Administration or the State Budget Office, professional personnel in the Department included in Subparagraphs (a)(2) and (3) of this Rule who desire to purchase computer equipment or system software under state contract at state contract prices, shall follow the procedures prescribed by the Department.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: Authority G.S. 115D-5; 143-58.1(b); S.L. 1995, c. 625;
Eff. September 1, 1985;
Amended Eff. ~~July 1, 1998.~~ July 1, 1998;
Repealed Eff. January 1, 2016.

~~1H SBCCC 500.96 Noncertified Source Purchases~~

~~(a) Community colleges may purchase the same or substantially similar supplies, equipment, and materials from noncertified sources as provided in G.S. 115D-58.5(b) and G.S. 115D-58.14.~~

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~~"Substantially similar" is defined as having comparable, but not identical characteristics in terms of quality, service and performance as items available under State term contracts.~~

~~(b) Each college shall submit to the System Office an annual report showing the number of purchases made from noncertified sources for supplies, equipment, or materials; the amount of funds expended for each purchase; and the amount of funds that would have been expended under state contract. When exercising the purchasing authority granted by G.S. 115D-58.14, each college shall also document the use of this authority on the purchase order.~~

~~(c) The System Office shall monitor the use of noncertified source purchases and shall make an annual report to the State Board. The report shall include the number of noncertified source purchases made by the colleges and the amount of funds expended.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 115D-20; 115D-58.14; S.L. 2009-132;*
Temporary Adoption Eff. October 21, 1998;
Temporary Adoption Expired August 13, 1999;
Eff. August 1, 2000;
Amended Eff. ~~May 1, 2010.~~May 1, 2010;
Repealed Eff. January 1, 2016.

~~1H SBCCC 500.97 Special Purchasing Delegations~~

~~(a) For the purposes of this Section, "purchasing delegation" means the maximum authorized dollar limits for purchases of commodities, printing, and services by community colleges.~~

~~(b) The State Board of Community Colleges shall not increase a community college's purchasing delegation in any calendar year without the concurrence of the Department of Administration, Division of Purchase and Contract. If the Department of Administration, Division of Purchase and Contract does not respond within 60 days of the State Board of Community Colleges notifying the Department of Administration, Division of Purchase and Contract of a college's request to increase its purchasing delegation, the State Board of Community Colleges may increase a community college's purchasing delegation consistent with Paragraph (d) of this Rule without the concurrence of the Department of Administration, Division of Purchase and Contract.~~

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(c) The maximum purchasing delegation for a community college shall be no greater than one hundred thousand dollars ($100,000).

(1) Tier Structure:

(A) Each community college's purchasing delegation shall correspond to the following four-tiered structure:

Tier 1	Tier 2	Tier 3	Tier 4
$10,000	$25,000	$50,000	$100,000

(B) Each college is placed on the tier that corresponds to its current delegation. A college may request an increase in delegation only to the next tier; and

(C) If the State Board approves a college's request for an increase in delegation, the new delegation shall be effective for two years from the effective date of approval. If a college obtains an increased delegation and receives a negative compliance review from the Department of Administration, Division of Purchase and Contract or demonstrates problems managing the increased delegation during the two year period, the State Board of Community Colleges, in consultation with the Department of Administration, may rescind the new delegation prior to two years depending on the severity of and the college's response to either a negative compliance review or demonstrated problems managing the increased delegation. A college may only request a delegation increase to the next tier after being at the current tier for two years.

(2) Required Documents. When requesting an increase in purchasing delegation, a college must submit the following hard copy items to the System Office's Business and Finance Division:

(A) Original letter signed by the college President on college letterhead requesting the next tier delegation and the rationale for the request;

(B) Request for Increase in Purchasing Delegation (Form 490);

(C) College Internal Purchasing Manual with policy and procedures for all transaction types;

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(D) Copy of a bid posted on the North Carolina Interactive Purchasing System within the 12 months prior to the date the System Office's Business and Finance Division receives the college's requests to increase its purchasing delegation;

(E) Copy of a posted E-Quote within the 12 months prior to the date System Office's Business and Finance Division receives the college's requests to increase its purchasing delegation;

(F) Copy of a favorable compliance review report from the Department of Administration, Division of Purchase and Contract. The compliance review report must have been conducted within 12 months prior to the date the college requests an increase in purchasing delegation. If any findings are noted in the compliance review report, the college must provide documentation that the college has corrected all findings by the date the college requests an increase in purchasing delegation.

(d) Evaluation Process. The State Board, acting by and through the System Office's Business and Finance Division, will evaluate the following factors before submitting a recommendation to increase the purchasing delegation to the Department of Administration, Division of Purchase and Contract:

(1) The college's overall capabilities including:

(A) Staff capacity to absorb additional volume and complexity;

(B) Experience and training of the procurement staff of the requesting college; and

(C) Frequency of procurement staff turnover;

(2) Purchasing compliance reviews;

(3) College internal purchasing procedures; and

(4) Audit reports from the North Carolina Office of the State Auditor.

(e) If the State Board approves a college's request to increase its purchasing delegation, the approval will be effective on the first day of the month following the State Board's approval.

(f) If a college receives an unfavorable compliance review from the Department of Administration, Division of Purchase and Contract or an unfavorable audit from the North Carolina Office of the State Auditor with findings related to purchasing, the State Board may decrease the delegation

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~~amount depending upon the severity of and the college's response to an unfavorable audit with findings related to purchasing.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 115D-58.14(b); S.L. 2009-132, s. 1;*
Eff. ~~*August 1, 2010.*~~*August 1, 2010;*
Repealed Eff. January 1, 2016.

~~1H SBCCC 500.98 Acquisition of Automated Data Processing (ADP) Resources~~

~~All requests to purchase, lease, or rent automated data processing resources (hardware, software, or services) from any public funds shall be submitted to the Department for approval.~~

~~(1) In submitting a request, the institution shall:~~

~~(a) anticipate and document through planning the need for ADP resources;~~

~~(b) prepare specification and an evaluation plan for procurement selection; and~~

~~(c) evaluate proposals and bids.~~

~~(2) During the initial phase of the approval process, the institution shall contact the department and arrange a conference in order to obtain detailed instructions which must be followed through the acquisition process.~~

~~(3) In addition the conference may also include representatives of the MIS Division of the department of Administration, the Division of Purchase and Contract, and the State Auditor. In some cases, when the acquisition cost is relatively low and/or replacements are being requested the conference may be waived at the department's option.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5; 143-49;*
Eff. February 1, 1976;
Amended Eff. November 1, 1983; August 17, 1981; ~~*January 6, 1978.*~~*January 6, 1978;*
Repealed Eff. January 1, 2016.

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~~**1H SBCCC 500.99 No Cost Extension of Contracts**~~

~~The System President is authorized to extend the completion date, at no additional cost, of any contract which has received prior approval of the State Board when circumstances warrant, provided that no applicable laws or regulations prohibit such an extension. Such an extension shall not exceed six months beyond the completion date approved by the State Board.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 115D-5;*
Eff. February 1, 1976;
Readopted January 5, 1978;
Amended Eff. September 1, 1993; ~~*December 1, 1984.*~~*December 1, 1984;*
Repealed Eff. January 1, 2016.

SUBCHAPTER 600. EXTERNAL USE OF COLLEGE FACILITIES AND RESOURCES

1H SBCCC 600.1 Assistance for Economic Development

A board of trustees that permits a private business enterprise to use college facilities or personnel pursuant to G.S. 66-58(c) or G.S. 115D-20(12) shall enter into a written agreement with the private business enterprise prior to providing any services. The agreement shall state the terms and conditions including costs to the college for the use of college facilities and personnel.

History Note: *Authority G.S. 66-58(c); 115D-20(12);*
Eff. January 1, 2016.

~~**1H SBCCC 600.99 Assistance for Economic Development**~~

~~(a) A board of trustees that permits a private business enterprise to use college facilities or personnel pursuant to G.S. 66-58(c) and G.S. 115D-20(12) shall enter into a written agreement with the private business enterprise prior to providing any services. The agreement shall state the terms and conditions including costs for using college facilities and personnel.~~

~~(b) Access to a college's small business incubator shall be limited to 24 months for private business enterprises.~~

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~~(c) Videoconferencing services may be provided to the public for occasional use.~~

~~(e) The board of trustees shall evaluate its services for small business incubators, product testing or teleconferencing services on an annual basis.~~

REPEALED by the State Board of Community Colleges, eff. January 1, 2016.

History Note: *Authority G.S. 66-58(c); 115D-20(12);*
Temporary Adoption Eff. October 10, 2001;
Eff. ~~*April 1, 2003.*~~*April 1, 2003;*
Repealed Eff. January 1, 2016.

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