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# Proprietary Schools Guidelines & Regulations Manual

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## OFFICE OF PROPRIETARY SCHOOLS

### **Physical Address**

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[WWW.NCCOMMUNITYCOLLEGES.EDU/PROPRIETARY\\_SCHOOLS/](http://WWW.NCCOMMUNITYCOLLEGES.EDU/PROPRIETARY_SCHOOLS/)

### **Mailing Address**

NORTH CAROLINA COMMUNITY COLLEGE SYSTEM  
5001 MAIL SERVICE CENTER  
RALEIGH, NC 27699-5001

## **Authorization**

Article 8, §115D of the North Carolina General Statutes authorizes the State Board of Community Colleges to license and regulate proprietary schools, upon the recommendation of the State Board of Proprietary Schools. Prospective schools must meet the requirements for licensure contained in Article 8, and once licensed, they are required to maintain compliance with the provisions of Article 8 and Title 2 of the State Board of Community Colleges Code.

This *Guidelines and Regulations Manual* contains copies of Article 8 and the applicable portions of Title 2, as well as specific curriculum requirements for all licensed programs. Please contact the Office of Proprietary Schools should you have specific questions regarding licensure that are not addressed by this Manual.

## **Overview of Licensing Process**

### **I. Preliminary Application**

An applicant submits a Preliminary Application to the Office of Proprietary Schools. The Office of Proprietary Schools reviews the *Preliminary Application* in accordance with the provisions of Article 8, Chapter 115D of the North Carolina General Statutes to determine whether the applicant should continue in the licensure process.

### **II. Initial License Application**

An applicant advised to continue in the licensing process will then submit an *Initial License Application*. The *License Application Packet* can be downloaded at: <http://www.nccommunitycolleges.edu/proprietary-schools>. The Office of Proprietary Schools reviews the Initial Application for compliance with Article 8. This process may take between three and six months, and may require supplemental documentation and/or corrections.

### **III. Presentation to the State Board of Proprietary Schools**

The License Application is submitted to the North Carolina State Board of Proprietary Schools for consideration. The Proprietary Board meets at least four (4) times during the calendar year: February, May, August and November. The Proprietary Board determines whether the proposed curriculum is of a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

### **IV. Presentation to the State Board of Community Colleges**

If the Proprietary Board finds that the submission meets the licensing requirements set forth in Article 8, it will recommend the school to the State Board of Community Colleges for initial licensing. The Community College Board meets at least ten (10) times during the calendar year. The Community College Board considers the submission and recommendation from the Board of Proprietary Schools to determine whether a proprietary license should be issued to the school. If approved by the

Community College Board, the Office of Proprietary Schools issues a proprietary license to the school's director and publishes the school in the Directory of Proprietary Schools.

#### **V. Renewals, Audits and School Sales**

Proprietary schools must apply for license renewal annually. License Renewal Packets are available online, and must be submitted to the Office of Proprietary Schools by March 15<sup>th</sup> in order to be licensed for the next fiscal year (July1-June30).

All licensed proprietary schools are subject to a program audit. The Office of Proprietary Schools may conduct additional special audits as necessary to help assure compliance with Article 8 and Title 2 of the State Board of Community Colleges Code.

Proprietary school licenses are not transferable. If a school experiences a change in ownership, the new owner must apply for a new proprietary school license.

### **Licensing Fees**

Three fees are a condition of licensure:

- 1. License Fee** - For an initial license, a certified check or money order in the amount of three thousand dollars (\$3,000) plus \$50 per program requested for licensure, made payable to the North Carolina State Treasurer. Thereafter, the annual renewal license fee is \$1,500 plus \$50 per licensed program submitted for renewal.
- 2. Student Protection Fund Assessment** – For initial licensure, a certified check or money order in the amount of one thousand, two hundred fifty dollars (\$1,250) made payable to the North Carolina State Treasurer is required. Thereafter, the annual Student Protection Fund Assessment is based on gross tuition revenue as defined in N.C.G.S. §115D-95.1.
- 3. Bond** - All schools are required to obtain a guarantee insurance bond. The bond covers the potential loss of prepaid tuition and other payments made by students by reason of their school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure. The minimum bond coverage must be \$25,000. The cost of the bond varies depending on the insurance provider selected.

## **CURRICULUM GUIDELINES AND REGULATIONS**

In an effort to communicate clearly, provide guidance, and ensure compliance with the current state statutes, the North Carolina Community College System provides the following guidelines regarding curriculum requirements for diploma and certificate programs in North Carolina Proprietary Schools. Programs where the curriculum is

mandated by other licensing boards, such as Nurse Aide I (NA I), are exempt from these guidelines.

## **Curriculum Requirements**

**I. General Education** - Diploma programs must contain a minimum of 6 semester hours of general education; 3 semester hours must be in communications. General education is optional in certificate programs. General Education includes study in the areas of humanities and fine arts, social and behavioral sciences, natural sciences and mathematics, and English composition. General education course prefixes should reflect these areas of study.

**II. Major Hours** - Diploma, and certificate programs must include courses that offer specific job knowledge and skills. Work experience, including cooperative education, practicums, and internships, may be included in a diploma program up to a maximum of 4 semester hours and in a certificate program up to a maximum of 2 semester hours.

**III. Other Required Hours** - A college may require other subjects or courses to complete graduation requirements. These requirements may include electives, orientation, study skills courses, or other graduation requirements.

## **Definitions of Credit Hours**

Credit Hours:

(a) Credit of one semester hour is awarded for each 16 hours of "class work." Class work is lecture and other classroom instruction. Class work is under the supervision of an instructor.

(b) Credit of one semester hour is awarded for each 32 hours of "experiential laboratory work." Experiential laboratory work means instruction given to a student by an instructor to increase the student's knowledge and skills without immediate student application.

(c) Credit of one semester hour is awarded for each 48 hours of "faculty directed laboratory work." Faculty directed laboratory involves structured and coordinated demonstration by an instructor with immediate student application.

(d) Credit of one semester hour is awarded for each 48 hours of "clinical practice." Clinical practice is a structured, faculty-directed learning experience in a health sciences program which develops job proficiency. Clinical practice requires significant preparation, coordination, and scheduling by the faculty and is under the supervision of an instructor or preceptor who is qualified for the particular program.

(e) Credit of one semester hour is awarded for each 160 hours of "work experience" such as cooperative education, practicums, and internships. Work experience involves the development of job skills by providing the student with employment that is directly related to, and coordinated with, the educational program. Student activity in work experience is planned and coordinated by a college representative, and the employer is responsible for the control and supervision of the student on the job.

### Credit Hour/Clock Hour Definitions Table

	Clock Hours	Semester Credit Hours	Quarter Credit Hours
<b>Class Work</b>	16	1	1.5
<b>Experiential Laboratory Work</b>	32	1	1.5
<b>Faculty Directed Laboratory Work</b>	48	1	1.5
<b>Clinical Practice</b>	48	1	1.5
<b>Work Experience</b>	160	1	1.5

### Credit Hour/Clock Hour Conversion Table

	Diploma			Certificate		
	Semester Hrs	Qtr Hrs	Clock Hrs	Semester Hrs	Qtr Hrs	Clock Hrs
<b>Minimum General Education</b>	6	9	96	0	0	0
<b>Minimum Major Hours</b>	30	20	480	12	18	192
<b>Other Required Hours</b>	0-4	0-6	0-64	0-1	0-1.5	0-16
<b>Total Semester Hours</b>	36-40	54-60	576-640	12-13	18-19.5	192-208
<b>16 clock hours = 1 semester hour = 1.5 quarter hours</b>						

**The following regulations should also be considered when developing the Curriculum Design and Implementation Plan:**

1. A school licensed under G.S. 115D, Article 8, shall limit its offering in certificate, diploma and degree courses and special subjects to the courses and subjects for which it has been licensed to offer (*degree programs are licensed by the University of North Carolina Board of Governors*). At the beginning of each quarter, each school shall post the schedule of subjects being offered during the quarter. This schedule will show the time and teacher for each subject and designate the room in which the subject will be taught. Each student shall be given a written schedule of classes at the beginning of each quarter to show the student's individual schedule.
2. Schools shall not publish in their catalogues courses which they have not been licensed to offer. When a school is licensed to offer a course and enrolls students in the course, the school shall maintain sufficient and qualified faculty to teach all subjects required for completing the course during the time stipulated in the school's bulletin as the required time to complete the course and shall schedule classes 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 fails to maintain the qualifications for

- continuing the course, the course shall be removed from the catalogue or stamped “not offered.”
3. The number of curricula offered by a school shall be realistic in relationship to faculty and student enrollment. As a general rule, the number of curricula offered shall not exceed the number of faculty employed on a full-time basis.
  4. The school shall arrange its calendar one calendar year in advance and give full information to prospective and enrolled students about holidays; beginning and ending dates of each quarter, term or semester; and other important dates.
  5. Schools may measure instruction on a clock-hour or credit hour basis. The catalogue shall provide a clear definition of the method used. The school catalogue must show the number of clock hours or credit hours for each subject offered and the minimum clock hours or credit hours a student must carry for full-time enrollment. Courses offered on a credit hour basis must show class hours, laboratory hours, and credit hours.
  6. 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.
  7. Class period shall be a minimum of 50 minutes net instruction.
  8. Certificates, diplomas and degrees shall be issued only upon completion of a standard diploma or degree course.
  9. Students enrolled in diploma or degree programs shall not be enrolled except at the beginning of each quarter or term.

### **Changing or Adding Programs; Faculty Approvals**

Licenses are restricted to the programs and faculty specifically indicated in the licensure application. Supplementary application is required for approval of program changes or additions, and for new faculty hires. Administrators should use the forms posted on the Office of Proprietary Schools webpage:  
<http://www.nccommunitycolleges.edu/proprietary-schools>.

### **STATE REGULATION**

Licensed proprietary schools are required to maintain compliance with Article 8, Chapter 115D of the North Carolina General Statutes: ([http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_115D/Article\\_8.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_115D/Article_8.html)); and also Title 2 of the State Board of Community Colleges Code: (<http://www.nccommunitycolleges.edu/sbcccocode>).

# NORTH CAROLINA GENERAL STATUTES

## Article 8 Proprietary Schools

### § 115D-87. Definitions.

The following definitions apply in this Article:

- (1) Person. - Any individual, association, partnership or corporation, and includes any director, receiver, referee, trustee, executor, or administrator as well as a natural person.
- (2) Proprietary school. - An educational institution having a physical presence within North Carolina that meets all of the following conditions:
  - a. It is privately owned by a sole proprietorship, partnership, limited liability company, or corporation.
  - b. It is established as a business entity or as a nonprofit charitable organization.
  - c. It offers instruction to individuals who (i) have completed their elementary and secondary education or (ii) are beyond the age of compulsory secondary school attendance and have demonstrated an ability to benefit from that instruction for the attainment of educational objectives, vocational objectives, or both.
  - d. It charges tuition or receives any consideration from a student for any portion of the instruction in any form, including written or audiovisual material.
  - e. It educates, trains, or claims or offers to educate or train students in a program leading toward (i) examinations for licensing in a profession or vocation, (ii) employment at a beginning or advanced level, or (iii) a postsecondary educational credential below the associate degree level.

The term includes a branch or extension of a private postsecondary educational institution of another state that is located in this State or that offers educational services or education at a physical location within this State. Delivery systems employed may include, but are not limited to, (i) correspondence, (ii) classrooms, (iii) hotels or other temporary dwelling units or areas, or (iv) electronic communications such as those used in distance education. Distance education is education, training courses, or programs delivered to a student who is geographically separate from the instructor. It does not include institutions licensed by G.S. 116-15.

If a school has physical locations and offers classes in more than one county, the school's operation in each county shall constitute a separate proprietary school, as defined in this section. (1955, c. 1372, art. 30, ss. 1, 2; 1957, c. 1000; 1961, c. 1175, s. 1; 1981, c. 423, s. 1;

1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 1; 1993, c. 553, s. 32.2; 2011-21, s. 1; 2011-326, s. 16(a.)

**§ 115D-88. Exemptions.**

It is the purpose of this Article to include all private schools operated for profit: Provided, that the following schools shall be exempt from the provisions of this Article:

- (1) Nonprofit schools conducted by (i) charities that are exempt from taxation under section 501(c)(3) of the Internal Revenue Code where no fee or tuition is charged to the student or (ii) religious institutions.
- (2) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged to the student.
- (3) Courses of instruction given by any fraternal society, civic club, or benevolent order, which courses are not operated for profit.
- (4) Any school for which there is another legally existing licensing or approving board or agency in this State.
- (4a) Classes or schools that are equipment-specific to purchasers, users, classes, or schools offering training or instruction to acquaint purchasers or users with equipment capabilities.
- (4b) Repealed by Session Laws 2011-21, s. 2, effective July 1, 2011.
- (4c) Classes or schools that the State Board, acting by and through the State Board of Proprietary Schools determines are avocational, recreational, self-improvement, or continuing education for already trained and occupationally qualified individuals.
- (5) Any established university, professional, or liberal arts college, public or private school regulated or recognized pursuant to Chapter 115C of the General Statutes or by any other State Agency, or any State institution which has heretofore offered, or which may hereinafter offer one or more courses covered in this Article: Provided, that the tuition fees and charges, if any, made by such university, college, high school, or State institution shall be collected by their regular officers in accordance with the rules prescribed by the board of trustees or governing body of such university, college, high school, or State institution; but provisions of the Article shall apply to all proprietary schools as defined in this Article, and operated within the State of North Carolina as such institutions, except schools for which there are other legally existing licensing boards or agencies.
- (6) Any institution that is exempt from licensure pursuant to G.S. 116-15(c). (1955, c. 1372, art. 30, ss. 1, 2; 1957, c. 1000; 1961, c. 1175, s. 2; 1981, c. 423, s. 1; 1983, c. 768, s. 10; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 2; 2011-21, s. 2; 2011-308, s. 2.)

**§ 115D-89. State Board of Community Colleges to administer Article; issuance of diplomas by schools; investigation and inspection; rules.**

(a) The State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, shall have authority to administer and enforce this Article and to grant and issue licenses to proprietary schools whose sustained curriculum is of



a grade equal to that prescribed for similar public schools and educational institutions of the State and which have met the standards set forth by the Board, including but not limited to course offerings, adequate facilities, financial stability, competent personnel and legitimate operating practices.

(b) Any such proprietary school may by and with the approval of the State Board of Community Colleges issue certificates and diplomas.

(c) The State Board, acting by and through the State Board of Proprietary Schools, shall formulate the criteria and the standards evolved thereunder for the approval of such schools or educational institutions, provide for adequate investigations of all schools applying for a license and issue licenses to those applicants meeting the standards fixed by the State Board, maintain a list of schools approved under the provisions of this Article which list shall be available for the information of the public, and provide for periodic inspection of all schools licensed under the provisions of this Article. Through periodic reports required of licensed schools and by inspections made by authorized representatives, the State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, shall have general supervision over proprietary schools in the State, the object of said supervision being to protect the health, safety and welfare of the public by having the proprietary schools maintain adequate, safe and sanitary school quarters, sufficient and proper facilities and equipment, sufficient and qualified teaching and administrative staff, and satisfactory programs of operation and instruction, and to have the school carry out its advertised promises and contracts made with its students and patrons. To this end, the State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, is authorized to issue such rules not inconsistent with the provisions of this Article as are necessary to administer the provisions of this Article.

The State Board, acting by and through the State Board of Proprietary Schools, may request any occupational licensing or approving board or agency in this State to adopt rules requiring the approval of that board or agency for a course of study. Under these rules, the board or agency shall pass on the adequacy of equipment, curricula, and instructional personnel. The State Board of Community Colleges may deny approval to a course of study that is not approved by such board or agency. (1955, c. 1372, art. 30, s. 4; 1957, c. 1000; 1961, c. 1175, s. 3; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 3; 2011-21, s. 3; 2011-308, s. 3.)

#### **§ 115D-89.1. State Board of Proprietary Schools.**

(a) The State Board of Proprietary Schools is established in the North Carolina Community Colleges System Office.

(b) The State Board of Proprietary Schools shall consist of seven members as follows:

- (1) The President of the North Carolina Community College System or the President's designee.
- (2) Two members appointed by the Governor.
- (3) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one of whom shall be the owner or director of a proprietary school licensed in the State with less than 100 total annual enrollment of students and

one the owner or director of a proprietary school or group of proprietary schools licensed in the State with more than 750 total annual enrollment of students.

- (4) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be the owner or director of a proprietary school licensed in the State with between 100 and 750 total annual enrollment of students and one the owner or director of a proprietary school licensed in the State.

The appointing authorities shall appoint members who have a demonstrated history of experience in proprietary or public postsecondary education, an understanding of standards of quality in postsecondary education, and leadership beyond a particular institution.

(c) No member of the General Assembly, spouse of a member of the General Assembly, or officer or employee of the State shall be eligible to serve on the State Board of Proprietary Schools as appointed members.

(d) One initial member appointed by each appointing authority shall be appointed for a term ending December 30, 2014; the other member shall be appointed for a term ending December 30, 2017. Subsequent appointments shall be for six-year terms beginning on January 1. No person shall be appointed or elected to more than two consecutive six-year terms.

Vacancies in appointments made by the Governor shall be filled by the Governor. Vacancies in the appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(e) The State Board of Proprietary Schools may declare vacant the office of a member who does not attend three consecutive scheduled meetings without justifiable excuse. The Chair of the State Board of Proprietary Schools shall notify the appropriate appointing authority of any such vacancy.

(f) The State Board of Proprietary Schools shall elect from its membership a chair and such other officers as it may deem necessary. Officers shall serve for a term of two years.

(g) The State Board of Proprietary Schools shall meet at stated times established by the State Board of Proprietary Schools but not less frequently than four times a year. Special meetings of the State Board of Proprietary Schools may be set at any regular meeting or may be called by the chair. A majority of the qualified members of the State Board of Proprietary Schools shall constitute a quorum for the transaction of business. (2011-308, s. 1.)

#### **§ 115D-89.2. Office of Proprietary Schools; staff.**

The Office of Proprietary Schools shall be the principal administrative unit under the direction of the State Board of Proprietary Schools. Unless otherwise specified in G.S. 115D-89.3, the State Board of Proprietary Schools has authority to recommend for adoption and to administer all policies, regulations, and standards which it deems necessary for the operation of the Office of Proprietary Schools.

The State Board of Proprietary Schools shall hire an executive director of the Office of Proprietary Schools, who shall serve as chief administrative officer of the Office of

Proprietary Schools, or contract with an outside consultant to serve as the executive director. The compensation of this position shall be fixed by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund.

The State Board of Proprietary Schools may hire other employees as it deems necessary to carry out the provisions of this Article. The compensation of the staff members hired by the State Board of Proprietary Schools shall be fixed by the State Board of Proprietary Schools upon recommendation of the Executive Director of the Office of Proprietary Schools. The Executive Director shall provide an annual projected operating budget to the State Board of Proprietary Schools at a time each year designated by the State Board of Proprietary Schools. The budget will be approved by the State Board of Proprietary Schools from funds provided by fees deposited in the Commercial Education Fund. (2011-308, s. 1; 2012-142, s. 8.9A(b).)

**§ 115D-89.3. State Board of Proprietary Schools and State Board of Community Colleges; licensing authority and coordination of responsibilities to administer Article.**

The State Board of Community Colleges, having the authority under G.S. 115D-89 to grant and issue licenses to proprietary schools by and through the State Board of Proprietary Schools, shall receive written recommendation from the State Board of Proprietary Schools concerning applicants for licenses and annual renewal applications for licenses. The State Board of Proprietary Schools shall prepare and have approved by the State Board of Community Colleges a certificate of license that reflects the recommendation of the State Board of Proprietary Schools and approval by the State Board of Community Colleges. The State Board of Community Colleges shall also receive from the State Board of Proprietary Schools and have authority concerning proposed changes to the General Statutes and rules affecting proprietary schools. The State Board of Community Colleges shall receive a written report annually from the State Board of Proprietary Schools to include the number of schools receiving initial licenses during the previous year, a list of currently licensed proprietary schools, school closures during the previous year, including a complete report of actions concerning any catastrophic closures, complaints received and resulting decisions or actions, total fees received, and balances of the Commercial Education Fund and the Student Protection Fund. The State Board of Proprietary Schools shall provide the State Board of Community Colleges with any information requested. (2011-308, s. 1.)

**§ 115D-89.4. Powers of the State Board of Proprietary Schools.**

(a) In order to carry out the purposes of this Article, the State Board of Proprietary Schools, subject to other provisions of this Article, shall:

- (1) Have the powers of a body corporate, including the power to make contracts and to alter the same as may be deemed expedient;
- (2) Be authorized and empowered to rent and lease such property, real or personal, as the State Board of Proprietary Schools may deem proper to carry out the purposes and provisions of this Article, all or any of them;

- (3) Establish an office for the transaction of its business at such place or places as, in the opinion of the State Board of Proprietary Schools, shall be advisable or necessary in carrying out the purposes of this Article;
- (4) Be authorized and empowered to pay from the Commercial Education Fund all necessary costs and expenses involved in and incident to the formation, organization, and administration of the State Board of Proprietary Schools and all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article; and
- (5) Be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers listed in this section.

(b) The purchase of goods and services by the State Board of Proprietary Schools shall be exempt from the requirements of Article 3 of Chapter 143 of the General Statutes. (2012-142, s. 8.9A(a).)

**§ 115D-90. License required; application for license; school bulletins; requirements for issuance of license; license restricted to courses indicated; supplementary applications.**

(a) No person shall operate, conduct or maintain or offer to operate in this State a proprietary school unless a license is first secured from the State Board of Community Colleges granted in accordance with the provisions of this Article and the rules adopted by the Board under the authority of G.S. 115D-89. The license, when issued, shall constitute the formal acceptance by the Board of the educational programs and facilities of each school approved.

(b) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the State Board of Proprietary Schools for that purpose. Such application shall be signed by the applicant and properly verified and shall contain such of the following information as may apply to the particular school for which a license is sought:

- (1) The title or name of the school or classes, together with the name and address of the owners and of the controlling officers thereof.
- (2) The general field of instruction.
- (3) The place or places where such instruction will be given.
- (4) A specific listing of the equipment available for instruction in each field.
- (5) The qualifications of instructors and supervisors.
- (6) Financial resources available to equip and to maintain the school or classes.
- (7) Such additional information as the State Board, acting by and through the State Board of Proprietary Schools, may deem necessary to enable it to determine the adequacy of the program of instruction and matters pertaining thereto. Each application shall be accompanied by a copy of the current bulletin or catalog of the school which shall be in

published form and certified by an authorized official of the school as being current, true, and correct in content and policy. The school bulletin shall contain the following information:

- a. Identifying data, such as volume number and date of publication.
- b. Names of the institution and its governing body, officials and faculty.
- c. A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term or semester, and other important dates.
- d. Institution's policy and regulations relative to leave, absences, class cuts, make-up work, tardiness and interruptions for unsatisfactory attendance.
- e. Institution's policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course.
- f. Institution's policy and regulations relative to standards of progress required of the student by the institution. This policy will define the grading system of the institution; the minimum grades considered satisfactory; conditions for interruption for unsatisfactory grades or progress and description of the probationary period, if any, allowed by the institution; and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student.
- g. Institution's policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.
- h. Detailed schedule for fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges.
- i. Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom. The policy and 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.
- j. A description of the available space, facilities and equipment.
- k. A course outline for each course for which approval is requested, showing:
  1. Subjects or units in the course,
  2. Type of skill to be learned, and

3. Approximate (i) time; (ii) clock hours, and (iii) credit hours or credit hours equivalent, as appropriate, to be spent on each subject or unit.

I. Policy and regulations of the institution relative to granting credit for previous educational training.

(c) After due investigation and consideration on the part of the State Board, acting by and through the State Board of Proprietary Schools, as provided herein, a license shall be granted to the applicant when it is shown to the satisfaction of the State Board that said applicant, school, programs of study or courses are found to have met the following criteria:

- (1) The courses, curriculum and instruction are consistent in quality, content and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.
- (2) There is in the institution adequate space, equipment, instructional material and instructor personnel to provide training of good quality.
- (3) Education and experience qualifications of director, administrators and instructors are adequate.
- (4) The institution maintains a written record of the previous education and training of the student.
- (5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to absences, grading policy and rules of operation and conduct will be furnished the student upon enrollment.
- (6) Upon completion of training, the student is given a certificate or diploma by the institution indicating the approved course or subjects and indicating that training was satisfactorily completed.
- (7) Adequate records as prescribed by the State Board of Community Colleges, acting by and through the State Board of Proprietary Schools, are kept to show attendance and progress or grades and satisfactory standards relating to attendance, progress and conduct are enforced.
- (8) The school complies with all local, city, county, municipal, State and federal regulations, such as fire codes, building and sanitation codes. The State Board of Community Colleges may require such evidence of compliance as is deemed necessary.
- (9) The school is financially sound and capable of fulfilling its commitments for training.
- (10) The school does not exceed its enrollment limitation as established by the State Board of Community Colleges.
- (11) The school does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation.
- (12) The school's administrators, directors, owners and instructors are of good reputation and character.
- (13) Such additional criteria as may be deemed necessary by the State Board of Community Colleges.

(d) Any license issued shall be restricted to the programs of instruction or courses or subjects specifically indicated in the application for a license. The holder of a

license shall present a supplementary application as may be directed by the State Board of Proprietary Schools for approval of additional programs of instruction, courses, or subjects, in which it is desired to offer instruction during the effective period of the license. (1955, c. 1372, art. 30, ss. 3, 4; 1957, c. 1000; 1961, c. 1175, s. 4; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 4; 1991, c. 636, s. 11; 2011-21, ss. 4, 5; 2011-308, s. 4.)

**§ 115D-91. Duration and renewal of licenses; notice of change of ownership, administration, etc.; license not transferable.**

(a) All licenses issued shall expire on June 30.

(b) Unless a duration is otherwise prescribed by the State Board of Community Colleges, licenses shall be renewable annually on July 1 if all of the following conditions are met:

(1) An application for the renewal of the license has been filed in the form and manner prescribed by the State Board, acting by and through the State Board of Proprietary Schools.

(2) The renewal fee has been paid.

(3) The school and its courses, facilities, faculty and all other operations are found to meet the criteria set forth in the requirements for a school to secure an original license.

(c) After a license is granted to any school by the State Board of Community Colleges on the basis of its application, it shall be the responsibility of said school to notify immediately the State Board of any changes in the ownership, administration, location, faculty, the instructional program or other changes as may affect significantly the course of instruction offered.

(d) In the event of the sale of such school, the license already granted to the original owner or operators thereof shall not be transferable to the new ownership or operators. Provided, however, the State Board of Proprietary Schools may issue a 90-day, temporary operating license to a school upon its sale if the school held a valid, current license prior to the sale, and if the State Board of Proprietary Schools finds that the school is likely to qualify after the sale for a license under this Article. (1955, c. 1372, art. 30, s. 4; 1957, c. 1000; 1961, c. 1175, s. 5; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 5; 2011-21, s. 6; 2011-308, s. 5.)

**§ 115D-92. Authority to establish fees; Commercial Education Fund established; refund of fees.**

The State Board of Proprietary Schools, as provided in G.S. 115D-89.3, shall establish reasonable fees for licenses, renewals, and approvals granted, and for inspections performed pursuant to this Article in accordance with Article 2A of Chapter 150B of the General Statutes.

The fees and licenses collected under this section shall be placed in a special fund to be designated the "Commercial Education Fund" and shall be used under the supervision and direction of the State Board of Proprietary Schools for the administration of this Article. No license fee shall be refunded in the event the application is rejected or the license suspended or revoked. (1961, c. 1175, s. 6; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 877, s. 6; 2011-308, s. 6.)

**§ 115D-93. Suspension, revocation or refusal of license; notice and hearing; judicial review; grounds.**

(a) A refusal to issue, refusal to renew, suspension of, or revocation of a license under this section shall be made in accordance with Chapter 150B of the General Statutes.

(b) A decision under this section to refuse to grant, refuse to renew, suspend, or revoke a license is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.

(c) The State Board, acting by and through the State Board of Proprietary Schools, shall have the power to refuse to issue or renew any such license and to suspend or revoke any such license theretofore issued in case it finds one or more of the following:

- (1) That the applicant for or holder of such a license has violated any of the provisions of this Article or any of the rules promulgated thereunder.
- (2) That the applicant for or holder of such a license has knowingly presented to the State Board of Community Colleges false or misleading information relating to approval or license.
- (3) That the applicant for or holder of such a license has failed or refused to permit authorized representatives of the State Board of Community Colleges to inspect the school, or has refused to make available to them at any time upon request full information pertaining to matters within the purview of the State Board of Community Colleges under the provisions of this Article.
- (4) That the applicant for or holder of such a license has perpetrated or committed fraud or deceit in advertising the school or in presenting to the prospective students written or oral information relating to the school, to employment opportunities, or to opportunities for enrollment in other institutions upon completion of the instruction offered in the school.
- (5) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.
- (6) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the State of North Carolina or any of its political subdivisions, as are applicable to such premises and equipment.
- (7) That the licensee is employing teachers, supervisors or administrators who have not been approved by the State Board, acting by and through the State Board of Proprietary Schools.
- (8) That the licensee has failed to provide and maintain adequate premises, equipment, materials or supplies, or has exceeded the maximum enrollment for which the school or class was licensed.



- (9) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified administrative, supervisory or teaching staff.
- (10) That the applicant for or a holder of a license has failed to provide a required bond or bond alternative.
- (11) That the applicant for or holder of a license has failed to pay assessments into the Student Protection Fund. (1961, c. 1175, s. 7; 1973, c. 1331, s. 3; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; c. 827, s. 53; 1989 (Reg. Sess., 1990), c. 877, s. 7; 2009-562, s. 1; 2011-308, s. 7.)

**§ 115D-94: Repealed by Session Laws 1983 (Regular Session, 1984), c. 995, s. 17.**

**§ 115D-95. Bonds required.**

(a) Requirement. - An applicant for a license must comply with the bond requirements in this section. The bond covers the potential loss by students of the school of prepaid tuition and other payments made by them to a school licensed under this Article by reason of the school ceasing to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(b) Amount. - An applicant for a license must file a bond with the North Carolina State Board of Community Colleges executed by the applicant as a principal and by a bonding company authorized to do business in this State. The bond must be payable to the State Board of Community Colleges, must be conditioned on fulfillment of the school's obligations, and must remain in effect until cancelled by the bonding company. The bonding company may cancel the bond upon 30 days' notice to the State Board of Community Colleges.

The application must set out calculations made by the applicant to determine the amount of bond required with the application. The required amount is determined as follows:

- (1) Initial licensure. - For an applicant for initial licensure of a school, the bond amount is the amount determined by the State Board that is adequate to provide indemnification to any student, or the student's parent or guardian who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school. A bond amount shall be at least twenty-five thousand dollars (\$25,000).
- (2) First four renewals. - For a school that has been licensed for one year but less than six years, the bond shall be in an amount equal to the greatest amount of unearned paid tuition in the school's possession at anytime during the prior fiscal year. The bond amount shall be evaluated by the school quarterly and reported to the State Board or its representative. A quarterly evaluation requiring an increase of five percent (5%) or more in the amount of the bond held by the school shall require an immediate increase in the bond amount. Bond amounts also shall be evaluated pursuant to this subdivision and the rules of the State Board of Community Colleges and State Board of

Proprietary Schools at the time of the school's annual license renewal and increased if necessary regardless of the amount of the change.

(3) Schools in operation more than five years. - A 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:

a. 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 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.

b. 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 bond amount required by sub-subdivision a. of this subdivision, the school shall file a guaranty bond for the difference between the prepaid tuition amount held in the previous fiscal year and the Fund catastrophic loss amount.

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the State Board of Community Colleges and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the State Board, an applicant may obtain in lieu of a bond:

(1) An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the State Board of Community Colleges; (ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section.

(2) A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the State Board of Community Colleges; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the State Board of Community Colleges; or in the case of a nonnegotiable certificate of deposit, is assigned to the State Board of Community Colleges in a form satisfactory to the State Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subsection (b) of this section. (1955, c. 1372, art. 30, s. 5; 1957, c. 1000; 1961, c. 1175, s. 9; 1981, c. 423, s. 1; 1987, c. 442, ss. 1, 2; 1989 (Reg. Sess., 1990), c. 824, s. 1; 2009-562, s. 2; 2011-308, s. 8.)

**§ 115D-95.1. Student Protection Fund.**

(a) Definitions. - As used in this section:

- (1) "Catastrophic loss amount" means 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) "Fund cap amount" means the catastrophic loss amount plus a reserve amount. The amount is one million five hundred thousand dollars (\$1,500,000).

(b) Student Protection Fund. - The Student Protection Fund is established in the Department of State Treasurer as a statewide fee-supported fund. Interest accruing to the Fund is credited to the Fund. The State Board of Proprietary Schools administers the Fund. The purpose of the Fund is to compensate students enrolled in a proprietary school licensed under this Article who have suffered a loss of tuition, fees, or any other instructional-related expenses paid to the school by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment if the school ceases to operate for any reason, including the suspension, revocation, or nonrenewal of a school's license, bankruptcy, or foreclosure.

(c) Student Protection Fund Advisory Committee. - The State Board of Proprietary Schools shall serve as the Student Protection Advisory Committee. The Committee shall advise the State Board of Community Colleges on matters related to the Fund, including, but not limited to, the adjustment of the catastrophic loss amount and Fund cap amount.

(d) Initial Payment. - Prior to its first year of operation in the State, each proprietary school shall pay an initial amount of one thousand two hundred fifty dollars (\$1,250) into the Fund.

(e) Annual Revenue Payment. - Each proprietary school operating in the State shall pay annually into the Fund an amount based on its annual gross tuition revenue generated in the State as follows:

Annual Gross Tuition Revenue	Amount of Assessment
\$1.00 - \$25,000	\$200.00
\$25,001 - \$50,000	\$250.00
\$50,001 - \$100,000	\$300.00
\$100,001 - \$200,000	\$400.00
\$200,001 - \$300,000	\$500.00
\$300,001 - \$400,000	\$600.00
\$400,001 - \$500,000	\$700.00
\$500,001 - \$750,000	\$1,000
\$750,001 - \$1,000,000	\$1,250
\$1,000,001 - \$1,500,000	\$1,500
\$1,500,001 - \$2,000,000	\$2,000
Greater than \$2,000,000	\$2,000 plus one-twentieth of one percent (.05%) of annual gross tuition revenue over \$2,000,000.

(f) Suspension of Payments. - If the Student Protection Fund balance is equal to or exceeds the Fund cap amount, the State Board of Proprietary Schools shall suspend payments into the Fund for schools that have been continuously licensed in the State for more than eight years. The State Board of Proprietary Schools shall require schools to resume payments into the Fund if the balance of the Fund is less than the catastrophic loss amount.

(g) Catastrophic Assessments. - If claims against the Student Protection Fund exceed the catastrophic loss amount, the State Board of Proprietary Schools may assess additional fees to the extent necessary to compensate students qualified for repayment under the Fund. The amount of the catastrophic assessment shall not exceed one-half of the amount of the annual revenue payment required by subsection (e) of this section. If the amount of the catastrophic assessment will be insufficient to cover qualified claims, the State Board shall develop a method of allocating funds among claims.

(h) Payment Required for Proprietary School Licensure. - The full and timely payment into the Fund pursuant to this section is a condition of licensure.

(i) Payments Nonrefundable. - No payment to the Student Protection Fund shall be refunded in the event that a school's license application is rejected or a school's license is suspended or revoked.

(j) Student Repayment. - A student, or the student's parent or guardian, who has suffered a loss of tuition, fees, or any other instructional-related expenses paid to a proprietary school licensed under this Article by reason of the school ceasing to operate for any reason, including 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 Community Colleges first must issue repayment from the bonds issued under G.S. 115D-95. If the Student Protection Fund is insufficient to cover the qualified claims, the State Board must develop a method of allocating funds among claims.

(k) Rules. - The State Board of Proprietary Schools shall adopt rules for the implementation of this section. (2009-562, s. 4; 2011-308, s. 9.)

#### **§ 115D-96. Operating school without license or bond made misdemeanor.**

Any person, or each member of any association of persons or each officer of any corporation who opens and conducts a proprietary school without first having obtained the license herein required, and without first having executed the bond, paid the assessments into the Student Protection Fund, or both, as required by law, shall be guilty of a Class 3 misdemeanor, and each day the school continues to be open and operated shall constitute a separate offense. (1955, c. 1372, art. 30, s. 7; 1957, c. 1000; 1961, c. 1175, s. 10; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 8; 1993, c. 539, s. 894; 1994, Ex. Sess., c. 24, s. 14(c); 2009-562, s. 3; 2011-21, s. 7.)

#### **§ 115D-97. Contracts with unlicensed schools and evidences of indebtedness made null and void.**

All contracts entered into by proprietary schools with students or prospective students, and all promissory notes or other evidence of indebtedness taken in lieu of

cash payments by such schools shall be null and void unless such schools are duly licensed as required by this Article. (1957, c. 1000; 1961, c. 1175, s. 11; 1981, c. 423, s. 1; 1987, c. 442, s. 2; 1989 (Reg. Sess., 1990), c. 877, s. 9; 2011-21, s. 8.)

## **TITLE 2 – PROPRIETARY SCHOOLS**

### **CHAPTER A. PROPRIETARY SCHOOLS**

#### **SUBCHAPTER 100. DEFINITIONS**

##### **(a) 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:

- (a) Initial license - \$3,000 plus \$50 per program submitted for licensure.
- (b) Annual license renewal - \$1,500 plus \$50 per licensed program renewed; \$200 for each new program submitted for licensure. Any license renewal application postmarked after March 15<sup>th</sup> shall be assessed a \$500 late fee.
- (c) Program additions submitted at any point outside of the annual license renewal period - \$200.
- (d) Program revisions - \$200.
- (e) School relocations - \$500.
- (f) Remote sites - \$1,000 initial site fee, plus annual renewal fee of \$750.

- (g) Site assessments to verify statutory or SBCC Code compliance, or to approve program additions or changes - \$500.

*History Note: Authority G.S. 115D-89.3; 115D-92;*

*Eff. [August 1, 2014](#);*

*Amended Eff. [February 1, 2015](#).*

## **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**

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. As a prerequisite to enrolling in a certificate or diploma course, the school shall require one of the following:

- (1) Graduation from a public, private, or home high school that operates in compliance with state or local law;
- (2) A certificate of high school equivalency;
- (3) Graduation from a community college or university that operates in compliance with state or local law;
- (4) Completion of secondary education that is equivalent to high school education in the United States;
- (5) The student's signed, notarized attestation of graduation from a public, private, or home high school that operates in compliance with state or local law, receipt of a certificate of high school equivalency, graduation from a community college or university that operates in compliance with state or local law, or completion of secondary education equivalent to high school education in the United States;
- (6) For persons at least 18 years old who did not graduate from a public, private, or state home high school, obtain a certificate of high school equivalency, graduate from a community college or university that all operate in compliance with state or local law, or complete secondary education equivalent to high school education in the United States; demonstration of an ability to benefit as determined by any test instrument approved by the Department of Education; or
- (7) The school shall only admit a student pursuant to Subsection (b)(5) 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, certificate of high school equivalency, community college or university transcript, or completion of secondary education equivalent to high school education in the United States.

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.

- (h) Schools shall maintain a copy of the high school transcript in the student's record for students admitted pursuant to Subsection (b)(1) of this Section.
- (i) Schools shall maintain a copy of the certificate of high school equivalency in the student's record for students admitted pursuant to Subsection (b)(2).
- (e) Schools shall maintain a copy of the community college or university transcript in the student's record for students admitted pursuant to Subsection (b)(3).
- (f) Schools shall maintain a copy of the educational diploma or transcript, translated in English, for students admitted pursuant to Subsection (b)(4).
- (g) Schools shall maintain a copy of the student's signed, notarized attestation for students admitted pursuant to Subsection (b)(5).
- (h) Schools shall maintain the results of the ability to benefit test in the student's record for students admitted pursuant to Subsection (b)(6).
- (i) 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.
- (j) 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. [February 1, 2016](#); [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**

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.

Failure to maintain tuition rates as published is grounds for suspension or revocation of the license of a school.

No officer or representative of the school shall solicit any student to leave any school in which the student is enrolled or attends.

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**

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.

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**

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.

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](#).*