

## 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**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

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

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

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

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

#### **2B SBCCC 100.4 Right to Hearing**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

## **2B SBCCC 100.5 Hearing Process**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

## **2B SBCCC 100.6 SBCC Final Agency Decision**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

# **CHAPTER B. DUE PROCESS**

## **SUBCHAPTER 200. SUSPENSION OR REVOCATION OF LICENSE**

### **2B SBCCC 200.1 Standard for Suspending or Revoking License**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

### **2B SBCCC 200.2 Complaints or Evidence of Proprietary School Noncompliance**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

### **2B SBCCC 200.3 Investigation**

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

### **2B SBCCC 200.4 Initial Recommendation to the SBCC**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

### **2B SBCCC 200.5 Right to Hearing**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

*Repealed Eff. [February 1, 2020.](#)*

### **2B SBCCC 200.6 Hearing Process**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

Repealed Eff. [February 1, 2020](#).

## **2B SBCCC 200.7 SBCC Final Agency Decision**

REPEALED by the State Board of Community Colleges, eff. 1 February 2020.

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

*Eff. August 1, 2014.*

Repealed Eff. [February 1, 2020](#).

## **SUBCHAPTER 300. EXEMPTIONS FROM LICENSURE**

### **2B SBCCC 300.1 Claiming an Exemption from Licensure**

If an entity believes it is exempt from the licensure requirements found in Article 8 of Chapter 115D of the North Carolina General Statutes and in Title II of the State Board of Community Colleges Code, the entity may request from the Executive Director of the State Board of Proprietary Schools a decision as to whether the entity is exempt from licensure.

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

*Eff. February 1, 2020.*

### **2B SBCCC 300.2 Notice of Decision and Right to Hearing**

(a) If the Executive Director decides the entity is not exempt from licensure, it shall send the entity its decision, along with the rationale for the decision, in writing, via email or postal mail. The written decision shall advise the entity of the right to provide a response and request a hearing prior to the State Board of Community Colleges' (SBCC) final agency decision to grant or not grant an exemption. The response and request for a hearing must be in writing and signed by the chief administrator or other authorized agent of the entity. The entity has ten (10) business days from the date of receipt of the decision to request a hearing in front of the State Board of Proprietary Schools (SBPS).

- (b) If the Executive Director does not receive a written request for hearing within ten (10) business days from the date the entity received the decision, the SBPS shall report this fact, along with a final agency decision recommendation to the State Board of Community Colleges to not grant an exemption.
- (c) The SBCC shall consider the recommendation at its next regularly scheduled meeting and vote to grant or not grant an exemption. The SBCC action to grant or not grant an exemption shall become the SBCC's final agency decision. Within five (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the entity of the SBCC's final decision.

*History Note: Authority G.S. 115D-89; 115D-93;  
Eff. February 1, 2020.*

### **2B SBCCC 300.3 Hearing Process**

- (a) The Executive Director shall provide the entity at least 10 business days' notice of the date, time, and location of the hearing.
- (b) The party appearing on behalf of the entity shall be an official of the entity or an attorney representing the entity.
- (c) The Chair of the SBPS or the Chair's designee shall act as the Hearing Officer. The hearing shall be conducted as follows:
  - (1) The entity's representative may present evidence for no more than one (1) hour in support of why the entity is exempt from licensure. The Hearing Officer has the discretion to extend this time, if circumstances warrant.
  - (2) The entity's representative may present evidence in a question and answer format or a narrative format. The entity may also offer exhibits into evidence.
  - (3) The Hearing Officer or other SBPS members may ask questions at any time throughout the hearing.
  - (4) The legal rules of evidence will not apply, but the Hearing Officer may direct the presentation to the issues relevant to the entity's claim to be exempt from licensure.

*History Note: Authority G.S. 115D-89; 115D-93;*  
*Eff. February 1, 2020.*

#### **2B SBCCC 300.4 SBCC Final Agency Decision**

After the hearing detailed in 2B SBCCC 300.3, the SBPS shall make a final recommendation regarding the entity's claim to be exempt from licensure to the SBCC. The SBCC shall consider the recommendation at its next regularly scheduled meeting and vote to grant an exemption or to not grant an exemption. The SBCC action to grant or not grant an exemption shall become the SBCC's final agency decision. Within five (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the entity of the SBCC's final decision.

*History Note: Authority G.S. 115D-89; 115D-93;*  
*Eff. February 1, 2020.*

### **SUBCHAPTER 400. REFUSAL TO ISSUE OR RENEW LICENSE**

#### **2B SBCCC 400.1 Standard for Refusing to Issue or Renew License**

The State Board of Community Colleges (SBCC), by and through the State Board of Proprietary Schools (SBPS), may refuse to grant or renew a proprietary school license in accordance with G.S. 150B, Article 3, when a school fails 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. February 1, 2020.*

#### **2B SBCCC 400.2 Notice of Refusal and Right to Hearing**

(a) If the SBPS recommends refusal of a proprietary school's initial 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 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 General Counsel; and 3) the NCCCS Executive Director of Communications.
- (c) In the "Refusal to Recommend Initial Licensure or License Renewal," the Executive Director shall advise the chief administrator or other agent of the proprietary school at issue of the right to provide a response and request an informal hearing with the SBPS prior to the SBCC's final agency decision to grant or deny licensure. The response and request for hearing must be in writing and signed by the chief administrator or other authorized agent of the proprietary school, and it must be issued to the Executive Director on behalf of the SBPS within 10 business days of receiving the "Refusal to Recommend Initial Licensure or License Renewal."
- (d) If the Executive Director does not receive the proprietary school's written response and request for hearing within 10 business days from the date the school received the "Refusal to Recommend Initial Licensure or License Renewal" notice, the Executive Director shall submit the SBPS recommendation and "Refusal to Recommend Initial Licensure or License Renewal" to the SBCC. The SBCC shall consider the recommendation at its next regularly scheduled meeting and vote to grant licensure or deny licensure to operate one or more programs. The SBCC action to grant or deny licensure shall become the SBCC's final agency decision on the proprietary school's application. Within five (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the proprietary school of the SBCC's final decision.
- (e) If the Executive Director receives a written response and request for hearing within 10 business days of the proprietary school administrator's receipt of the "Refusal to Recommend Initial Licensure or License Renewal" notice, the Executive Director shall submit the written response and request for hearing to the following: 1) the Chair of the SBPS; 2) the NCCCS General Counsel; and 3) the NCCCS Director of

Communications. The SBPS shall calendar the informal hearing within 60 days of the Executive Director's receipt of the written response and request for hearing.

*History Note: Authority G.S. 115D-89; 115D-93;  
Eff. February 1, 2020.*

### **2B SBCCC 400.3 Hearing Process**

- (a) The Executive Director of the SBPS shall provide the proprietary school at least 10 business days' notice of the date, time, and location of the informal hearing.
- (b) 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.
- (c) The SBPS Chair or the Chair's designee shall act as the Hearing Officer. The hearing shall be conducted as follows:
  - (1) The proprietary school's representative may present evidence for no more than one (1) hour in support of why the proprietary school's application for a license should be approved. The Hearing Officer has the discretion to extend this time, if circumstances warrant.
  - (2) The school's representative may present evidence in a question and answer format or a narrative format. The school may also offer exhibits into evidence and call witnesses. If witnesses are to be called, the school shall give the Executive Director at least five (5) business days- notice of whom the school intends to call.
  - (3) The Hearing Officer or other SBPS members may ask questions at any time throughout the hearing.
  - (4) The legal rules of evidence will not apply, but the Hearing Officer may direct the presentation to the issues relevant to licensure.
  - (5) A court reporter will transcribe the hearing.

*History Note: Authority G.S. 115D-89; 115D-93; 150B-22;  
Eff. February 1, 2020.*

### **2B SBCCC 400.4 SBCC Final Agency Decision**



After the hearing detailed in 2B SBCCC 400.3, the SBPS shall make a final recommendation regarding the proprietary school's application for licensure to the SBCC. The SBCC shall consider the recommendation at its next regularly scheduled meeting and vote to grant licensure or deny licensure to operate one or more programs. The SBCC action to grant or deny licensure shall become the SBCC's final agency decision on the proprietary school's application. Within five (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the proprietary school of the SBCC's final decision.

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

*Eff. February 1, 2020.*

## **SUBCHAPTER 500. SUSPENSION OR REVOCATION OF LICENSE**

### **2B SBCCC 500.1 Standard for Suspending or Revoking License**

The State Board of Community Colleges (SBCC), by and through the State Board of Proprietary Schools (SBPS), may suspend or revoke the license of a proprietary school license in accordance with G.S. 150B, Article 3, when a school fails to comply with 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. February 1, 2020.*

### **2B SBCCC 500.2 Notice of Alleged Noncompliance**

- (a) The SBPS Executive Director may investigate a proprietary school subject to Article 8 of Chapter 115D of the North Carolina General Statutes, upon receipt of a signed written complaint or other compelling evidence alleging the school failed to comply with the requirements of law or the rules adopted by the SBCC.
- (b) The Executive Director shall document all evidence of alleged noncompliance in a document to be titled, "Notice of Allegations".

- (c) The Executive Director shall send the “Notice of Allegations” to the chief administrator of the proprietary school at issue within five (5) business days of documenting the alleged noncompliance with a copy to the following: 1) the Chair of the SBPS; 2) the NCCCS General Counsel; and 3) the NCCCS Director of Communications. The Notice shall request the chief administrator or other agent of the proprietary school to submit a written response to the alleged noncompliance within ten (10) business days from the proprietary school’s receipt of the “Notice of Allegations.”

*History Note: Authority G.S. 115D-89; 115D-93;  
Eff. February 1, 2020.*

### **2B SBCCC 500.3 Investigation**

- (a) The SBPS Executive Director or the Executive Director’s designee shall constitute an authorized official of the SBCC for the purpose of conducting investigations.
- (b) Pursuant to G.S. 115D-93(c)(3), the proprietary school under investigation shall permit the SBPS Executive Director or the Executive Director’s designee to obtain any information necessary to conduct the investigation.
- (c) The investigation shall conclude within 60 days from the date the Executive Director issued the “Notice of Allegations” to the proprietary school at issue.

*History Note: Authority G.S. 115D-89; 115D-93;  
Eff. February 1, 2020.*

### **2B SBCCC 500.4 SBPS Recommendation and Right to Hearing**

- (a) Upon conclusion of the investigation in 2B SBCCC 500.3, the SBPS Executive Director shall submit a written investigation report to the SBPS containing:
- (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 the SBCC:
- (1) Suspend the proprietary school's license to operate one or more programs; or
  - (2) Revoke the proprietary school's license to operate one or more programs; or
  - (3) Take no further action.
- (c) Within five (5) business days of the SBPS action, the Executive Director shall submit the written investigation report and SBPS recommendation to the chief administrator of the proprietary school at issue with a copy to the following: 1) the Chair of the SBPS; 2) the NCCCS General Counsel; and 3) the NCCCS Director of Communications. If the SBPS recommended suspension or revocation of the proprietary school's license to offer one or more programs, the Executive Director shall notice the school of its right to request an informal hearing with the SBPS prior to the SBCC's final agency decision to suspend or revoke the school's license. The request for an informal hearing must be in writing and signed by the chief administrator or other authorized agent of the proprietary school, and it must be received by the Executive Director on behalf of the SBPS within 10 business days of receiving the investigation report and SBPS recommendation.
- (d) If the Executive Director of the SBPS does not receive the proprietary school's written request for an informal hearing within 10 business days from the date the school received the investigation report and SBPS' recommendation to suspend or revoke the school's license, the Executive Director shall submit the investigation report

and SBPS recommendation to the SBCC. The SBCC shall consider the investigation report and recommendation at its next regularly scheduled meeting and vote to:

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

The SBCC action shall become the SBCC's final agency decision to suspend or revoke the proprietary school's license. Within five (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the proprietary school of the SBCC's final decision.

- (e) If the Executive Director of the SBPS receives a written request for an informal hearing within 10 business days of the proprietary school administrator's receipt of the investigation report and SBPS recommendation to suspend or revoke the school's license, the Executive Director shall submit the written request to the following: 1) the Chair of the SBPS; 2) the NCCCS General Counsel; and 3) the NCCCS Director of Communications. The SBPS shall calendar the informal hearing within 60 days of the Executive Director's receipt of the hearing request.

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

*Eff. February 1, 2020.*

## **2B SBCCC 500.5 Hearing Process**

The informal hearing process detailed in 2B SBCCC 400.3 shall apply. For the purpose of this rule, all references to denial of the proprietary school's application for license in 2B SBCCC 400.3 shall be replaced by references to the suspension or revocation of the proprietary school's license to operate one or more programs.

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

*Eff. February 1, 2020.*

## **2B SBCCC 500.6 SBCC Final Agency Decision**

After the hearing detailed in 2B SBCCC 500.5, the SBPS shall make a final recommendation regarding suspension or revocation of the school's license to offer one

or more programs to the SBCC. The SBCC shall consider the recommendation at its next regularly scheduled meeting and vote to:

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

The SBCC action shall become the SBCC's final agency decision on suspension or revocation of the proprietary school's license. Within five (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the proprietary school of the SBCC's final decision.

*History Note: Authority G.S. 115D-89; 115D-93;  
Eff. February 1, 2020.*