

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;
 - (2) Initiate revocation of the proprietary school's license to operate one or more programs;
 - (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;
 - (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](#).