

TITLE 3 – RULEMAKING PROCESS AND CODIFICATION SYSTEM

CHAPTER B. RULEMAKING PROCESS

SUBCHAPTER 100. INITIATING RULEMAKING PROCESS

3B SBCCC 100.1 Petition for Rulemaking

- (a) Any person, organization, or entity requesting the SBCC to adopt, amend, or repeal a rule has the authority to submit a written petition requesting such adoption, amendment, or repeal to the NCCCS President.
- (b) For a petition for rulemaking to be approved for initiation of the rulemaking process, all written petitions for rulemaking shall include the following information from the requesting party:
 - (1) The requesting party's name;
 - (2) The requesting party's e-mail address;
 - (3) The requesting party's proposed language for the adoption or amendment;
 - (4) If the requesting party proposes the repeal of a rule, the requesting party shall identify the rule by title, chapter, subchapter, and rule section; and
 - (5) The requesting party's rationale for proposed adoption, amendment, or repeal.
- (c) On behalf of the SBCC, the NCCCS President or the NCCCS President's designee must communicate the President's decision to grant or to deny the rulemaking petition in writing to the requesting party within 120 calendar days from receipt of the rulemaking petition. The NCCCS President's decision to grant the rulemaking petition means that the SBCC will initiate the rulemaking process to adopt, amend, or repeal the substance of the rule proposed by the requester.
- (d) If the NCCCS President denies the rulemaking petition, the NCCCS President or NCCCS President's designee shall provide the requesting party with the rationale for denying the rulemaking petition. If the NCCCS President denies the rulemaking petition, the NCCCS President or NCCCS President's designee shall report the denial of the rulemaking petition to the Policy Committee of the State Board of Community Colleges for information.

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

Eff. [June 1, 2014](#).

3B SBCCC 100.2 State Board Review

- (a) If the NCCCS President approves a rulemaking petition, consistent with SBCC Bylaws, the SBCC will evaluate the proposed rule adoption, amendment, or repeal for the first time on the SBCC agenda “For Future Action.” The SBCC shall evaluate the proposed rule adoption, amendment, or repeal for initiation of the rulemaking process on the agenda “For Action” at the SBCC meeting following the SBCC’s first review of the proposed rule, unless the SBCC determines otherwise.
- (b) The SBCC shall initiate the rulemaking process when it is satisfied with the language of the proposed rule adoption, amendment, or repeal.

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

Eff. [June 1, 2014](#).

SUBCHAPTER 200. PUBLIC INPUT

3B SBCCC 200.1 Publication of Proposed Rule

- (a) The text of the proposed rule adoption, amendment, or repeal (Notice of Proposed Rule) shall be published conspicuously on the NCCCS website within two business days of the SBCC voting to initiate the rulemaking process.
- (b) The text of the proposed rule adoption, amendment, or repeal shall comply with 3C SBCCC 200.1.
- (c) The Notice of Proposed Rule shall have an explanation detailing the basis for the proposed adoption, amendment, or repeal.

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

Eff. [June 1, 2014](#).

3B SBCCC 200.2 Written Notification of Proposed Rules

Any person, organization, or entity may request written notification of a proposed rule adoption, amendment, or repeal by submitting a request via electronic mail to sbcccodenotifications@ncccommunitycolleges.edu. NCCCS will provide copies of a proposed rule adoption, amendment, or repeal to requestors via electronic mail.

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

Eff. [February 1, 2017](#).

3B SBCCC 200.3 Public Comment Period

- (a) The SBCC will accept oral or written comments on the proposed rule for at least 30 calendar days after the Notice of Proposed Rule is published on the NCCCS website or until the date of the public hearing, whichever is longer.
- (b) To ensure receipt, written comments shall be submitted via one of the following methods:
 - (1) Electronic mail to publiccomments@ncccommunitycolleges.edu;
 - (2) Postal mail to NCCCS Rulemaking Coordinator, 5001 Mail Service Center; Raleigh, NC 27699-5001; or
 - (3) Facsimile to (919) 807-7171.

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

Eff. [June 1, 2014](#).

3B SBCCC 200.4 Public Hearing

- (a) If the SBCC receives a written request for a public hearing via one of the methods specified in 3B SBCCC 200.3(b) within 15 calendar days of publication of the Notice of Proposed Rule on the NCCCS website, the SBCC must hold a public hearing and publish notice of the hearing conspicuously on the NCCCS website. There must be at least 10 calendar days between the notice of hearing and the actual date of the hearing.

- (b) If the SBCC does not receive a written request for a public hearing, it is within the SBCC's discretion to determine whether it will hold a public hearing.

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

Eff. [June 1, 2014](#).

SUBCHAPTER 300. STATE BOARD APPROVAL PROCESS

3B SBCCC 300.1 Changes Based on Public Comment

- (a) The SBCC, consistent with its Bylaws, will review all comments received at its meeting immediately following the end of the 30-day comment period, or at its meeting immediately following the public hearing, whichever occurs last.
- (b) If the SBCC makes any substantive changes to the proposed rule after the end of the 30-day comment period, the changes shall be posted to the NCCCS website within two business days of the meeting wherein the SBCC amended the proposed rule.
- (c) The public will have five business days from the date the amended proposed rule is published on the NCCCS website to provide written comments on the amended proposed rule. Written comments on the amended proposed rule shall be submitted in accordance with 3B SBCCC 200.3(b).
- (d) After the conclusion of the five-day comment period in 3B SBCCC 300.1(c), the SBCC will review all additional comments at the meeting immediately following the end of the five-day comment period.

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

Eff. [June 1, 2014](#).

3B SBCCC 300.2 State Board Rule Approval

- (a) If the SBCC does not receive any public comments after the 30-day comment period in 3B SBCCC 200.3(a), or if the SBCC determines that the comments received do not warrant modification of the proposed rule, then the SBCC has the authority to adopt, amend, or repeal the proposed rule at its meeting immediately following the 30-day

comment period in 3B SBCCC 200.3(a) or at its meeting immediately following the public hearing, whichever occurs last.

- (b) If the SBCC does not receive any additional public comments after the five-day comment period in 3B SBCCC 300.1(c), or if the SBCC determines that the comments received do not warrant further modification of the proposed rule, then the SBCC has the authority to adopt, amend, or repeal the proposed rule at its meeting immediately following the five-day comment period.
- (c) The SBCC shall adopt, amend, or repeal proposed rules within 180 calendar days after the end of the 30-day comment period in 3B SBCCC 200.3(a). If the SBCC does not adopt, amend, or repeal a proposed rule within 180 calendar days after the end of the 30-day comment period in 3B SBCCC 200.3(a), the SBCC shall comply with Subchapters 200 and 300 of this Chapter.
- (d) All adopted, amended, or repealed rules shall be published on the NCCCS website in the SBCC Code section no later than one business day after the effective date of the rule.

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

Eff. [June 1, 2014](#).

3B SBCCC 300.3 Effective Date

The effective date of all rules adopted, amended, or repealed by the SBCC shall be the first day of the month following the SBCC's adoption, amendment, or repeal, unless the SBCC specifies another effective date.

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

Eff. [June 1, 2014](#).

SUBCHAPTER 400. TEMPORARY RULES

3B SBCCC 400.1 Temporary Rule Standard

The SBCC has the authority to adopt a temporary rule or amend or repeal an existing rule on a temporary basis for the following reasons:

- (a) To comply with federal or state law, and federal or state law requires adoption, amendment, or repeal in a time period less than the rulemaking time period allotted by the SBCC Code;
- (b) To address a serious or unforeseen threat to the public health or safety; or
- (c) To address an unforeseen circumstance where the State Board finds that adherence to the notice and hearing requirements in the SBCC Code would be contrary to the public interest of students or other community college stakeholders.

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

Eff. [June 1, 2014](#);

Amended Eff. [April 1, 2017](#).

3B SBCCC 400.2 Adoption of Temporary Rules

- (a) The SBCC has the authority to adopt a temporary rule or amend or repeal an existing rule on a temporary basis without prior notice or hearing or upon any abbreviated notice or hearing the SBCC finds practical at the SBCC meeting immediately following the event precipitating the need for a temporary rule.
- (b) The SBCC shall publish the temporary rule on the NCCCS website within five business days after the SBCC adopts the temporary rule or amend or repeal an existing rule on a temporary basis. A statement specifying the basis for adopting a temporary rule or amending or repealing an existing rule on a temporary basis rather than following the process for a permanent rule shall accompany the temporary rule when it is published on the NCCCS website.
- (c) The temporary rule expires on the earliest of the following dates:
 - (1) The date specified in the temporary rule.
 - (2) The effective date of the permanent rule adopted to replace the temporary rule.

(3) 180 calendar days from the date the temporary rule was published on the NCCCS website, unless the permanent rule has been submitted to the SBCC for initiation of the rulemaking process within the 180 calendar days from the date the temporary rule was published on the NCCCS website. If the permanent rule initiated to replace the temporary rule is not adopted by the SBCC within 90 calendar days from the date the SBCC initiated the permanent rulemaking process, the temporary rule shall expire 90 days from the date the SBCC initiated the permanent rulemaking process.

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

Eff. [June 1, 2014](#);

Amended Eff. [April 1, 2017](#).