



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Thomas A. Stith III

President

NUMBERED MEMO CC21-021

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

FROM: Tawanda Foster Artis
General Counsel

DATE: April 20, 2021

SUBJECT: Proposed Adoption of Title 4—ApprenticeshipNC, Chapter A. General Provisions

The State Board of Community Colleges has initiated the rulemaking process to adopt a new title into the State Board Code, Title 4—ApprenticeshipNC. Within this Title, there are two chapters: Chapter A. General Provisions and Chapter B. Equal Employment Opportunity in Apprenticeship. The main purpose of Chapter A. is to incorporate into the State Board Code the federal rules that govern registered apprenticeships. Chapter A. also contains additional rules related to the administration of the ApprenticeshipNC program, including definitions, the registration of apprenticeship programs and individual apprentices, and qualifications of apprentices (see rules 4A SBCCC 100.2 through 100.12). These rules do not change how the current ApprenticeshipNC program operates.

The proposed rules are published on the NC Community College System's website, www.nccommunitycolleges.edu/sbccode. For your convenience, a copy of the proposed rules are attached to this memorandum. Strikethroughs indicate deletions of language and underlines indicate additions of language.

Any member of the public has the right to submit written comments on the proposed rules. Please note that any person who submits comments on behalf of their community colleges should comply with the college's local process for submitting comments on a proposed rule. Written comments on the rules must be received by no later than 5:00 p.m. on May 20, 2021.

Any member of the public has the right to request a hearing on the proposed rules. Requests for a hearing must be received by no later than 5:00 p.m. on May 5, 2021. Written comments and requests for hearing shall be directed to the following address: Tawanda Foster Artis, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to publiccomments@nccommunitycolleges.edu.

1 (a) The ApprenticeshipNC headquarters is located in the North Carolina Community
2 Colleges System Office. The physical address is 200 West Jones Street, Raleigh, North
3 Carolina, 27603.

4 (b) All correspondence should be sent to the following mailing address:

5 North Carolina Community Colleges System Office

6 ApprenticeshipNC

7 5001 Mail Service Center

8 Raleigh, NC 27699-5001

9
10 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

11 *Eff. _____*

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13 **4A SBCCC 100.3 – Definitions**

14 The definitions listed in 29 CFR 29.2 shall apply to terms found in the federal regulations
15 administered by ApprenticeshipNC, as listed in 4A SBCCC 100.1. Other definitions that
16 apply in this Chapter are as follows.

17 (a) Director – The Director of ApprenticeshipNC.

18 (b) Registration – The recognition by the Director and the recording with
19 ApprenticeshipNC of an apprenticeship, apprenticeship agreement, or an apprentice
20 signifying that the program, agreement, or individual complies with the rules,
21 requirements, criteria, and standards of this Chapter.

22 (c) Related Instruction – An organized and systematic form of instruction designed to
23 provide the apprentice or trainee with knowledge of the theoretical and technical subjects
24 related to their trade or occupation. Such instruction may be given in a classroom,
25 through occupational or industrial courses, by correspondence courses, through
26 electronic media, or through other forms of self-study.

27 (d) Revision – Any substantive modification or change of the program standards of
28 apprenticeship (including an affirmative action plan and a written description of the
29 selection procedure) or of an apprenticeship agreement.

30 (e) Standards – The program standards of apprenticeship as set forth in 29 CFR 29.5.

1 (f) Technical Assistance – Guidance provided by ApprenticeshipNC staff in the
2 development, revision, amendment, or processing of a potential or current program
3 sponsor's Standards of Apprenticeship, Apprenticeship Agreements, or advice or
4 consultation with a program sponsor to further compliance with this Chapter or guidance
5 from ApprenticeshipNC on how to remedy nonconformity with this Chapter.

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7 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

8 *Eff.* _____
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10 **4A SBCCC 100.4 – Discretionary Powers of the Director**

11 Notwithstanding any other provision of this Chapter, the Director of ApprenticeshipNC,
12 under the supervision of the President of the North Carolina Community College System
13 or the President's designee, retains the power to vary, at their discretion, the requirements
14 for an apprenticeship program or agreement in order to respond to unique or unusual
15 circumstances, including but not limited to the operation of apprenticeship programs in
16 penal institutions, so long as and only to the extent that the variations are not contrary to
17 federal or state law, that they serve to further apprenticeship in general and a certain
18 apprenticeship program or agreement in particular, and that the Director does not act
19 arbitrarily or capriciously.

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21 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

22 *Eff.* _____
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24 **4A SBCCC 100.5 – Minimum Qualifications of Apprentices**

25 (a) An apprentice must have the following qualifications:

26 (1) The apprentice must be at least 16 years old, except where a higher minimum age
27 is otherwise fixed by law;

28 (2) The apprentice must not be fully trained or qualified in the trade or occupation
29 offered in the apprenticeship program in which they are to be trained; and

30 (3) The apprentice must be a high school graduate or, must have passed an
31 equivalency examination. An exception can be granted with the approval of the

1 Director, if the apprentice is currently enrolled as a high school student participating
2 in a course of study that will meet graduation requirements.

3 (b) Additional minimum qualifications for apprentices may be established by the sponsor
4 so long as the additional qualifications comply with the equal employment opportunity
5 regulations listed in 4B SBCCC 100.1.

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7 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

8 *Eff. _____*
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10 **4A SBCCC 100.6 – Program Registration Request Procedure**

11 (a) Upon request by a prospective sponsor to an official of ApprenticeshipNC, or upon
12 the initiative of an official of ApprenticeshipNC, a representative of ApprenticeshipNC
13 shall contact the prospective sponsor for the purpose of discussing the requirements for
14 registration and the procedures necessary to register and operate an apprenticeship
15 program.

16 (b) If the prospective sponsor elects to request registration of an apprenticeship program,
17 it shall complete and submit to the Director the following:

18 (1) A written request, signed by the prospective sponsor, for registration of an
19 apprenticeship program meeting the requirements of 29 CFR 29.5;

20 (2) An original of the program standards of apprenticeship required under 29 CFR
21 29.5, including an affirmative action plan according to 29 CFR 30.4 and a written
22 description of the selection procedure according to 29 CFR 30.10, unless otherwise
23 exempted under 29 CFR 30.19;

24 (3) A written agreement to comply with the program standards by a participating
25 employer as provided; and

26 (4) One of the following:

27 (A) A written acknowledgment of union agreement or "no objection" to the
28 registration when the program standards, collective bargaining agreement, or other
29 instrument provides for participation by a union in any manner in the operation of
30 the substantive matters of the apprenticeship program and such participation is
31 exercised;

1 (B) A written acknowledgment of a union's receipt of a copy of the completed
2 application forms when the union represents employees in the trade which is an
3 objective of the apprenticeship training, unless an acknowledgment under Part (A)
4 of this Subparagraph is required; or

5 (C) A signed statement by the sponsor that no unions represent employees of the
6 sponsor or participating employers in the trade which is an objective of the
7 apprenticeship training.

8 (c) If the Director has received the completed application forms and has determined that
9 the requirements for an apprenticeship program, as set forth in 29 CFR 29.5, are met, the
10 program shall be approved and registered with ApprenticeshipNC. The sponsor shall be
11 notified in writing of the registration.

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13 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

14 *Eff. _____*

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16 **4A SBCCC 100.7 – Registration and Approval of Apprenticeship Agreements and**
17 **Individual Apprentices**

18 (a) A sponsor or an individual, or a person or organization on behalf of the individual, shall
19 request that an apprenticeship agreement between the individual and their sponsor be
20 registered by submitting to the Director a copy of the apprenticeship agreement.

21 (b) If the following requirements are met, then the Director shall approve the
22 apprenticeship agreement and cause it to be recorded by the division, which constitutes
23 registration of the agreement:

24 (1) The agreement is complete and applies to a registered apprenticeship program;

25 (2) The agreement meets the apprenticeship agreement requirements listed in G.S.
26 115D-11.11, G.S. 115D-11.12, and 29 CFR 29.7; and

27 (3) The individual meets the minimum qualifications for an apprentice listed in 4A
28 SBCCC 100.5.

29 (c) If the Director approves the apprenticeship agreement, the Director shall also and
30 simultaneously cause the name of the individual who is to be trained under the agreement
31 to be recorded, which constitutes registration of the individual.

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History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8

*Eff.*_____

4A SBCCC 100.8 – Denial of a Program Registration Request

(a) If the Director does not approve a request for registration of an apprenticeship program, apprenticeship agreement, or individual, the Director shall deny the request in writing to the requesting party, expressly stating the reason(s) for denial. The Director shall promptly notify the person whose individual registration has been denied when the person is not notified as the requesting party.

(b) The requesting party may resubmit the request for registration if the proposed apprenticeship program or apprenticeship agreement is revised to cure the problem(s) resulting in denial.

History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8

*Eff.*_____

4A SBCCC 100.9 – Revision of Apprenticeship Program Standards or Agreements

(a) Any proposed revision of program standards of apprenticeship or an apprenticeship agreement shall be submitted in writing by the sponsor to the Director for approval.

(b) The revision becomes effective 90 days after the Director's receipt of the sponsor's proposed revision unless the Director, in writing, disallows the revision within that time. The Director may disallow part of the proposed revision and allow part, but in such event the sponsor may withdraw the entire proposed revision. If the revision is not approved, the Director shall notify the sponsor of the reasons for the disapproval and provide the sponsor with technical assistance.

(c) When a revision becomes effective, the Director shall record the revision so that it amends the program standards or agreement recorded by the division.

History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8

*Eff.*_____

1 **4A SBCCC 100.10 – Termination and Extension of Agreements**

2 (a) An apprenticeship agreement terminates when the period of the apprenticeship
3 identified by the terms of the agreement expires.

4 (b) The agreement may be extended for a specified period by agreement of the apprentice
5 and sponsor with the approval of the Director. The sponsor shall obtain the Director's
6 approval of an extension in the manner provided in 4A SBCCC 100.9 for revision of
7 apprenticeship standards or an apprenticeship agreement, except that an extension
8 becomes effective within 30 days of the Director's receipt of the proposed extension
9 unless the Director, in writing, disallows the revision within that time, stating the reason(s)
10 for disallowance.

11 (c) Nothing in this Rule shall be construed to prevent a sponsor and an individual meeting
12 the minimum qualifications of an apprentice, as set forth in 4A SBCCC 100.5, from
13 executing an apprenticeship agreement.

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15 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

16 *Eff. _____*

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18 **4A SBCCC 100.11 – Certificate or Certificate of Completion**

19 (a) Upon notification from a sponsor that an individual has completed their apprenticeship
20 in the sponsor's registered apprenticeship program, the Director shall issue to the
21 individual, or to the sponsor for the individual, a certificate of completion or other written
22 indicia signifying that the individual has completed the training and instruction in a
23 registered apprenticeship program in a certain, identified trade and the date the training
24 was completed.

25 (b) Notwithstanding paragraph (a) of this Rule, the Director shall not issue the certificate
26 of completion if the Director decides upon satisfactory evidence that the apprentice is not
27 fully trained because the apprentice did not complete the apprenticeship or because the
28 apprenticeship program did not comply with the rules of this Title. The Director shall give
29 written notification to the sponsor and individual of the decision not to issue the certificate
30 of completion and the reason(s) for the decision.

1 (c) Upon request of a sponsor, the Director may issue an honorary certificate of
2 completion to recognize an individual who by training and experience was fully qualified
3 as a journeyworker prior to the registration of the sponsor's apprenticeship program.
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5 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

6 *Eff.*

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8 **4A SBCCC 100.12 – Suspension During Union Activity**

9 (a) Whenever the Director is on notice that a notice of election has been filed with the
10 appropriate governmental agency or that a union has called a strike or is subject to a
11 lockout, the Director shall order that the division shall suspend communications with any
12 representative of the employer or the union on the subject of registration or revision of an
13 apprenticeship program or agreement, except that the division may provide information
14 regarding apprenticeship programs in general to the representative, until such time as the
15 results of the election are certified by the appropriate authority or the strike or lockout is
16 ended.

17 (b) The Director is on notice that a notice of election has been filed whenever a copy of
18 the notice of election has been received by the Director at the address of the division.
19 The Director is on notice of a strike or lockout whenever actual notice is provided of the
20 strike or lockout.

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22 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

23 *Eff.* _____
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