



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Peter Hans, President

19 November 2019

MEMORANDUM

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

FROM: Jonathan R. Harris, *NCCCS General Counsel*

RE: **Proposed Repeal of 2B SBCCC Subchapter 200 - Suspension or Revocation of License**

The State Board of Community Colleges ("SBCC") has initiated the rulemaking process to repeal **2B SBCCC Subchapter 200 - Suspension or Revocation of License**. This subchapter is meant to be replaced by a new subchapter, 2B SBCCC Subchapter 500, which is proposed for adoption. The new subchapter is intended to streamline the process for proprietary school license suspensions and revocations by the State Board of Proprietary Schools.

The proposed repeal is published on the NC Community College System's website, www.nccommunitycolleges.edu/sbcccode. For your convenience, a copy of the proposed repeal is attached to this memorandum. Please post a copy of the proposed repeal in prominent places so that all individuals affected by the proposed change will be informed.

Any member of the public has the right to submit written comments on the proposed subchapter repeal. Please note that any person who submits a public comment on behalf of their community college should comply with their college's local process for submitting comments on a proposed rule. **Written comments on the subchapter repeal must be received by no later than 5:00 p.m. on 19 December 2019.** Any member of the public has the right to request a hearing on the proposed repeal. **Requests for a hearing must be received by no later than 5:00 p.m. on 4 December 2019.** Written

comments and requests for hearing shall be directed to the following address: Jonathan Harris, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by **email to publiccomments@nccommunitycolleges.edu**. Thank you for your attention to this matter.

CC19-066
E-mail Copy

Attachments



State Board of Community Colleges Code

Notice of Proposed Rulemaking Form

Date: 19 November 2019

Title, Chapter, Subchapter, and Rule Number of Rule Proposed to be Adopted, Amended, or Repealed	Repeal of 2B SBCCC 200 - Suspension or Revocation of License
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Specify whether the SBCC proposes to adopt amend, or repeal a rule:

Adopt (new rule)	Amend (change existing rule)	Repeal (delete entire rule)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Rationale for proposed adoption, amendment or repeal:	This rule will streamline license exemptions, denials, suspensions and revocations.
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Proposed Effective Date of Rule	February 1, 2020
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1 State Board of Community Colleges Code

2 TITLE 2 – PROPRIETARY SCHOOLS

3
4 CHAPTER B. DUE PROCESS

5
6 ~~SUBCHAPTER 200. SUSPENSION OR REVOCATION OF LICENSE~~

7
8 ~~2B SBCCC 200.1 Standard for Suspending or Revoking License~~

9 The license of a proprietary school may be suspended or revoked in accordance with
10 G.S. 150B, Article 3, when the SBCC finds that the school has failed to comply with the
11 requirements of the law and the rules adopted by the SBCC.

12
13 *History Note: Authority G.S. 115D-89; 115D-93;*

14 *Eff. August 1, 2014.*

15
16 ~~2B SBCCC 200.2 Complaints or Evidence of Proprietary School Noncompliance~~

17 (a) The SBPS, by and through the SBPS Executive Director shall initiate and conduct an
18 investigation of a proprietary school subject to Article VIII of Chapter 115D for either
19 of the following reasons:

20 (1) The SBCC, acting by and through the NCCCS President or the SBPS receives a
21 written complaint alleging that a proprietary school subject to Article VIII of Chapter
22 115D has failed to comply with either the requirements of the law or the rules
23 adopted by the SBCC; or

24 (2) The SBCC, acting by and through the SBPS has evidence that a proprietary school
25 subject to Article VIII of Chapter 115D has failed to comply with either the
26 requirements of the law or the rules adopted by the SBCC.

27 (b) If the SBCC, acting by and through the SBPS has evidence that a proprietary school
28 failed to comply with either the requirements of the law or the rules adopted by the
29 SBCC, the SBPS shall document all of the evidence of noncompliance in a document
30 to be titled, "Documentation of Noncompliance."

1 ~~(c) Upon receipt of a written complaint or upon written documentation of a proprietary~~
2 ~~school's failure to comply with either the law or SBCC rules, the SBPS Executive~~
3 ~~Director shall send a "Notice of Investigation" with the written complaint or with the~~
4 ~~"Documentation of Noncompliance" attached, to the chief administrator of the~~
5 ~~proprietary school at issue within five (5) business days of receiving the complaint or~~
6 ~~within five (5) business days of documenting the noncompliance with a copy to the~~
7 ~~following: 1) the Chair of the SBPS; 2) the NCCCS Executive Vice President for~~
8 ~~Operations; 3) the NCCCS General Counsel; and 4) the NCCCS Director of Marketing~~
9 ~~and Public Affairs. In the Notice of Investigation, the SBPS Executive Director shall~~
10 ~~request that the chief administrator or other agent of the proprietary school at issue~~
11 ~~submit a written response to the written complaint or to the documented~~
12 ~~noncompliance within ten (10) business days from the proprietary school's receipt of~~
13 ~~the SBPS Executive Director's request for a written response to the written complaint~~
14 ~~or to written response to the documented noncompliance.~~

15
16 *History Note: Authority G.S. 115D-89; 115D-93;*

17 *Eff. August 1, 2014.*

18
19 **~~2B SBCCC 200.3 Investigation~~**

20 ~~(a) The SBPS Executive Director or the SBPS Executive Director's designee shall~~
21 ~~conduct an investigation into the written complaint or into the documented~~
22 ~~noncompliance. Pursuant to G.S. 115D-93(c)(3), the proprietary school under~~
23 ~~investigation shall permit the SBPS Executive Director or the SBPS Executive~~
24 ~~Director's designee to obtain any information necessary to conduct the investigation.~~

25 ~~(b) When conducting an investigation of a written complaint against a proprietary school,~~
26 ~~the SBPS Executive Director or the SBPS Executive Director's designee shall~~
27 ~~constitute a properly authorized official of the SBCC. The investigation shall conclude~~
28 ~~within 45 days from the date the SBCC or the SBPS receives a written complaint or~~
29 ~~within 45 days from the date of the "Documentation of Noncompliance."~~

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

1 *Eff. August 1, 2014.*

2
3 **~~2B SBCCC 200.4 Initial Recommendation to the SBCC~~**

4 ~~(a) Upon the conclusion of the investigation in 2B SBCCC 200.3, the SBPS Executive~~
5 ~~Director shall submit a written investigation report to the SBPS that includes the~~
6 ~~following:~~

7 ~~(1) Copy of the written complaint or Documentation of Noncompliance;~~

8 ~~(2) Specification of the laws or rules the proprietary school allegedly violated and a~~
9 ~~detailed description of how the proprietary school allegedly violated each of the~~
10 ~~specified laws or rules;~~

11 ~~(3) Description of investigation process; and~~

12 ~~(4) Recommendation of revocation of the proprietary school's license to operate one~~
13 ~~or more programs with a supporting rationale for revocation rather than for~~
14 ~~suspension; or~~

15 ~~(5) Recommendation of suspension of the proprietary school's license to operate one~~
16 ~~or more programs with a supporting rationale for suspension rather than for~~
17 ~~revocation; or~~

18 ~~(6) Recommendation to allow the proprietary school to retain its license to operate one~~
19 ~~or more programs with a supporting rationale for why revocation or suspension is~~
20 ~~not warranted.~~

21 ~~(b) The SBPS shall evaluate the written investigation report and after due consideration,~~
22 ~~recommend that the SBCC:~~

23 ~~(1) Initiate suspension of the proprietary school's license to operate one or more~~
24 ~~programs; or~~

25 ~~(2) Initiate revocation of the proprietary school's license to operate one or more~~
26 ~~programs; or (3) Take no further action.~~

27 ~~(c) The SBPS Executive Director shall submit the written investigation report and SBPS~~
28 ~~recommendation to the SBCC for the SBCC's consideration at its regularly scheduled~~
29 ~~meeting that occurs at least 10 business days after the SBPS recommendation with a~~
30 ~~copy to the following: 1) chief administrator of the proprietary school, 2) the Chair of~~
31 ~~the SBPS; 3) the NCCCS Executive Vice President for Operations; 4) the NCCCS~~

1 General Counsel; 5) the Executive Director of the SBCC, and 6) the NCCCS Director
2 of Marketing and Public Affairs.

3 ~~(a) The SBCC will evaluate the written investigation report and SBPS recommendation,~~
4 ~~and after due consideration, vote to~~

5 ~~(1) Initiate suspension of the proprietary school's license to operate one or more~~
6 ~~programs;~~

7 ~~(2) Initiate revocation of the proprietary school's license to operate one or more~~
8 ~~programs; or~~

9 ~~(3) Take no further action.~~

10 ~~Within three business days of the SBCC's disposition on the investigation report, the~~
11 ~~NCCCS General Counsel shall notify the proprietary school of the SBCC's decision to~~
12 ~~initiate suspension, initiate revocation, or take no action.~~

13
14 *History Note: Authority G.S. 115D-89; 115D-93;*

15 *Eff. August 1, 2014.*

16
17 **~~2B SBCCC 200.5 Right to Hearing~~**

18 ~~(a) If the SBCC votes to initiate suspension or revocation of a proprietary school's license~~
19 ~~to operate one or more programs, in the letter notifying the proprietary school of the~~
20 ~~SBCC's intent to suspend or revoke the proprietary school's license to operate one or~~
21 ~~more programs, the NCCCS General Counsel shall notify the proprietary school of its~~
22 ~~right to an informal hearing prior to the SBCC's final agency decision on suspension~~
23 ~~or revocation.~~

24 ~~(b) The proprietary school shall have 10 business days from the date it receives the~~
25 ~~SBCC's notice of its intent to suspend or revoke the proprietary school's license to~~
26 ~~operate one or more programs to notify the SBCC of its request to be heard. The~~
27 ~~proprietary school's request for hearing must be in writing and signed by the chief~~
28 ~~administrator or other authorized agent of the proprietary school and directed to the~~
29 ~~NCCCS General Counsel on behalf of the SBCC.~~

30 ~~(c) If the NCCCS General Counsel does not receive the proprietary school's signed~~
31 ~~request for hearing within 10 business days from the date the proprietary school~~

1 receives the written notification of the SBCC's intent to suspend or revoke the
2 proprietary school's license to operate one or more programs, the SBCC's intent to
3 suspend or revoke will become the SBCC's final agency decision to suspend or
4 revoke.

5
6 *History Note: Authority G.S. 115D-89; 115D-93;*

7 *Eff. August 1, 2014.*

8
9 **~~2B SBCCC 200.6~~ Hearing Process**

10 If the NCCCS General Counsel receives the proprietary school's signed request for
11 hearing within 10 business days from the date the proprietary school receives the written
12 notification of the SBCC's intent to suspend or revoke the proprietary school's license to
13 operate one or more programs, the hearing process detailed above in 2B SBCCC 100.5
14 shall apply. For the purpose of this rule, all references to denial of the proprietary school's
15 application for license in 2B SBCCC 100.5 shall be replaced by references to the
16 suspension or revocation of the proprietary school's license.

17
18 *History Note: Authority G.S. 115D-89; 115D-93;*

19 *Eff. August 1, 2014.*

20
21 **~~2B SBCCC 200.7~~ SBCC Final Agency Decision**

22 After the hearing detailed in 2B SBCCC 200.6, the Hearing Officer shall make a final
23 recommendation of suspension, revocation, or no action to the SBCC at the next regularly
24 scheduled board meeting that occurs at least 10 business days after the hearing. The
25 SBCC's decision is the final agency decision.

26
27 *History Note: Authority G.S. 115D-89; 115D-93;*

28 *Eff. August 1, 2014.*