



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 Adoption of 2B SBCCC Subchapter 400 – Refusal to Issue or Renew License**

The State Board of Community Colleges (“SBCC”) has initiated the rulemaking process to adopt **2B SBCCC Subchapter 400 – Refusal to Issue or Renew License**. This proposed new subchapter is meant to replace 2B SBCCC Subchapter 100, which is proposed for repeal. The new subchapter is intended to streamline the process for proprietary school license denials by the State Board of Proprietary Schools.

The proposed adoption is published on the NC Community College System's website, www.nccommunitycolleges.edu/sbcccode. For your convenience, a copy of the proposed Adoption is attached to this memorandum. Please post a copy of the proposed adoption 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 adoption. 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 proposed subchapter adoption 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 adoption. **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.

CC19-067
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	Adoption of 2B SBCCC 400 – Refusal to Issue or Renew 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)
X		

Rationale for proposed adoption, amendment or repeal:	This proposed new subchapter will replace 2B SBCCC Subchapter 100. The new subchapter is intended to streamline the process for Proprietary School license denials by the State Board of Proprietary Schools.
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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. COMMUNITY COLLEGES**

3
4 **CHAPTER B. DUE PROCESS**

5
6 **SUBCHAPTER 400. REFUSAL TO ISSUE OR RENEW LICENSE**

7
8 **2B SBCCC 400.1 Standard for Refusing to Issue or Renew License**

9 The State Board of Community Colleges (SBCC), by and through the State Board of
10 Proprietary Schools (SBPS), may refuse to grant or renew a proprietary school license in
11 accordance with G.S. 150B, Article 3, when a school fails to meet the requirements of the
12 law and the rules adopted by the State Board of Community Colleges.

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

15 Eff. _____
16

17 **2B SBCCC 400.2 Notice of Refusal and Right to Hearing**

18 (a) If the SBPS recommends refusal of a proprietary school's initial license or
19 recommends nonrenewal of a proprietary school's license, the SBPS, by and through
20 its Executive Director, shall document the rationale for its recommendation in a
21 document to be titled, "Refusal to Recommend Initial Licensure or License Renewal."

22 (b) The Executive Director shall send a copy of the "Refusal to Recommend Initial
23 Licensure or License Renewal" to the chief administrator of the proprietary school at
24 issue within five business days of the SBPS' recommendation with a copy to the
25 following: 1) the Chair of the SBPS; 2) the NCCCS General Counsel; and 3) the
26 NCCCS Executive Director of Communications.

27 (c) In the "Refusal to Recommend Initial Licensure or License Renewal," the Executive
28 Director shall advise the chief administrator or other agent of the proprietary school at
29 issue of the right to provide a response and request an informal hearing with the SBPS
30 prior to the SBCC's final agency decision to grant or deny licensure. The response
31 and request for hearing must be in writing and signed by the chief administrator or

1 other authorized agent of the proprietary school, and it must be issued to the Executive
2 Director on behalf of the SBPS within 10 business days of receiving the “Refusal to
3 Recommend Initial Licensure or License Renewal.”

4 (d) If the Executive Director does not receive the proprietary school's written response
5 and request for hearing within 10 business days from the date the school received the
6 “Refusal to Recommend Initial Licensure or License Renewal” notice, the Executive
7 Director shall submit the SBPS recommendation and “Refusal to Recommend Initial
8 Licensure or License Renewal” to the SBCC. The SBCC shall consider the
9 recommendation at its next regularly scheduled meeting and vote to grant licensure
10 or deny licensure to operate one or more programs. The SBCC action to grant or
11 deny licensure shall become the SBCC’s final agency decision on the proprietary
12 school’s application. Within five (5) business days of the SBCC’s action, the NCCCS
13 General Counsel shall notify the proprietary school of the SBCC’s final decision.

14 (e) If the Executive Director receives a written response and request for hearing within 10
15 business days of the proprietary school administrator’s receipt of the “Refusal to
16 Recommend Initial Licensure or License Renewal” notice, the Executive Director shall
17 submit the written response and request for hearing to the following: 1) the Chair of
18 the SBPS; 2) the NCCCS General Counsel; and 3) the NCCCS Director of
19 Communications. The SBPS shall calendar the informal hearing within 60 days of the
20 Executive Director’s receipt of the written response and request for hearing.

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

23 Eff. _____
24

25 **2B SBCCC 400.3 Hearing Process**

26 (a) The Executive Director of the SBPS shall provide the proprietary school at least 10
27 business days’ notice of the date, time, and location of the informal hearing.

28 (b) The party appearing on behalf of the proprietary school at issue shall be an official of
29 the proprietary school or attorney representing the proprietary school.

30 (c) The SBPS Chair or the Chair’s designee shall act as the Hearing Officer. The hearing
31 shall be conducted as follows:

1 (1) The proprietary school's representative may present evidence for no more than
2 one (1) hour in support of why the proprietary school's application for a license
3 should be approved. The Hearing Officer has the discretion to extend this time, if
4 circumstances warrant.

5 (2) The school's representative may present evidence in a question and answer format
6 or a narrative format. The school may also offer exhibits into evidence and call
7 witnesses. If witnesses are to be called, the school shall give the Executive
8 Director at least five (5) business days notice of whom the school intends to call.

9 (3) The Hearing Officer or other SBPS members may ask questions at any time
10 throughout the hearing.

11 (4) The legal rules of evidence will not apply, but the Hearing Officer may direct the
12 presentation to the issues relevant to licensure.

13 (5) A court reporter will transcribe the hearing.

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

16 Eff. _____

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18 **2B SBCCC 400.4 SBCC Final Agency Decision**

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

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

29 Eff. _____