



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Dr. R. Scott Ralls, President

February 15, 2010

IMPORTANT ADMINISTRATIVE CODE INFORMATION

MEMORANDUM

TO: Members of the State Board of Community Colleges
Community College Presidents and Boards of Trustees Chairs
NC Community College System Office Staff
Other Interested Parties

FROM: Q. Shanté Martin
General Counsel

SUBJ: **Proposed Changes in the Administrative Code**

The State Board has initiated the Rule-making process to adopt the following rule:

23 NCAC 02C .0506, entitled "Special Purchasing Delegations."

The proposed adoption was published in the North Carolina Register on February 15, 2010, Volume 24, Issue 16, on pages 1360-62.

For your convenience a copy of this rule is attached to this memorandum. Please post a copy of this rule in prominent places so that all individuals affected by the proposed adoption will be informed.

In accordance with the Administrative Procedures Act, no public hearing has been scheduled for these rule-making proceedings. Requests for a public hearing should be made in writing within 15 days of publication of the proposed rule in the North Carolina Register to the following address: Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to publiccomments@nccommunitycolleges.edu. Written comments for the Rule must be received no later than 5:00 p.m. on April 16, 2010. Written comments should be directed to the following address: Q. Shanté Martin, 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.

CC10- 007
E-mail Copy

QSM/caa
Attachment

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of Community Colleges intends to adopt the rule cited as 23 NCAC 02C .0506.

Proposed Effective Date: August 1, 2010

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): To demand a public hearing please send the written demand to Q. Shanté Martin, Rule-making Coordinator, NC Community College System, 200 West Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by emailing the demand to publiccomments@nccommunitycolleges.edu. Demands must be received within 15 days of the publication of the proposed rule in the North Carolina Register.*

Reason for Proposed Action: *23 NCAC 02C .0506 "Special Purchasing Delegations" is proposed for adoption to comply with House Bill 490/Session Law 2009-132.*

Procedure by which a person can object to the agency on a proposed rule: *Written objections shall be addressed to President, NC Community College System Office, 5001 Mail Service Center, Raleigh, NC 27699-5001 within the comment period and must be postmarked by 11:59 p.m. on the last day of the comment period.*

Comments may be submitted to: *Q. Shanté Martin, Rule-making Coordinator, 200 W. Jones Street, Mail Service Center 5001, Raleigh, NC 27699-5001; email publiccomments@nccommunitycolleges.edu*

Comment period ends: April 16, 2010

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

- State
- Local
- Substantial Economic Impact (\geq \$3,000,000)
- None

CHAPTER 02 - COMMUNITY COLLEGES

SUBCHAPTER 02C - COLLEGES: ORGANIZATION AND OPERATIONS

SECTION .0500 - EQUIPMENT

23 NCAC 02C .0506 SPECIAL PURCHASING DELEGATIONS

(a) The State Board of Community Colleges, in consultation with the Department of Administration, Division of Purchase and Contract, shall have the authority to increase or decrease the purchasing delegations for each community college based on the college's overall capabilities, including staff resources, purchasing compliance reviews, and audit reports. For the purposes of this Section, "purchasing delegation" means the maximum authorized dollar limits for purchases of commodities, printing, and services by community colleges.

(b) The State Board of Community Colleges shall not increase a community college's purchasing delegation in any calendar year without the concurrence of the Department of Administration, Division of Purchase and Contract. If the Department of Administration, Division of Purchase and Contract does not respond within 60 days of the State Board of Community Colleges notifying the Department of Administration, Division of Purchase and Contract of a

college's request to increase its purchasing delegation, the State Board of Community Colleges shall have the authority to increase a community college's purchasing delegation without the concurrence of the Department of Administration, Division of Purchase and Contract.

(c) The maximum purchasing delegation for a community college shall be no greater than one hundred thousand dollars (\$100,000).

(1) Tier Structure:

(A) Each community college's purchasing delegation will correspond to the following four-tiered structure:

<u>Tier 1</u>	<u>Tier 2</u>	<u>Tier 3</u>	<u>Tier 4</u>
<u>\$10,000</u>	<u>\$25,000</u>	<u>\$50,000</u>	<u>\$100,000</u>

(B) Each college is placed on the tier that corresponds to its current delegation. A college may request an increase in delegation only to the next tier.

(C) If the State Board approves a college's request for an increase in delegation, the new delegation will be effective for two years from the effective date of approval. If a college obtains an increased delegation and receives a negative compliance review from the Department of Administration, Division of Purchase and Contract or demonstrates problems managing the increased delegation during the two year period, the State Board of Community Colleges has the authority to rescind the new delegation prior to two years. A college may only request a delegation increase to the next tier after being at the current tier for two years.

(2) Required Documents. When requesting an increase in purchasing delegation, a college must submit the following hard copy items to the System Office's Business and Finance Division:

(A) Original letter signed by the college President on college letterhead requesting the next tier delegation and the rationale for the request;

(B) Request for Increase in Purchasing Delegation (Form 490);

(C) College Internal Purchasing Manual with policy and procedures for all transaction types;

(D) Copy of a bid posted on the North Carolina Interactive Purchasing System within the 12 months prior to the date the System Office's Business and Finance Division receives the college's requests to increase its purchasing delegation;

(E) Copy of a posted E-Quote within the 12 months prior to the date System Office's Business and Finance Division receives the college's requests to increase its purchasing delegation;

(F) Copy of a favorable compliance review report from the Department of Administration, Division of Purchase and Contract. The compliance review report must have been conducted within 12 months prior to the date the college requests an increase in purchasing delegation. If any findings are noted in the compliance review report, the college must provide documentation that the college has corrected all findings by the date the college requests an increase in purchasing delegation.

(d) Evaluation Process. The State Board, acting by and through the System Office's Business and Finance Division, will evaluate the following factors before submitting a recommendation to increase the purchasing delegation to the Department of Administration, Division of Purchase and Contract:

(1) The college's overall capabilities including:

(A) Staff capacity to absorb additional volume and complexity;

(B) Experience and training of the procurement staff of the requesting college; and

(C) Frequency of procurement staff turnover;

(2) Purchasing compliance reviews;

(3) College internal purchasing procedures; and

(4) Audit reports from the North Carolina Office of the State Auditor.

(e) If the State Board approves a college's request to increase its purchasing delegation, the approval will be effective on the first day of the month following the State Board's approval.

(f) If a college receives an unfavorable compliance review from the Department of Administration, Division of Purchase and Contract or an unfavorable audit from the North Carolina Office of the State Auditor with findings related to purchasing, the State Board has the authority to decrease the delegation amount.