



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 300 – Exemptions from Licensure**

The State Board of Community Colleges (“SBCC”) has initiated the rulemaking process to adopt **2B SBCCC Subchapter 300 – Exemptions of Licensure**. This proposed subchapter adoption will add a new process for determining whether an entity needs a proprietary school license from 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.

CC19-063
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Title, Chapter, Subchapter, and Rule Number of Rule Proposed to be Adopted, Amended, or Repealed	Adoption of 2B SBCCC 300 – Exemptions of Licensure
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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 subchapter adoption will add a new process for determining whether an entity needs a proprietary school license from 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 300. EXEMPTIONS FROM LICENSURE**

7
8 **2B SBCCC 300.1 Claiming an Exemption from Licensure**

9 If an entity believes it is exempt from the licensure requirements found in Article 8 of
10 Chapter 115D of the North Carolina General Statutes and in Title II of the State Board of
11 Community Colleges Code, the entity may request from the Executive Director of the
12 State Board of Proprietary Schools a decision as to whether the entity is exempt from
13 licensure.

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

16 Eff. _____.

17
18 **2B SBCCC 300.2 Notice of Decision and Right to Hearing**

19 (a) If the Executive Director decides the entity is not exempt from licensure, it shall send
20 the entity its decision, along with the rationale for the decision, in writing, via email or
21 postal mail. The written decision shall advise the entity of the right to provide a
22 response and request a hearing prior to the State Board of Community Colleges'
23 (SBCC) final agency decision to grant or not grant an exemption. The response and
24 request for a hearing must be in writing and signed by the chief administrator or
25 other authorized agent of the entity. The entity has ten (10) business days from the
26 date of receipt of the decision to request a hearing in front of the State Board of
27 Proprietary Schools (SBPS).

28 (b) If the Executive Director does not receive a written request for hearing within ten
29 (10) business days from the date the entity received the decision, the SBPS shall
30 report this fact, along with a final agency decision recommendation to the State
31 Board of Community Colleges to not grant an exemption.

1 (c) The SBCC shall consider the recommendation at its next regularly scheduled
2 meeting and vote to grant or not grant an exemption. The SBCC action to grant or
3 not grant an exemption shall become the SBCC's final agency decision. Within five
4 (5) business days of the SBCC's action, the NCCCS General Counsel shall notify
5 the entity of the SBCC's final decision.

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

8 Eff. _____.
9

10 **2B SBCCC 300.3 Hearing Process**

11 (a) The Executive Director shall provide the entity at least 10 business days' notice of
12 the date, time, and location of the hearing.

13 (b) The party appearing on behalf of the entity shall be an official of the entity or an
14 attorney representing the entity.

15 (c) The Chair of the SBPS or the Chair's designee shall act as the Hearing Officer. The
16 hearing shall be conducted as follows:

17 (1) The entity's representative may present evidence for no more than one (1) hour
18 in support of why the entity is exempt from licensure. The Hearing Officer has
19 the discretion to extend this time, if circumstances warrant.

20 (2) The entity's representative may present evidence in a question and answer
21 format or a narrative format. The entity may also offer exhibits into evidence.

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

24 (4) The legal rules of evidence will not apply, but the Hearing Officer may direct the
25 presentation to the issues relevant to the entity's claim to be exempt from
26 licensure.

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

29 Eff. _____.
30
31

2B SBCCC 300 is proposed for adoption as follows

1 **2B SBCCC 300.4 SBCC Final Agency Decision**

2 After the hearing detailed in 2B SBCCC 300.3, the SBPS shall make a final
3 recommendation regarding the entity's claim to be exempt from licensure to the SBCC.
4 The SBCC shall consider the recommendation at its next regularly scheduled meeting
5 and vote to grant an exemption or to not grant an exemption. The SBCC action to grant
6 or not grant an exemption shall become the SBCC's final agency decision. Within five
7 (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the
8 entity of the SBCC's final decision.

9
10 History Note: Authority G.S. 115D-89; 115D-93;

11 Eff. _____.