



## 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 500 – Suspension or Revocation of License**

The State Board of Community Colleges (“SBCC”) has initiated the rulemaking process to adopt **2B SBCCC Subchapter 500 – Suspension or Revocation of License**. This proposed new subchapter is meant to replace 2B SBCCC Subchapter 200, which is proposed for repeal. 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 adoption is published on the NC Community College System's website, [www.nccommunitycolleges.edu/sbcccode](http://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.

**CC19-064  
E-mail Copy**

Attachments



# State Board of Community Colleges Code

## Notice of Proposed Rulemaking Form

Date: 19 November 2019

<b>Title, Chapter, Subchapter, and Rule Number of Rule Proposed to be Adopted, Amended, or Repealed</b>	Adoption of 2B SBCCC 500 – 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)
X		

<b>Rationale for proposed adoption, amendment or repeal:</b>	The new subchapter is intended to streamline the process for Proprietary Schools license suspensions and revocations by the State Board of Proprietary Schools. .
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<b>Proposed Effective Date of Rule</b>	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**

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6                   **SUBCHAPTER 500. SUSPENSION OR REVOCATION OF LICENSE**  
7

8                   **2B SBCCC 500.1 Standard for Suspending or Revoking License**

9                   The State Board of Community Colleges (SBCC), by and through the State Board of  
10                  Proprietary Schools (SBPS), may suspend or revoke the license of a proprietary school  
11                  license in accordance with G.S. 150B, Article 3, when a school fails to comply with the  
12                  requirements of the law and the rules adopted by the State Board of Community Colleges.  
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14                  History Note: Authority G.S. 115D-89; 115D-93;

15                                 Eff. \_\_\_\_\_  
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17                  **2B SBCCC 500.2 Notice of Alleged Noncompliance**

18                  (a) The SBPS Executive Director may investigate a proprietary school subject to Article 8  
19                  of Chapter 115D of the North Carolina General Statutes, upon receipt of a signed  
20                  written complaint or other compelling evidence alleging the school failed to comply  
21                  with the requirements of law or the rules adopted by the SBCC.

22                  (b) The Executive Director shall document all evidence of alleged noncompliance in a  
23                  document to be titled, "Notice of Allegations".

24                  (c) The Executive Director shall send the "Notice of Allegations" to the chief administrator  
25                  of the proprietary school at issue within five (5) business days of documenting the  
26                  alleged noncompliance with a copy to the following: 1) the Chair of the SBPS; 2) the  
27                  NCCCS General Counsel; and 3) the NCCCS Director of Communications. The Notice  
28                  shall request the chief administrator or other agent of the proprietary school to submit  
29                  a written response to the alleged noncompliance within ten (10) business days from  
30                  the proprietary school's receipt of the "Notice of Allegations."

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

1                    Eff. \_\_\_\_\_

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3 **2B SBCCC 500.3 Investigation**

- 4 (a) The SBPS Executive Director or the Executive Director’s designee shall constitute an  
5 authorized official of the SBCC for the purpose of conducting investigations.  
6 (b) Pursuant to G.S. 115D-93(c)(3), the proprietary school under investigation shall permit  
7 the SBPS Executive Director or the Executive Director’s designee to obtain any  
8 information necessary to conduct the investigation.  
9 (c) The investigation shall conclude within 60 days from the date the Executive Director  
10 issued the “Notice of Allegations” to the proprietary school at issue.

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

13                    Eff. \_\_\_\_\_

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15 **2B SBCCC 500.4 SBPS Recommendation and Right to Hearing**

- 16 (a) Upon conclusion of the investigation in 2B SBCCC 500.3, the SBPS Executive  
17 Director shall submit a written investigation report to the SBPS containing:  
18 (1) Copy of the written complaint or Documentation of Noncompliance;  
19 (2) Specification of the laws or rules the proprietary school allegedly violated and a  
20 detailed description of how the proprietary school allegedly violated each of the  
21 specified laws or rules;  
22 (3) Description of investigation process; and  
23 (4) Recommendation of revocation of the proprietary school’s license to operate one  
24 or more programs with a supporting rationale for revocation rather than for  
25 suspension; or  
26 (5) Recommendation of suspension of the proprietary school’s license to operate one  
27 or more programs with a supporting rationale for suspension rather than for  
28 revocation; or  
29 (6) Recommendation to allow the proprietary school to retain its license to operate one  
30 or more programs with a supporting rationale for why revocation or suspension is  
31 not warranted.

- 1 (b) The SBPS shall evaluate the written investigation report and after due consideration,  
2 recommend the SBCC:  
3 (1) Suspend the proprietary school's license to operate one or more programs; or  
4 (2) Revoke the proprietary school's license to operate one or more programs; or  
5 (3) Take no further action.
- 6 (c) Within five (5) business days of the SBPS action, the Executive Director shall submit  
7 the written investigation report and SBPS recommendation to the chief administrator  
8 of the proprietary school at issue with a copy to the following: 1) the Chair of the SBPS;  
9 2) the NCCCS General Counsel; and 3) the NCCCS Director of Communications. If  
10 the SBPS recommended suspension or revocation of the proprietary school's license  
11 to offer one or more programs, the Executive Director shall notice the school of its  
12 right to request an informal hearing with the SBPS prior to the SBCC's final agency  
13 decision to suspend or revoke the school's license. The request for an informal  
14 hearing must be in writing and signed by the chief administrator or other authorized  
15 agent of the proprietary school, and it must be received by the Executive Director on  
16 behalf of the SBPS within 10 business days of receiving the investigation report and  
17 SBPS recommendation.
- 18 (d) If the Executive Director of the SBPS does not receive the proprietary school's  
19 written request for an informal hearing within 10 business days from the date the  
20 school received the investigation report and SBPS' recommendation to suspend or  
21 revoke the school's license, the Executive Director shall submit the investigation report  
22 and SBPS recommendation to the SBCC. The SBCC shall consider the investigation  
23 report and recommendation at its next regularly scheduled meeting and vote to:  
24 (1) Suspend the proprietary school's license to operate one or more programs; or  
25 (2) Revoke the proprietary school's license to operate one or more programs; or  
26 (3) Take no further action.
- 27 The SBCC action shall become the SBCC's final agency decision to suspend or  
28 revoke the proprietary school's license. Within five (5) business days of the SBCC's  
29 action, the NCCCS General Counsel shall notify the proprietary school of the  
30 SBCC's final decision.

1 (e) If the Executive Director of the SBPS receives a written request for an informal  
2 hearing within 10 business days of the proprietary school administrator's receipt of  
3 the investigation report and SBPS recommendation to suspend or revoke the  
4 school's license, the Executive Director shall submit the written request to the  
5 following: 1) the Chair of the SBPS; 2) the NCCCS General Counsel; and 3) the  
6 NCCCS Director of Communications. The SBPS shall calendar the informal hearing  
7 within 60 days of the Executive Director's receipt of the hearing request.

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

9 Eff. \_\_\_\_\_

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11 **2B SBCCC 500.5 Hearing Process**

12 The informal hearing process detailed in 2B SBCCC 400.3 shall apply. For the purpose  
13 of this rule, all references to denial of the proprietary school's application for license in 2B  
14 SBCCC 400.3 shall be replaced by references to the suspension or revocation of the  
15 proprietary school's license to operate one or more programs.

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

18 Eff. \_\_\_\_\_

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20 **2B SBCCC 500.6 SBCC Final Agency Decision**

21 After the hearing detailed in 2B SBCCC 500.5, the SBPS shall make a final  
22 recommendation regarding suspension or revocation of the school's license to offer one  
23 or more programs to the SBCC. The SBCC shall consider the recommendation at its next  
24 regularly scheduled meeting and vote to:

25 (1) Suspend the proprietary school's license to operate one or more programs; or

26 (2) Revoke the proprietary school's license to operate one or more programs; or

27 (3) Take no further action.

28 The SBCC action shall become the SBCC's final agency decision on suspension or  
29 revocation of the proprietary school's license. Within five (5) business days of the SBCC's  
30 action, the NCCCS General Counsel shall notify the proprietary school of the SBCC's  
31 final decision.

2B SBCCC 500 is proposed for adoption as follows

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

3 Eff. \_\_\_\_\_

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