



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Thomas A. Stith III

President

NUMBERED MEMO CC21-036

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, Financial Aid Officers, Personnel Directors, Student Development Administrators, Public Information Officers, Registrars, & Other Interested Parties

FROM: Tawanda Foster Artis
General Counsel

SUBJECT: Substantive Change - Proposed Adoption of Title 4—ApprenticeshipNC, Chapter A. General Provisions

DATE: July 20, 2021

On 16 April 2021, the State Board of Community Colleges (“SBCC”) provided public notice that it initiated the rulemaking process to adopt the following rule:

Title 4—ApprenticeshipNC, Chapter A. General Provisions

The SBCC received public comments on the above rule through 20 May 2021. After consideration of the public comments, the SBCC is recommending a change to the proposed adoption to Title 4—ApprenticeshipNC, Chapter A. General Provisions. The change constitutes a substantive change under 4A SBCCC 100.5(a), and therefore will be put out for public comment for an additional five-day period.

The proposed adoption including the substantive change is published on the NC Community College System's website, www.nccommunitycolleges.edu/sbcccode. For your convenience, a copy of the proposed rule, with the substantive change indicated, is attached to this memorandum. Please post a copy of the proposed rule with the substantive change 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 substantive change. 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 substantive change must be received within five (5) business days and by no later than 5:00 p.m. on Tuesday, 27 July 2021.** Written comments shall be directed to the following email address: publiccomments@nccommunitycolleges.edu or via postal mail at Tawanda Foster Artis, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001. Thank you for your attention to this matter.

Attachment

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4A SBCCC 100.2 – ApprenticeshipNC Headquarters

(a) The ApprenticeshipNC headquarters is located in the North Carolina Community Colleges System Office. The physical address is 200 West Jones Street, Raleigh, North Carolina, 27603.

(b) All correspondence should be sent to the following mailing address:

North Carolina Community Colleges System Office
ApprenticeshipNC
5001 Mail Service Center
Raleigh, NC 27699-5001

History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8

Eff: _____

4A SBCCC 100.3 – Definitions

The definitions listed in 29 CFR 29.2 shall apply to terms found in the federal regulations administered by ApprenticeshipNC, as listed in 4A SBCCC 100.1. Other definitions that apply in this Chapter are as follows.

(a) Director – The Director of ApprenticeshipNC.

(b) Registration – The recognition by the Director and the recording with ApprenticeshipNC of an apprenticeship, apprenticeship agreement, or an apprentice signifying that the program, agreement, or individual complies with the rules, requirements, criteria, and standards of this Chapter.

1 (c) Related Instruction – An organized and systematic form of instruction designed to
2 provide the apprentice or trainee with knowledge of the theoretical and technical subjects
3 related to their trade or occupation. Such instruction may be given in a classroom,
4 through occupational or industrial courses, by correspondence courses, through
5 electronic media, or through other forms of self-study.

6 (d) Revision – Any substantive modification or change of the program standards of
7 apprenticeship (including an affirmative action plan and a written description of the
8 selection procedure) or of an apprenticeship agreement.

9 (e) Standards – The program standards of apprenticeship as set forth in 29 CFR 29.5.

10 (f) Technical Assistance – Guidance provided by ApprenticeshipNC staff in the
11 development, revision, amendment, or processing of a potential or current program
12 sponsor's Standards of Apprenticeship, Apprenticeship Agreements, or advice or
13 consultation with a program sponsor to further compliance with this Chapter or guidance
14 from ApprenticeshipNC on how to remedy nonconformity with this Chapter.

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16 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

17 *Eff: _____*

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19 **4A SBCCC 100.4 – Discretionary Powers of the Director**

20 Notwithstanding any other provision of this Chapter, the Director of ApprenticeshipNC,
21 under the supervision of the President of the North Carolina Community College System
22 or the President's designee, retains the power to vary, at their discretion, the requirements
23 for an apprenticeship program or agreement in order to respond to unique or unusual
24 circumstances, including but not limited to the operation of apprenticeship programs in
25 penal institutions, so long as and only to the extent that the variations are not contrary to
26 federal or state law, that they serve to further apprenticeship in general and a certain
27 apprenticeship program or agreement in particular, and that the Director does not act

1 arbitrarily or capriciously.

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3 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

4 *Eff:* _____

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6 **4A SBCCC 100.5 – Minimum Qualifications of Apprentices**

7 (a) An apprentice must have the following qualifications:

8 (1) The apprentice must be at least 16 years old, except where a higher minimum age
9 is otherwise fixed by law; and

10 (2) The apprentice must be a high school graduate or, must have passed an
11 equivalency examination. An exception can be granted with the approval of the
12 Director, if the apprentice is currently enrolled as a high school student participating
13 in a course of study that will meet graduation requirements.

14 (b) Additional minimum qualifications for apprentices may be established by the sponsor
15 so long as the additional qualifications comply with the equal employment opportunity
16 regulations listed in 4B SBCCC 100.1.

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18 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

19 *Eff:* _____

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21 **4A SBCCC 100.6 – Program Registration Request Procedure**

22 (a) Upon request by a prospective sponsor to an official of ApprenticeshipNC, or upon
23 the initiative of an official of ApprenticeshipNC, a representative of ApprenticeshipNC
24 shall contact the prospective sponsor for the purpose of discussing the requirements for

1 registration and the procedures necessary to register and operate an apprenticeship
2 program.

3 (b) If the prospective sponsor elects to request registration of an apprenticeship program,
4 it shall complete and submit to the Director the following:

5 (1) A written request, signed by the prospective sponsor, for registration of an
6 apprenticeship program meeting the requirements of 29 CFR 29.5;

7 (2) An original of the program standards of apprenticeship required under 29 CFR
8 29.5, including an affirmative action plan according to 29 CFR 30.4 and a written
9 description of the selection procedure according to 29 CFR 30.10, unless otherwise
10 exempted under 29 CFR 30.19;

11 (3) A written agreement to comply with the program standards by a participating
12 employer as provided; and

13 (4) One of the following:

14 (A) A written acknowledgment of union agreement or "no objection" to the
15 registration when the program standards, collective bargaining agreement, or other
16 instrument provides for participation by a union in any manner in the operation of
17 the substantive matters of the apprenticeship program and such participation is
18 exercised;

19 (B) A written acknowledgment of a union's receipt of a copy of the completed
20 application forms when the union represents employees in the trade which is an
21 objective of the apprenticeship training, unless an acknowledgment under Part (A)
22 of this Subparagraph is required; or

23 (C) A signed statement by the sponsor that no unions represent employees of the
24 sponsor or participating employers in the trade which is an objective of the
25 apprenticeship training.

26 (c) If the Director has received the completed application forms and has determined that
27 the requirements for an apprenticeship program, as set forth in 29 CFR 29.5, are met, the

1 program shall be approved and registered with ApprenticeshipNC. The sponsor shall be
2 notified in writing of the registration.

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4 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

5 *Eff: _____*

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7 **4A SBCCC 100.7 – Registration and Approval of Apprenticeship Agreements and**
8 **Individual Apprentices**

9 (a) A sponsor or an individual, or a person or organization on behalf of the individual, shall
10 request that an apprenticeship agreement between the individual and their sponsor be
11 registered by submitting to the Director a copy of the apprenticeship agreement.

12 (b) If the following requirements are met, then the Director shall approve the
13 apprenticeship agreement and cause it to be recorded by the division, which constitutes
14 registration of the agreement:

15 (1) The agreement is complete and applies to a registered apprenticeship program;

16 (2) The agreement meets the apprenticeship agreement requirements listed in G.S.
17 115D-11.11, G.S. 115D-11.12, and 29 CFR 29.7; and

18 (3) The individual meets the minimum qualifications for an apprentice listed in 4A
19 SBCCC 100.5.

20 (c) If the Director approves the apprenticeship agreement, the Director shall also and
21 simultaneously cause the name of the individual who is to be trained under the agreement
22 to be recorded, which constitutes registration of the individual.

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24 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

1 *Eff:* _____

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3 **4A SBCCC 100.8 – Denial of a Program Registration Request**

4 (a) If the Director does not approve a request for registration of an apprenticeship
5 program, apprenticeship agreement, or individual, the Director shall deny the request in
6 writing to the requesting party, expressly stating the reason(s) for denial. The Director
7 shall promptly notify the person whose individual registration has been denied when the
8 person is not notified as the requesting party.

9 (b) The requesting party may resubmit the request for registration if the proposed
10 apprenticeship program or apprenticeship agreement is revised to cure the problem(s)
11 resulting in denial.

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13 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

14 *Eff:* _____

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16 **4A SBCCC 100.9 – Revision of Apprenticeship Program Standards or Agreements**

17 (a) Any proposed revision of program standards of apprenticeship or an apprenticeship
18 agreement shall be submitted in writing by the sponsor to the Director for approval.

19 (b) The revision becomes effective 90 days after the Director's receipt of the sponsor's
20 proposed revision unless th

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1 e Director, in writing, disallows the revision within that time. The Director may disallow
2 part of the proposed revision and allow part, but in such event the sponsor may withdraw
3 the entire proposed revision. If the revision is not approved, the Director shall notify the
4 sponsor of the reasons for the disapproval and provide the sponsor with technical
5 assistance.

6 (c) When a revision becomes effective, the Director shall record the revision so that it
7 amends the program standards or agreement recorded by the division.

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9 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

10 *Eff: _____*

11 **4A SBCCC 100.10 – Termination and Extension of Agreements**

12 (a) An apprenticeship agreement terminates when the period of the apprenticeship
13 identified by the terms of the agreement expires.

14 (b) The agreement may be extended for a specified period by agreement of the apprentice
15 and sponsor with the approval of the Director. The sponsor shall obtain the Director's
16 approval of an extension in the manner provided in 4A SBCCC 100.9 for revision of
17 apprenticeship standards or an apprenticeship agreement, except that an extension
18 becomes effective within 30 days of the Director's receipt of the proposed extension
19 unless the Director, in writing, disallows the revision within that time, stating the reason(s)
20 for disallowance.

21 (c) Nothing in this Rule shall be construed to prevent a sponsor and an individual meeting
22 the minimum qualifications of an apprentice, as set forth in 4A SBCCC 100.5, from
23 executing an apprenticeship agreement.

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25 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

26 *Eff: _____*

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2 **4A SBCCC 100.11 – Certificate or Certificate of Completion**

3 (a) Upon notification from a sponsor that an individual has completed their apprenticeship
4 in the sponsor's registered apprenticeship program, the Director shall issue to the
5 individual, or to the sponsor for the individual, a certificate of completion or other written
6 indicia signifying that the individual has completed the training and instruction in a
7 registered apprenticeship program in a certain, identified trade and the date the training
8 was completed.

9 (b) Notwithstanding paragraph (a) of this Rule, the Director shall not issue the certificate
10 of completion if the Director decides upon satisfactory evidence that the apprentice is not
11 fully trained because the apprentice did not complete the apprenticeship or because the
12 apprenticeship program did not comply with the rules of this Title. The Director shall give
13 written notification to the sponsor and individual of the decision not to issue the certificate
14 of completion and the reason(s) for the decision.

15 (c) Upon request of a sponsor, the Director may issue an honorary certificate of
16 completion to recognize an individual who by training and experience was fully qualified
17 as a journeyworker prior to the registration of the sponsor's apprenticeship program.

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19 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

20 *Eff: _____*

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22 **4A SBCCC 100.12 – Suspension During Union Activity**

23 (a) Whenever the Director is on notice that a notice of election has been filed with the
24 appropriate governmental agency or that a union has called a strike or is subject to a
25 lockout, the Director shall order that the division shall suspend communications with any
26 representative of the employer or the union on the subject of registration or revision of an

1 apprenticeship program or agreement, except that the division may provide information
2 regarding apprenticeship programs in general to the representative, until such time as the
3 results of the election are certified by the appropriate authority or the strike or lockout is
4 ended.

5 (b) The Director is on notice that a notice of election has been filed whenever a copy of
6 the notice of election has been received by the Director at the address of the division.
7 The Director is on notice of a strike or lockout whenever actual notice is provided of the
8 strike or lockout.

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10 *History Note: Authority G.S. 115D-11.6; 115D-11.7; 115D-11.8*

11 *Eff: _____*

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