

**STATE BOARD OF COMMUNITY COLLEGES**

**REPEALING AND REPLACING SUBCHAPTER 100 IN THE  
DUE PROCESS CHAPTER FOR THE STATE BOARD OF  
PROPRIETARY SCHOOLS (ATTACHMENT SBPG 02)**

- **Repeal of 2B SBCCC 100. – Process for Refusal to Issue or Renew License (Attachment SBPG 02A)**
- **Adoption of 2B SBCCC 400. – Refusal to Issue or Renew License (Attachment SBPG 02B)**



1                                   **State Board of Community Colleges Code**  
2                                   **TITLE 2 – PROPRIETARY SCHOOLS**

3  
4                                   **CHAPTER B.           DUE PROCESS**

5  
6                                   **SUBCHAPTER 100.       PROCESS FOR REFUSAL TO ISSUE OR RENEW**  
7                                   **LICENSE**

8  
9                                   ~~**2B SBCCC 100.1       Standard for Refusing to Issue or Renew License**~~

10                                   ~~The State Board of Community Colleges, by and through the SBPS, may refuse to grant~~  
11                                   ~~or renew a proprietary school license in accordance with G.S. 150B, Article 3, when it is~~  
12                                   ~~found that the school has failed to meet the requirements of the law and the rules adopted~~  
13                                   ~~by the State Board of Community Colleges.~~

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

16                                   ~~*Eff.    August 1, 2014.*~~

17                                   ~~*Repealed Eff. 01 February 2020.*~~

18  
19                                   ~~**2B SBCCC 100.2       SBPS Recommendation to Refuse Licensure or License**~~  
20                                   ~~**Renewal**~~

21                                   ~~(a) If the SBPS recommends refusal of a proprietary school's license or recommends~~  
22                                   ~~nonrenewal of a proprietary school's license, the SBPS, by and through its Executive~~  
23                                   ~~Director, shall document the rationale for its recommendation to the State Board of~~  
24                                   ~~Community Colleges in a document to be titled, "Refusal to Recommend Initial~~  
25                                   ~~Licensure or License Renewal."~~

26                                   ~~(b) The Executive Director shall send a copy of the "Refusal to Recommend Initial~~  
27                                   ~~Licensure or License Renewal" to the chief administrator of the proprietary school at~~  
28                                   ~~issue within five business days of the SBPS' recommendation with a copy to the~~  
29                                   ~~following: 1) the Chair of the SBPS; 2) the NCCCS Executive Vice President for~~  
30                                   ~~Operations; 3) the NCCCS General Counsel; and 4) the NCCCS Director of Marketing~~  
31                                   ~~and Public Affairs.~~

1 ~~(c) In the “Refusal to Recommend Initial Licensure or License Renewal,” the Executive~~  
2 ~~Director of the SBPS shall advise the chief administrator or other agent of the~~  
3 ~~proprietary school at issue of the right to provide a written response to the “Refusal to~~  
4 ~~Recommend Initial Licensure or License Renewal” within 10 business days of receipt~~  
5 ~~of the “Refusal to Recommend Initial Licensure or License Renewal.”~~

6 ~~(d) If the Executive Director of the SBPS receives a written response within 10 business~~  
7 ~~days of the proprietary school administrator’s receipt of the “Refusal to Recommend~~  
8 ~~Initial Licensure or License Renewal,” the Executive Director of the SBPS shall submit~~  
9 ~~the written response to the following: 1) the Chair of the SBPS; 2) the NCCCS~~  
10 ~~Executive Vice President for Operations; 3) the NCCCS General Counsel; and 4) the~~  
11 ~~NCCCS Director of Marketing and Public Affairs.~~

12 ~~(e) The SBCC shall consider the SBPS’ “Refusal to Recommend Initial Licensure or~~  
13 ~~License Renewal” and the proprietary school’s written response that is received by~~  
14 ~~the Executive Director of the SBPS within the time specified in 2B SBCCC 100.2(d) at~~  
15 ~~its regularly scheduled meeting that occurs at least 10 business days after the~~  
16 ~~deadline for the proprietary school’s written response to the SBPS’ “Refusal to~~  
17 ~~Recommend Initial Licensure or License Renewal.~~

18  
19 *History Note: Authority G.S. 115D-89; 115D-93;*

20 *Eff. August 1, 2014.*

21 *Repealed Eff. 01 February 2020.*

22  
23 **~~2B SBCCC 100.3 SBCC’s Evaluation of the SBPS’ Recommendation~~**

24 ~~The SBCC will evaluate the SBPS’ “Refusal to Recommend Initial Licensure or License~~  
25 ~~Renewal” and the proprietary school’s written response, if any, and after due~~  
26 ~~consideration, vote to grant the proprietary school licensure or initiate denial of the~~  
27 ~~proprietary school’s license to operate one or more programs. Within three (3) business~~  
28 ~~days of the SBCC’s disposition on the investigation report, the NCCCS General Counsel~~  
29 ~~shall notify the proprietary school of the SBCC’s decision to grant the proprietary school~~  
30 ~~licensure or initiate denial of the proprietary school’s licensure.~~

1 *History Note: Authority G.S. 115D-89; 115D-93;*  
2 *Eff. August 1, 2014.*  
3 *Repealed Eff. 01 February 2020.*  
4

5 **~~2B SBCCC 100.4~~ Right to Hearing**

6 ~~(a) If the SBCC votes to initiate denial of a proprietary school's application for license to~~  
7 ~~operate one or more programs, in the letter notifying the proprietary school of the~~  
8 ~~SBCC's intent to deny the proprietary school's request for a license to operate one or~~  
9 ~~more programs, the NCCCS General Counsel shall notify the proprietary school of its~~  
10 ~~right to an informal hearing prior to the SBCC's final agency decision on denial of~~  
11 ~~licensure.~~

12 ~~(b) The proprietary school shall have 10 business days from the date it receives the~~  
13 ~~SBCC's notice of its intent to deny the proprietary school's application for a license to~~  
14 ~~operate one or more programs to notify the SBCC of its request to be heard. The~~  
15 ~~proprietary school's request for hearing must be in writing and signed by the chief~~  
16 ~~administrator or other authorized agent of the proprietary school and directed to the~~  
17 ~~NCCCS General Counsel on behalf of the SBCC.~~

18 ~~(c) If the NCCCS General Counsel does not receive the proprietary school's signed~~  
19 ~~request for hearing within 10 business days from the date the proprietary school~~  
20 ~~receives the written notification of the SBCC's intent to deny the proprietary school's~~  
21 ~~application for a license to operate one or more programs, the SBCC's intent to deny~~  
22 ~~the proprietary school's application for a license will become the SBCC's final agency~~  
23 ~~decision to deny licensure.~~

24  
25 *History Note: Authority G.S. 115D-89; 115D-93; 150B-22;*  
26 *Eff. August 1, 2014.*  
27 *Repealed Eff. 01 February 2020.*  
28

29 **~~2B SBCCC 100.5~~ Hearing Process**

30 ~~(a) If the NCCCS General Counsel receives the proprietary school's signed request for~~  
31 ~~hearing within 10 business days from the date the proprietary school receives the~~

1 ~~written notification of the SBCC's intent to deny the proprietary school's application for~~  
2 ~~a license to operate one or more programs, the NCCCS General Counsel shall~~  
3 ~~calendar the informal hearing no longer than 45 days and no sooner than 15 business~~  
4 ~~days after receiving the signed request for hearing. The NCCCS General Counsel will~~  
5 ~~serve as the Hearing Officer on behalf of the SBCC. The Hearing Officer shall provide~~  
6 ~~the notice of hearing with the date, time, and location to the parties at least 10 business~~  
7 ~~days prior to the hearing.~~

8 (b) ~~The party appearing on behalf of the SBPS shall be the Executive Director of the~~  
9 ~~SBPS or the SBPS attorney; and the party appearing on behalf of the proprietary~~  
10 ~~school at issue shall be an official of the proprietary school or attorney representing~~  
11 ~~the proprietary school. No later than five (5) business days prior to the hearing, both~~  
12 ~~parties shall exchange the following information and documents with the opposing~~  
13 ~~party or their counsel and deliver three (3) copies to the Hearing Officer:~~

14 (1) ~~A written summary of each party's position.~~

15 (2) ~~A brief of any legal issues the parties believe are applicable to the case.~~

16 (3) ~~The exhibits the parties want the Hearing Officer to consider when making a final~~  
17 ~~recommendation to the SBCC. The three (3) copies for the Hearing Officer shall~~  
18 ~~be separately numbered and placed behind a tab in a notebook or other binder~~  
19 ~~with a table of contents in the front.~~

20 (4) ~~A list of witnesses each party intends to call along with a brief summary of each~~  
21 ~~witnesses' testimony.~~

22 (5) ~~The findings of fact and conclusions of law the parties would like the Hearing~~  
23 ~~Officer to include in the recommendation to the SBCC. Provide one copy of the~~  
24 ~~proposed findings of fact and conclusions of law electronically to the Hearing~~  
25 ~~Officer in Microsoft Word.~~

26 (c) ~~The Hearing Officer will conduct the hearing as follows:~~

27 (1) ~~The total length of the hearing will be no longer than three (3) hours. Each party~~  
28 ~~will have a maximum of one (1) hour to present evidence in their case in chief. The~~  
29 ~~SBPS Executive Director or SBPS attorney will present evidence for no more than~~  
30 ~~one (1) hour to support the recommendation to deny the proprietary school's~~  
31 ~~application for a license to operate one or more programs first. At the conclusion~~

1 of the SBPS Executive Director or the SBPS attorney's case, the proprietary  
2 school's representative has the opportunity to present evidence for no more than  
3 one (1) hour to support why the proprietary school's application for a license should  
4 be approved. After the proprietary school's presentation of evidence, the SBPS  
5 Executive Director or SBPS attorney may provide rebuttal evidence for no more  
6 than 15 minutes. After the SBPS Executive Director or SBPS attorney's rebuttal  
7 evidence, the proprietary school's representative may present rebuttal evidence  
8 for no more than 15 minutes.

9 (2) Documents that have not been provided to the opposing party and to the Hearing  
10 Officer at least five (5) business days prior the hearing will not be considered at  
11 the hearing

12 (3) The legal rules of evidence will not be enforced, but the Hearing Officer has the  
13 discretion to direct the presentations so that the parties address those issues that  
14 are relevant to the claims against the proprietary school.

15 (4) Parties have the discretion to proceed in a question and answer format for their  
16 own presentation of evidence. Alternatively, parties have the discretion to present  
17 evidence in a narrative form.

18 (5) If either party believes that the Hearing Officer should not give credence to  
19 evidence offered by the other party, that party may bring that to the Hearing  
20 Officer's attention during the presentation of their own case. The Hearing Officer  
21 will consider those objections when weighing the evidence.

22 (6) In making a final recommendation to the SBCC, the Hearing Officer will only  
23 consider documents introduced and offered into evidence at the hearing. The  
24 parties may offer all of their exhibits into evidence at once.

25 (7) The Hearing Officer may ask questions at any time throughout the hearing.

26 (8) A court reporter will transcribe the hearing.

27  
28 *History Note: Authority G.S. 115D-89; 115D-93; 150B-22;*

29 *Eff. August 1, 2014.*

30 *Repealed Eff. 01 February 2020.*

31

1 ~~2B SBCCC 100.6 — SBCC Final Agency Decision~~

2 ~~After the hearing detailed in 2B SBCCC 100.5, the Hearing Officer shall make a final~~  
3 ~~recommendation regarding denial of the proprietary school's application for license to the~~  
4 ~~SBCC at the next regularly scheduled board meeting that occurs at least 10 business~~  
5 ~~days after the hearing. The SBCC's decision is the final agency decision.~~

6

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

8 *Eff. August 1, 2014.*

9 *Repealed Eff. 01 February 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. 01 February 2020.

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.

21  
22 History Note: Authority G.S. 115D-89; 115D-93;

23 Eff. 01 February 2020.

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.

14  
15 History Note: Authority G.S. 115D-89; 115D-93; 150B-22;

16 Eff. 01 February 2020.

17  
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.

27  
28 History Note: Authority G.S. 115D-89; 115D-93; 150B-22;

29 Eff. 01 February 2020.