



~~SUBCHAPTER 100—RULE-MAKING PROCESS~~

~~3A SBCCC 100.93—PETITIONS~~

~~(a) Any person wishing to request the adoption, amendment, or repeal of a rule made by the State Board, Department of Community Colleges, shall make a request in a petition addressed to:~~

~~System President
Department of Community Colleges
200 West Jones Street
Raleigh, NC 27603-1379~~

~~(b) The petition shall contain the following information:~~

- ~~(1) either a draft of the proposed rule or a summary of its contents;~~
- ~~(2) the statutory authority for the agency to adopt the rule;~~
- ~~(3) the reasons for the proposal;~~
- ~~(4) the effect of the proposed rule on existing rules;~~
- ~~(5) any data supporting the proposal;~~
- ~~(6) the effect of the proposed rule on existing practices in the area involved, including cost factors;~~
- ~~and~~
- ~~(7) the name and address of the petitioner.~~

~~(c) The System President or designee shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. The System President or designee shall consider all the contents of the submitted petition and any additional information deemed relevant.~~

~~(d) Within 120 days of submission of the petition, the State Board or designee shall render a decision. If the decision is to deny the petition, the System President or designee shall notify the petitioner in writing, stating the reason(s) for the denial. If the decision is to approve the petition, the State Board shall publish a notice of rule-making proceedings.~~

~~History Note: Authority G.S. 143B-10(j)(2); 150B-20;
Eff. September 1, 1993;
Amended Eff. March 1, 1997.~~

~~3A SBCCC 100.94—HEARING OFFICER~~

~~The System President, or one or more hearing officers designated by the System President, shall be hearing officer(s) in a rulemaking hearing.~~

~~History Note: Authority G.S. 143B-10; 150B-21.2;
Eff. September 1, 1993.~~

~~3A SBCCC 100.95—HEARINGS~~

~~(a) Any person desiring to make an oral presentation at a public hearing may submit a written copy of the presentation to the hearing officer prior to or at the public hearing.~~

~~(b) Presentations shall not exceed 10 minutes.~~

~~(c) Written comments must be sent to:~~

~~System President
Department of Community Colleges
200 West Jones Street
Raleigh, NC 27603-1379~~

~~(d) The hearing officer shall have control over the rule making hearing, including:~~

- ~~(1) the responsibility of having a record made of the hearing;~~
- ~~(2) extension of any time allotments;~~
- ~~(3) recognition of speakers;~~
- ~~(4) prevention of repetitious presentations; and~~
- ~~(5) general management of the hearing.~~

1 ~~(e) The hearing officer shall ensure that each person attending the hearing is given a fair opportunity to present~~
2 ~~views, data, and comments.~~

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4 ~~History Note: Authority G.S. 143B-10; 150B-21.2;~~
5 ~~Eff. September 1, 1993;~~
6 ~~Amended Eff. March 1, 1997.~~

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10 **3A SBCCC 100.96 — STATEMENT OF REASONS FOR AND AGAINST RULE MAKING DECISION**

11 ~~(a) Any person who desires from the System President a concise written statement of the principal reasons for or~~
12 ~~against the decision by the State Board to adopt or reject a rule may, within 30 days after adoption of a rule, submit a~~
13 ~~request to:~~

14 System President
15 Department of Community Colleges
16 200 West Jones Street
17 Raleigh, NC 27603-1379

18 ~~(b) The request must be made in writing and must identify the rule or proposed rule involved.~~

19 ~~(c) The System President shall issue the statement of reason(s) against the State Board's decision within 45 days~~
20 ~~after receipt of the request.~~

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22 ~~History Note: Authority G.S. 143B-10; 150B-21.2;~~
23 ~~Eff. September 1, 1993;~~
24 ~~Amended Eff. March 1, 1997.~~

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28 **3A SBCCC 100.97 — RECORD OF RULEMAKING PROCEEDINGS**

29 ~~A record of all rulemaking proceedings conducted by the State Board, including responses to petitions for~~
30 ~~rulemaking, shall be maintained in the office of the System President and shall be available for public inspection~~
31 ~~during regular office hours. This record shall include:~~

- 32 (1) ~~the original petition, if any;~~
33 (2) ~~the notice;~~
34 (3) ~~written presentation or submission;~~
35 (4) ~~a transcript or audio tape of the oral hearing; and~~
36 (5) ~~a final draft of the adopted rule.~~

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38 ~~History Note: Authority G.S. 143B-10; 150B-21.2;~~
39 ~~Eff. September 1, 1993.~~

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43 **3A SBCCC 100.98 — FEES**

44 ~~Any person requesting copies of materials from the hearing record shall be charged five cents (\$.05) per page.~~

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46 ~~History Note: Authority G.S. 132-6;~~
47 ~~Eff. September 1, 1993.~~

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51 **3A SBCCC 100.99 — DECLARATORY RULINGS**

52 ~~(a) The State Board shall have the power to make declaratory rulings. A declaratory ruling means the State Board's~~
53 ~~determination of the validity of a specific rule or whether a specific statute, rule or order applies to a given set of~~
54 ~~facts. All requests for declaratory rulings shall be by written petition and shall be submitted to:~~

55 System President
56 Department of Community Colleges

200 West Jones Street
Raleigh, NC 27603-1379

(b) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner;
- (2) the statute or rule to which the question relates;
- (3) a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him; and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the State Board believes that the issuance of a declaratory ruling is undesirable, it shall refuse to issue one. Where a declaratory ruling is deemed inappropriate, the System President or designee shall notify in writing the petitioner, stating reasons for the denial of a declaratory ruling. The State Board may refuse to consider the validity of a rule:

- (1) unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;
- (2) unless the rule making record evidences a failure by the agency to consider specified relevant factors;
- (3) unless circumstances stated in the request or otherwise known to the agency show that a declaratory ruling would presently be appropriate.

(d) Where a declaratory ruling is deemed appropriate, the State Board shall issue the ruling within 60 days of the receipt of the petition.

(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be deemed appropriate, in the discretion of the State Board or its designee in the particular case.

(f) The System President or his designee may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.

(g) A record of all declaratory ruling proceedings shall be maintained by the System President and shall be available for public inspection during regular business hours. This record shall contain:

- (1) the original request;
- (2) the reason(s) for refusing to issue a ruling when the request is denied;
- (3) all written memoranda and information submitted;
- (4) any written minutes or audio tape or other record of the oral hearing; and
- (5) a statement of the ruling when the request is granted.

*History Note: Authority G.S. 150B-4;
Eff. September 1, 1993;
Amended Eff. March 1, 1997.*