



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
Dr. R. Scott Ralls, President

November 19, 2008

MEMORANDUM

TO: Members of the State Board of Community Colleges
Community College Presidents and Boards of Trustees Chairs
NC Community College System Office Staff
Other Interested Parties

FROM: Q. Shanté Martin, General Counsel/Rule-making Coordinator

SUBJECT: **Proposed Changes in the NC Administrative Code**

The State Board has initiated the Rule-making process to amend the following Rules:

23 NCAC 02D .0301 "Operating Budget Requests: Distribution of Funds"
23 NCAC 02D .0326 "Budget FTE Funding"
23 NCAC 02D .0327 "Reporting Student Membership Hours to the Department"
23 NCAC 02E .0101 "Program Classification"
23 NCAC 02E .0205 "Program Review"
23 NCAC 02E .0401 "Customized Training Program"

These proposed amendments were published in the North Carolina Register on November 17, 2008, in Volume 23, Issue 10, on pages 905-911.

For your convenience, copies of these rules are attached. Please post copies of these rules in prominent places so that all individuals affected by these proposed changes will be informed.

In accordance with the Administrative Procedures Act, no public hearing has been scheduled for these rule-making proceedings. Requests for a public hearing should be made in writing within 15 days of notice to the Rule-making Coordinator at the following address: North Carolina Community College System, 5001 Mail Service Center, Raleigh, NC 27699-5001. Written comments for the Rule must be received by the Legal Affairs office no later than 5:00 p.m. on January 16, 2009. Written comments should be directed to the Rule-making Coordinator at the following address: North Carolina Community College System, 5001 Mail Service Center, Raleigh, NC 27699-5001.

Thank you for your attention to this matter.

CC 08-241
E-mail and Paper copies

QSM/may

Attachments

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Community Colleges intends to amend the rules cited as 23 NCAC 02D .0301, .0326-.0327; 02E .0101, .0205, and .0401.

Proposed Effective Date: *May 1, 2009*

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): To demand a public hearing please send the written demand to Q. Shanté Martin, Rule-making Coordinator, NC Community College System, 200 West Jones St., MSC 5001, Raleigh, NC 27699-5001 or by emailing the demand to martins@nccommunitycolleges.edu. Demands must be received within 15 days of the publication of the proposed rule in the North Carolina Register.*

Reason for Proposed Action: *The State Board seeks to make all of the relevant language in the Administrative Code consistent with the General Assembly's approval of the Customized Training Program.*

Procedure by which a person can object to the agency on a proposed rule: *Written objections shall be addressed to President, NC Community College System Office, 5001 MSC, Raleigh, NC 27699-5001 within the comment period and must be postmarked by 11:59 p.m. on the last day of the comment period.*

Comments may be submitted to: *Q. Shanté Martin, Rule-making Coordinator, 200 West Jones St., 5001 Mail Service Center, Raleigh, NC 27699-5001, phone (919) 807-6961 and email martins@nccommunitycolleges.edu*

Comment period ends: *January 16, 2009*

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.*

Fiscal Impact:

- State**
- Local**
- Substantive** (\geq \$3,000,000)
- None**

CHAPTER 02 - COMMUNITY COLLEGES

SUBCHAPTER 02D - COMMUNITY COLLEGES: FISCAL AFFAIRS

SECTION .0300 - BUDGETING: ACCOUNTING: FISCAL MANAGEMENT

23 NCAC 02D .0301 OPERATING BUDGET REQUESTS: DISTRIBUTION OF FUNDS

- (a) Projections of full-time equivalent (FTE) students shall be based on the following:
 - (1) Curriculum FTE projections shall be based on the academic year (fall and spring semesters).

- (2) Continuing education FTE projections shall be based on the latest spring, summer, and fall FTE figures. Annual continuing education FTE is determined by totaling the student hours in membership for the three reporting periods and dividing by 688. Note definition of annual continuing education FTE in 23 NCAC 01A .0101(8).
 - (3) Projections shall be made, program by program, as stated in Subparagraphs (a)(1) and (2) of this Rule. If the actual FTE for the semesters needed are not available, the latest actual semester FTE shall be multiplied by the latest five-year retention ratio to determine the appropriate estimates. Retention ratios are FTE comparisons between Fall Semester and the Spring Semester which are used to predict FTE totals when actual figures are not available.
 - (4) The State Board may adjust the projections based on additional factors brought to its attention.
 - (5) The State Board shall adopt an official projection of FTE.
- (b) Appropriation Requests:
- (1) Continuation Budget Requests. The continuation budget request shall be based on the number of FTE and amount per FTE currently appropriated and increases in the continuation budget as directed by the Office of State Budget and Management. Also included in the continuation budget requests shall be continuing categorical programs. Categorical programs are educational programs funded for specific purposes such as the new and expanding industry Customized Training Program for job growth, productivity enhancement, or technology investment as opposed to general formula programs such as occupational extension.
 - (2) Expansion Budget Requests. The expansion budget request shall consist of at least the following items:
 - (A) an adjustment in the number of FTEs in existing programs based on the difference between the official FTE projections of the State Board and the existing level of FTEs requested in the continuation budget;
 - (B) an adjustment in expenditure per FTE;
 - (C) additional funding for new and special programs of instruction.
- (c) State Board Reserve. A reserve shall be requested from the General Assembly and shall be retained by the State Board for the purpose of making later allocations for feasibility studies, pilot projects, innovative ideas, and start-up of new programs or as otherwise directed by the General Assembly.
- (d) Formula distribution of funds for the current operation budget. Funds appropriated to the State Board for current operation shall be allocated to the system colleges as directed by the General Assembly.
- (e) JTPA Administrative Allotment. Student class hours for class size projects funded by the Job Training Partnership Act (JTPA) shall not be included in the full-time equivalent (FTE) formula for earning budget/FTE. Administrative funds for operating these class size projects shall be allocated on the same basis as all other administrative formula funds.

Authority G.S. 115D-3; 115D-5; 115D-54; S.L. 1995, c. 625.

23 NCAC 02D .0326 BUDGET FTE FUNDING

(a) All student membership hours generated by the college for a given class shall be counted for budget FTE purposes provided 100 percent of the instructional cost is paid from college funds (funds budgeted through the college's budget including State Current, County Current, or College Funds). These provisions apply to all instructional contracts which generate budget FTE including Basic Skills classes. For purpose of this Rule, instructional cost includes the salary of the instructor(s) as well as fringe benefits, supplies, materials, and travel paid from college funds. College-sponsored instruction shall not supplant existing training which may take place without the college's involvement. Following are Rule applications:

- (1) A company or entity may reimburse the college for a given class up to 50 percent of the instructional cost. The student hours in membership generated in the class may be reported for budget FTE. If the college is reimbursed for more than 50 percent of the instructional cost for a given class, student hours in membership reported for the class shall be prorated in the same proportion as the college funding. If the college is

reimbursed for 100 percent of the instructional cost, the class would be gratis [see Paragraph (b) of this Rule] and no budget FTE would be generated.

- (2) In cases where a company or entity donates funds to a college with no expectation for instruction in return, these funds shall be treated as college funds and may be used to generate budget FTE.
- (3) The community college shall not contract with a company or entity to provide training to its current employees except as provided by provisions set forth in 23 NCAC 02E .0402.

Note: Contracted training does not have to be defined as work station occupational skills training in order for 23 NCAC 02E .0402(c) to apply for reimbursement purposes.

(b) Any class for which the instructor's services are provided at no cost or for which the instructional cost is paid totally and directly by an external agency is a "gratis" class. In this situation, the class is reported as self-supporting, and does not generate budget/FTE. If a portion of the class is gratis, student hours shall be prorated accordingly.

(c) Categorical state allotments to colleges, except literacy and Human Resources Development, such as Small Business, ~~Focused Industrial Training~~, Customized Training Programs, Community Service, and Block Grants do not earn budget/FTE and are not subject to the provisions of this Rule.

Authority G.S. 115D-5; 115D-31; 115D-58.5; S.L. 2001, c. 424, s. 30.3(b),(e).

23 NCAC 02D .0327 REPORTING STUDENT MEMBERSHIP HOURS TO THE DEPARTMENT

(a) Curriculum and extension college class reports summarizing student membership hours shall be submitted to the Department during each student membership hour reporting period defined in this Paragraph.

- (1) The three student membership hour reporting periods are as follows:
 - (A) Period 1 - (Spring Period): January 1 - May 15;
 - (B) Period 2 - (Summer Period): May 16 - August 14;
 - (C) Period 3 - (Fall Period): August 15 - December 31.
- (2) College class reports for all regular budget curriculum and extension classes shall be submitted 21 calendar days after the conclusion of each student reporting period defined in Subparagraph (a)(1) of this Rule. Note the following schedule concerning application of the designated periods:
 - (A) all reports received by June 5 shall be designated Period 1;
 - (B) all reports received by September 4 shall be designated Period 2; and
 - (C) all reports received by January 21 shall be designated Period 3.

(b) For learning laboratories, skills laboratories, multi-entry, multi-exit and other non-regularly scheduled classes where actual student time in class is determined, student contact hours shall be calculated on the last day of each respective student membership hour reporting period for a given class and submitted to the Department according to Subparagraphs (a)(1) and (a)(2) of this Rule. Also, note Paragraphs (b) and (c) of Rule .0323 and Paragraphs (a) and (b) of Rule .0324 regarding calculation of student membership hours.

(c) College class reports for non-regular budget extension classes such as ~~new and expanding industry~~, customized training for job growth, productivity enhancement, or technology investment, HRD, JTPA, self-supporting, and recreational shall also be submitted to the ~~Department System Office~~ in accordance with Subparagraphs (a)(1) and (a)(2) of this Rule.

Authority G.S. 115D-5; 115D-31; 115D-58.5; S.L. 1995, c. 625.

SUBCHAPTER 02E - EDUCATIONAL PROGRAMS

SECTION .0100 - PROGRAM CLASSIFICATION: DEGREES: DIPLOMAS AND CERTIFICATES

23 NCAC 02E .0101 PROGRAM CLASSIFICATION

The following criteria are used for classifying the programs offered in the North Carolina Community College System.

- (1) Curriculum Programs:

- (a) A curriculum program is an organized sequence of courses leading to an associate degree, a diploma, or a certificate. All curriculum programs are designed to provide education, training, or retraining for the work force.
 - (i) Associate degree programs are planned programs of study culminating in an associate in applied science, associate in arts, associate in fine arts, associate in science, or associate in general education degree.
 - (A) The associate in applied science degree programs are designed to prepare individuals for employment. These programs involve the application of scientific principles in research, design, development, production, distribution, or service.
 - (B) The associate in arts, associate in science, and associate in fine arts degree programs are designed to prepare students for transfer at the junior level to institutions offering baccalaureate degrees.
 - (C) The associate in general education degree programs are designed for students who desire a general liberal arts education.
 - (ii) The diploma programs are designed to provide entry-level employment training. A diploma program may be a stand-alone curriculum program title, or a college may award a diploma under the college's associate in applied science degree curriculum program for a series of courses taken from the program of study and structured so that a student may complete additional non-duplicative coursework to receive an associate in applied science degree.
 - (iii) The certificate programs are designed to lead to employment or to provide skills upgrading or retraining for individuals already in the workforce. A certificate program may be a stand-alone curriculum program title, or a college may award a certificate under the college's associate degree or diploma curriculum program for a series of courses taken from the program of study.
 - (b) Developmental Education programs consist of courses and support services which include diagnostic assessment and placement, tutoring, advising, and writing assistance. These programs are designed to address academic preparedness, workforce retraining, development of general and discipline-specific learning strategies, and affective barriers to learning. Developmental courses do not earn credit toward a degree, diploma, or certificate.
- (2) Continuing Education Programs:
- (a) Occupational Extension courses consist of single courses, each complete in itself, designed for the specific purposes of training an individual for full- or part-time employment, upgrading the skills of persons presently employed, and retraining others for new employment in occupational fields.
 - (b) Community Service:
 - (i) Community Service courses consist of single courses, each complete in itself, that focus on an individual's personal or leisure needs rather than occupational or professional employment.
 - (ii) The cultural and civic, and visiting artist component of this program meets community needs through lecture and concert series, art shows, the use of college facilities by community groups, providing speakers to community organizations, and providing visiting artist activities for college communities. Visiting artists may be provided an opportunity to work as artists in residence to enhance local arts resources and promote the various visual, performing and literary arts in communities throughout North Carolina.
 - (c) Self-Supporting Programs:
 - (i) A self-supporting course is not reported to the state for budget FTE since the cost of conducting the course is paid by students enrolled.

- (ii) Recreational programs are self-supporting courses which the college may provide at the request of the community but for which the college receives no budgetary credit. Funds appropriated as operating expenses for allocation to the colleges shall not be used to support recreation courses. The financing of these courses by a college shall be on a self-supporting basis, and membership hours produced from these activities shall not be counted when computing full-time equivalent students for use in budget-funding formulas at the state level.
- (d) Basic Skills Programs. The State Board and the community college system shall encourage persons to complete high school rather than seek testing for the High School Diploma Equivalency.
 - (i) High School Equivalency programs consist of classroom instruction, learning laboratory courses, or a combination of activities designed to qualify a student for an adult high school diploma. An Agreement of Affiliation with a local public school system is required for minors sixteen or seventeen years old. No agreement is required for adults eighteen years old and older.
 - (ii) General Educational Development (GED) testing programs consist of classroom instruction, or learning laboratory courses, or a combination of both designed to qualify a student to demonstrate competency on the General Educational Development (GED) tests and to receive a High School Diploma equivalency from the State Board. The State Board is responsible for the administration of the General Educational Development testing program in cooperation with the Office on Educational Credit of the American Council on Education. The procedures regulating the GED Testing Program set forth in the GED Examiner's Manual published by the General Educational Development Testing Service of the American Council on Education are hereby incorporated by reference. A copy of this manual is available for inspection in the Office of the System President, Community College System Office, 200 W. Jones Street, Raleigh NC 27603-1379. A copy of this manual may be obtained at a cost of fifteen dollars (\$15.00) from the GED Testing Service of the American Council on Education, One Dupont Circle NW, Suite 250, Washington, DC 20036-1163.
 - (iii) The Adult Basic Education (ABE) program is designed for adults who are functioning at or below the eighth grade educational level. The major objectives of the program are to enable adults to acquire the basic educational skills necessary to be fully competent in our society, to improve their ability to benefit from occupational training and to have greater opportunities for more productive and profitable employment, and to meet their own objectives for enrolling in the program. Classes are offered and focus on fundamental skills such as reading, writing, speaking, computing, critical thinking, and problem solving.
 - (iv) The English as a Second Language (ESL) program offers classes which accommodate the varied needs of the immigrant and refugee populations. Attention is given to both the cultural and linguistic needs as instruction is focused upon the formation of accurate, appropriate communication skills and upon the student's ability to function in the adult American community. Classes are offered at the beginning through the advanced levels of ESL. The curriculum is designed to develop the basic language skills of reading, writing, speaking, and listening. Instruction integrates the English language with topics that prepare students for everyday life, employment, and citizenship.
 - (v) The Compensatory Education (CED) program is designed for adults with mental retardation. The program is highly individualized and fosters a maximum level of independent living commensurate with

personal ability. Instruction is offered in math, language, social science, health, community living, consumer education and vocational education.

- (e) Business and Industrial Customized Training Program.
 - (i) ~~The Focused Industrial Customized Training program—Program addresses critical skills in existing industries. Based on assessments of need, these customized classes typically combine on-the-job training with classroom instruction to up grade or train incumbent employees of manufacturing industries.~~
 - (ii) ~~The New and Expanding Industry Training program offers customized, job specific training to new or expanding companies creating new jobs in the state.~~ company-specific training customized for job growth, technology investment, or productivity enhancement. Based on needs specified in G.S. 115D-5.1, Customized Training Programs shall address job-specific training and may support training needs assessment, instructional design, and instructional costs according to the Customized Training Program Guidelines approved by the State Board of Community Colleges.
 - ~~(iii)~~(ii) The Small Business Center program provides training, counseling and referral services especially designed in content and delivery modes for small businesses, both existing and prospective.
- (f) The Human Resources Development (HRD) program provides skill assessment services, employability skills training, and career development counseling to unemployed and underemployed adults. These courses shall address six core components as follows:
 - (i) assessment of an individual's assets and limitations;
 - (ii) development of a positive self-concept;
 - (iii) development of employability skills;
 - (iv) development of communication skills;
 - (v) development of problem-solving skills; and
 - (vi) awareness of the impact of information technology in the workplace.
- (g) The Learning Laboratory programs consist of self-instruction using programmed texts, audio visual equipment, and other self-instructional materials. A learning laboratory coordinator has the function of bringing the instructional media and the student together on the basis of objective and subjective evaluation and of counseling, supervising, and encouraging persons working in the lab.

Authority G.S. 115D-1; 115D-2; 115D-5; S.L. 1995, c. 625; S.L. 2001, c. 424, s. 30.3(b), (e).

SECTION .0200 - EDUCATIONAL PROGRAMS

23 NCAC 02E .0205 PROGRAM REVIEW

(a) Each college shall monitor the quality and viability of all its programs and services. Each curriculum program, each program area within continuing education, including Basic Skills, occupational extension, and community service, and each service area shall be reviewed at least every five years to determine program strengths and weaknesses and to identify areas for program improvement. The program review process shall be consistent with the requirements of the regional accrediting agency.

(b) The System Office shall collect data on the outcomes of the following performance measures:

- (1) Progress of basic skills students;
- (2) Passing rate for licensure and certification examinations;
- (3) Goal completion of program completers and noncompleters;

- (4) Employment status of graduates;
- (5) Performance of students who transfer to the university system;
- (6) Passing rates in developmental courses;
- (7) Success rates of developmental students in subsequent college-level courses;
- (8) The level of satisfaction of students who complete programs and those who do not complete programs;
- (9) Curriculum student retention and graduation;
- (10) Employer satisfaction with graduates;
- (11) Client satisfaction with ~~customized training~~; Customized Training Programs; and
- (12) Program enrollment.

Each college shall publish its data on all performance measures annually in its electronic catalog or on the internet and in its printed catalog each time the catalog is reprinted.

(c) The System Office shall report annually to the State Board of Community Colleges on each college's outcomes on these performance measures.

(d) The System Office shall monitor the colleges' performance on all measures to ensure that all measures are being used for the purpose of program improvement.

Note: Substance of former 23 NCAC 02C .0604 was incorporated into this Rule.

AUTHORITY G.S. 115D-5; 115D-31.3; 1999 S.L., C. 237, S. 9.2; 1993 S.L., C. 321, S. 109; S.L. 1995, C. 625.

SECTION .0400 - ECONOMIC DEVELOPMENT SERVICES

23 NCAC 02E .0401 CUSTOMIZED TRAINING PROGRAM

(a) Customized training programs for ~~new and expanding~~ companies experiencing job growth, productivity enhancement needs, or creating technology investment shall be provided training to support the economic development of the state. ~~State. The training~~ Training programs for ~~new and expanding these companies industries~~ shall be administered by the local college, with ~~consultation~~ consultation, leadership, guidance, and assistance approval from the ~~Department's~~ System Office Economic Development staff.

(b) State funds are appropriated to the ~~Department~~ North Carolina Community College System Office in a separate line to support the ~~training for new and expanding industry~~ Customized Training Program. These funds shall be used only to support ~~only~~ companies experiencing job growth, productivity enhancement or technology investment. ~~those training projects that create new jobs in new and expanding companies. They~~ Projects shall be approved and funds allocated to and expended by the college in accordance with the System Office approved project plan and budget. budget in accordance with State Board of Community College approved Guidelines.

Authority G.S. 115D-5.