



## NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

*Dr. R. Scott Ralls, President*

November 16, 2009

### IMPORTANT ADMINISTRATIVE CODE INFORMATION

#### **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

**SUBJ:** **Proposed Changes in the Administrative Code**

The State Board has initiated the Rule-making process to adopt the following rule:

23 NCAC 02D .0329, entitled "Maintenance of Plant Flexibility."

The adoption was published in the North Carolina Register on November 16, 2009, Volume 24, Issue 10, on page 797.

For your convenience a copy of this rule is attached to this memorandum. Please post a copy of this rule in prominent places so that all individuals affected by the proposed adoption 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 publication of the proposed rule in the North Carolina Register to the following address: Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to [publiccomments@nccommunitycolleges.edu](mailto:publiccomments@nccommunitycolleges.edu). Written comments for the Rule must be received no later than 5:00 p.m. on January 15, 2010. Written comments should be directed to the following address: Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to [publiccomments@nccommunitycolleges.edu](mailto:publiccomments@nccommunitycolleges.edu).

Thank you for your attention to this matter.

**CC09-037**  
**E-mail Copy**

QSM/caa  
Attachments

## TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of Community Colleges intends to amend the rules cited as 23 NCAC 02C .0305 and 02D .0325 and adopt the rule cited as 23 NCAC 02D .0329.*

**Proposed Effective Date:** *April 1, 2010*

**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, Rulemaking Coordinator, NC Community College System, 200 West Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by emailing the demand to publiccomments@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:**

*23 NCAC 02D .0329 – "Maintenance of Plant Flexibility" is proposed for adoption to comply with Session Law 2009-451.*

**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 Mail Service Center, 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, Rulemaking Coordinator, 5001 Mail Service Center, Raleigh, NC 27699-5001; email publiccomments@nccommunitycolleges.edu*

**Comment period ends:** *January 15, 2010*

**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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

**Fiscal Impact:**

- State
- Local
- Substantial Economic Impact ( $\geq$ \$3,000,000)
- None

### SUBCHAPTER 02D - COMMUNITY COLLEGES: FISCAL AFFAIRS

#### SECTION .0300 - BUDGETING: ACCOUNTING: FISCAL MANAGEMENT

##### **23 NCAC 02D .0329 MAINTENANCE OF PLANT FLEXIBILITY**

(a) Notwithstanding any other provision of law, a community college that received State funds for maintenance of plant pursuant to G.S. 115D-31.2 for the 2008-2009 fiscal year may use non-instructional

State funds allocated to it through the institutional support allotment for maintenance of plant for the 2009-2010 and 2010-2011 fiscal years.

(b) The amount of these funds used for the 2009-2010 fiscal year for maintenance of plant shall not exceed the total amount of maintenance of plant funds received for the 2008-2009 fiscal year. The amount of these funds used for the 2010-2011 fiscal year for maintenance of plant shall not exceed 50 percent of the amount of maintenance of plant funds received for the 2008-2009 fiscal year. This Section shall be effective for the 2009-2011 fiscal biennium.

*Authority G.S. 115D-5; S.L. 2009-451, s. 8.17(b).*