



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Dr. R. Scott Ralls, President

December 15, 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 amend the following rule:

23 NCAC 02C .0505, entitled "Noncertified Source Purchases."

The proposed amendment was published in the North Carolina Register on December 15, 2009, Volume 24, Issue 12, on pages 1036-7.

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. Written comments for the Rule must be received no later than 5:00 p.m. on February 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.

Thank you for your attention to this matter.

CC09-044
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 rule cited as 23 NCAC 02C .0505.

Proposed Effective Date: *May 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, Rule-making 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 02C .0505 "Noncertified Source Purchases" is proposed for amendment to comply with House Bill 490/Session Law 2009-132.*

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, Rule-making Coordinator, 200 West Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001; email publiccomments@nccommunitycolleges.edu*

Comment period ends: *February 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

CHAPTER 02 - COMMUNITY COLLEGES

SUBCHAPTER 02C - COLLEGES: ORGANIZATION AND OPERATIONS

SECTION .0500 - EQUIPMENT

23 NCAC 02C .0505 NONCERTIFIED SOURCE PURCHASES

(a) Community colleges and the Center for Applied Textile Technology may purchase the same or substantially similar supplies, equipment, and materials from noncertified sources as provided in G.S. ~~115D-58.5(b)~~ 115D-58.5(b) and G.S. 115D-58.14. "Substantially similar" is defined as having comparable, but not identical characteristics in terms of quality, service and performance as items available under State term contracts.

(b) Each college or center shall submit to the Department System Office a ~~an~~ semi-annual annual report showing the number of purchases made from noncertified sources for supplies, equipment, or materials; the amount of funds expended for each purchase; and the amount of funds that would have been expended under state contract. When

exercising the purchasing authority granted by G.S. 115D-58.14, each college shall also document the use of this authority on the purchase order.

~~(e)~~—The ~~Department~~ System Office shall monitor the use of noncertified source purchases and shall make an annual report to the State Board. The report shall include the number of noncertified source purchases made by the colleges and the ~~Center for Applied Textile Technology~~ and the amount of funds expended.

Authority G.S. 115D-5; 115D-20; 115D-58.14.