



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

22 May 2012

**IMPORTANT INFORMATION**

**MEMORANDUM**

**TO:** Members of the State Board of Community Colleges  
Community College Presidents  
Boards of Trustees Chairs  
Community College Registrars  
Community College Admissions Officers  
Community College Student Development Administrators  
Community College Security Personnel  
NC Community College System Office Staff and Other Interested Parties

**FROM:** Q. Shanté Martin, *NCCCS General Counsel*

**RE: Amendment to Admission to Colleges – Safety Exception**

The State Board of Community Colleges has completed the amendment process for 23 SBCCC 02C.0301(e) and (f)<sup>1</sup> entitled “Admission to Colleges.” The attached amended rule will be effective **1 June 2012**.

In implementing the provisions in 23 SBCCC 02C.0301(e) and (f) related to the safety exception to the open door policy, colleges should adhere to the following:

1. The purpose of the safety exception to the open door policy is to give community colleges the ability to provide a method of protection to their campuses from safety threats while simultaneously protecting the integrity of the “open door” philosophy. As such, community colleges do not have the authority to deny admission to applicants who do not pose an articulable, imminent, and significant threat to the safety of the applicant or others.
2. To have the authority to deny admission to an applicant who poses a safety threat, local community college boards of trustees must adopt a local policy to do so consistent with 23 SBCCC 02C.0301(e) and (f). If a community college board of trustees does not adopt a policy consistent with 23 SBCCC 02C.0301(e) and (f), that community college will not have the authority to deny admission to an applicant pursuant to 23 SBCCC 02C.0301(e).

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<sup>1</sup>Please note that due to impending changes to the structure of the current State Board of Community Colleges Code, the code provision number, 23 SBCCC 02C.0301(e) and (f), will change to 1 SBCCC 04D.0401(e) and (f).

3. The provisions in 23 SBCCC 02C.0301(e) and (f) only apply during the time period prior to an applicant becoming admitted as a student at a community college. Once an applicant is admitted as a student, community colleges' Student Codes of Conduct will apply. Local community college policies and procedures determine when an applicant is admitted as a student.
4. The word "articulable" has its ordinary dictionary meaning and requires that a community college official be able to provide specification about what leads the official to conclude that an applicant poses a safety threat. The college should be able to document specific words or specific actions that create a safety threat for the threat to be articulable. For example, simply stating that an individual has a negative reputation in the community would not be articulable because the college cannot identify specific words or actions that pose a safety threat. Moreover, stating that an applicant "makes everyone nervous" without accompanying words or actions that pose a threat, is not sufficient to constitute an articulable threat. An applicant who tells an admissions officer, "I will kill you," would be an example of an articulable threat because the applicant made a specific statement that unequivocally posed a threat to the admissions officer. The State Board of Community Colleges has granted community colleges the authority to determine what is an articulable safety threat.
5. The word "imminent" has its ordinary dictionary meaning. Statements or actions by an applicant that pose a threat that is likely to occur at any moment would constitute an imminent threat. For example, the fact alone that an applicant has a criminal conviction for a violent crime would not be sufficient to show that the applicant poses an imminent threat because the applicant has not made any statements or displayed any actions that suggests a threat is likely to occur at any moment. The State Board of Community Colleges has granted community colleges the authority to determine what is an imminent safety threat.
6. The word "significant" has its ordinary dictionary meaning. An example of a significant threat would be one where an applicant could cause substantial bodily injury to any person. The State Board of Community Colleges has granted community colleges the authority to determine what is a significant safety threat.
7. Community colleges are not authorized to deny admission to any applicant *because of* the applicant's disability. Community colleges have the authority to evaluate whether an applicant has exhibited behavior or made statements that would constitute an articulable, imminent, and significant threat to the applicant or others. If an applicant has demonstrated behavior that is threatening consistent with 23 SBCCC 02C.0301(e), then community colleges have the authority to deny admission to that applicant because of the articulable, imminent, and significant threat and not because of any disability that individual may have.

8. Community colleges cannot use 23 SBCCC 02C.0301(e) as a basis for requiring community college applicants to be subject to drug tests or criminal background checks. 23 SBCCC 02C.0301(e) does not authorize any community college to conduct a background check or a drug test on any applicant for the purpose of assessing whether an individual is a safety threat to themselves or others.

**CC12-015**

**E-mail Copy**

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Attachments

## CHAPTER 02 - COMMUNITY COLLEGES

### SUBCHAPTER 02C - COLLEGES: ORGANIZATION AND OPERATIONS

#### SECTION .0300 - STUDENTS

##### 23 SBCCC 02C .0301 ADMISSION TO COLLEGES

(a) Each college shall maintain an open-door admission policy to all applicants who are legal residents of the United States and who are either high school graduates or are at least 18 years of age. Student admission processing and placement determination shall be performed by the officials of each college. Admission requirements for an emancipated minor shall be the same as for an applicant 18 years old or older. Provisions with respect to admission of minors are set forth in Rule .0305 of this Section.

(b) For the purposes of this Section, "undocumented immigrant" means any immigrant who is not lawfully present in the United States. Community colleges shall admit undocumented immigrants under the following conditions:

- (1) Community colleges shall admit an undocumented immigrant only if he or she attended and graduated from a United States public high school, private high school, or home school that operates in compliance with State or local law;
- (2) When determining who is an undocumented immigrant, community colleges shall use federal immigration classifications;
- (3) Undocumented immigrants admitted under Subparagraph (b)(1) of this Rule must comply with all federal and state laws concerning financial aid;
- (4) An undocumented immigrant admitted under Subparagraph (b)(1) of this Rule shall not be considered a North Carolina resident for tuition purposes. All undocumented immigrants admitted under Subparagraph (b)(1) of this Rule must be charged out of state tuition whether or not they reside in North Carolina;
- (5) When considering whether to admit an undocumented immigrant into a specific program of study, community colleges shall take into account that federal law prohibits states from granting professional licenses to undocumented immigrants; and
- (6) Students lawfully present in the United States shall have priority over any undocumented immigrant in any class or program of study when capacity limitations exist.

(c) Boards of trustees may adopt policies regulating admission and graduation of students enrolled in courses mandated under G.S. 17C, North Carolina Criminal Justice Education and Training Standards Commission, or G.S. 17E, North Carolina Sheriffs' Education and Training Standards Commission. These policies may limit enrollment to law enforcement officers or persons sponsored by law enforcement agencies and may require a student to maintain sponsorship by a law enforcement agency until completion of the program. Policies adopted pursuant to this Paragraph shall be published and made available to students and prospective students.

(d) Any college suspending or expelling a student for non-academic disciplinary purposes shall record the suspension or expulsion in the student's educational record. Upon receipt of a written request signed by the student and subject to all applicable privacy laws, each college shall, in accordance with the student's request, inform other colleges and universities of the term and circumstances of the student's non-academic disciplinary suspension or expulsion, if any. Boards of trustees may adopt policies refusing admission to any applicant during any period of time that the student is suspended or expelled from any other educational entity.

(e) Boards of trustees may adopt policies refusing admission to any applicant if it is necessary to protect the ~~health or~~ safety of the applicant or other individuals. When making a ~~health and~~ safety determination, colleges may refuse admission to an applicant when there is an articulable, imminent, and significant threat to the applicant or other individuals. Colleges refusing admission on the basis of a ~~health or~~ safety threat shall document the following:

- (1) Detailed facts supporting the rationale for denying admission;
- (2) The time period within which the refusal to admit shall be applicable and the supporting rationale for the designated time period; and
- (3) The conditions upon which the applicant that is refused would be eligible to be admitted.

(f) Boards of trustees shall implement an appeals process for applicants denied admission pursuant to Subsection (e) of this Section.

*History Note: Authority G.S. 115D-1; 115D-5; 115D-20;  
SBCC Adoption January 21, 2011;  
Amended June 1, 2012.*