



## NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

*Peter Hans, President*

19 November 2019

### MEMORANDUM

**TO:** Members of the State Board of Community Colleges  
Community College Presidents  
Boards of Trustees Chairs  
Community College Chief Academic Officers, Chief Admissions Officers, Basic Skills Directors, Business Officers, Continuing Education Officers, Customized Training Directors, Distance Learning, Chief Financial Officers, Continuing Education Officers, Financial Aid Officers, Personnel Directors, Student Development Administrators, Public Information Officers, Registrars, & Other Interested Parties

**FROM:** Jonathan R. Harris, *NCCCS General Counsel*

**RE:** **Proposed Adoption of 2B SBCCC Subchapter 400 – Refusal to Issue or Renew License**

The State Board of Community Colleges (“SBCC”) has initiated the rulemaking process to adopt **2B SBCCC Subchapter 400 – Refusal to Issue or Renew License**. This proposed new subchapter is meant to replace 2B SBCCC Subchapter 100, which is proposed for repeal. The new subchapter is intended to streamline the process for proprietary school license denials by the State Board of Proprietary Schools.

**The proposed adoption is published on the NC Community College System's website, [www.nccommunitycolleges.edu/sbcccode](http://www.nccommunitycolleges.edu/sbcccode).** For your convenience, a copy of the proposed Adoption is attached to this memorandum. Please post a copy of the proposed adoption in prominent places so that all individuals affected by the proposed change will be informed.

Any member of the public has the right to submit written comments on the proposed subchapter adoption. Please note that any person who submits a public comment on behalf of their community college should comply with their college’s local process for submitting comments on a proposed rule. **Written comments on the proposed subchapter adoption must be received by no later than 5:00 p.m. on 19 December 2019.** Any member of the public has the right to request a hearing on the proposed adoption. **Requests for a hearing must be received by no later than 5:00 p.m. on 4 December 2019.** Written comments and requests for hearing shall be directed

to the following address: Jonathan Harris, 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.

**CC19-067**  
**E-mail Copy**

Attachments



# State Board of Community Colleges Code

## Notice of Proposed Rulemaking Form

Date: 19 November 2019

<b>Title, Chapter, Subchapter, and Rule Number of Rule Proposed to be Adopted, Amended, or Repealed</b>	Adoption of 2B SBCCC 400 – Refusal to Issue or Renew License
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Specify whether the SBCC proposes to adopt amend, or repeal a rule:

Adopt (new rule)	Amend (change existing rule)	Repeal (delete entire rule)
X		

<b>Rationale for proposed adoption, amendment or repeal:</b>	This proposed new subchapter will replace 2B SBCCC Subchapter 100. The new subchapter is intended to streamline the process for Proprietary School license denials by the State Board of Proprietary Schools.
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<b>Proposed Effective Date of Rule</b>	February 1, 2020
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1                   **STATE BOARD OF COMMUNITY COLLEGES CODE**  
2                   **TITLE 2. COMMUNITY COLLEGES**

3  
4                   **CHAPTER B. DUE PROCESS**

5  
6                   **SUBCHAPTER 400. REFUSAL TO ISSUE OR RENEW LICENSE**

7  
8                   **2B SBCCC 400.1 Standard for Refusing to Issue or Renew License**

9                   The State Board of Community Colleges (SBCC), by and through the State Board of  
10                  Proprietary Schools (SBPS), may refuse to grant or renew a proprietary school license in  
11                  accordance with G.S. 150B, Article 3, when a school fails to meet the requirements of the  
12                  law and the rules adopted by the State Board of Community Colleges.

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14                  History Note: Authority G.S. 115D-89; 115D-93;

15                         Eff. \_\_\_\_\_  
16

17                  **2B SBCCC 400.2 Notice of Refusal and Right to Hearing**

18                  (a) If the SBPS recommends refusal of a proprietary school's initial license or  
19                  recommends nonrenewal of a proprietary school's license, the SBPS, by and through  
20                  its Executive Director, shall document the rationale for its recommendation in a  
21                  document to be titled, "Refusal to Recommend Initial Licensure or License Renewal."

22                  (b) The Executive Director shall send a copy of the "Refusal to Recommend Initial  
23                  Licensure or License Renewal" to the chief administrator of the proprietary school at  
24                  issue within five business days of the SBPS' recommendation with a copy to the  
25                  following: 1) the Chair of the SBPS; 2) the NCCCS General Counsel; and 3) the  
26                  NCCCS Executive Director of Communications.

27                  (c) In the "Refusal to Recommend Initial Licensure or License Renewal," the Executive  
28                  Director shall advise the chief administrator or other agent of the proprietary school at  
29                  issue of the right to provide a response and request an informal hearing with the SBPS  
30                  prior to the SBCC's final agency decision to grant or deny licensure. The response  
31                  and request for hearing must be in writing and signed by the chief administrator or

1 other authorized agent of the proprietary school, and it must be issued to the Executive  
2 Director on behalf of the SBPS within 10 business days of receiving the “Refusal to  
3 Recommend Initial Licensure or License Renewal.”

4 (d) If the Executive Director does not receive the proprietary school's written response  
5 and request for hearing within 10 business days from the date the school received the  
6 “Refusal to Recommend Initial Licensure or License Renewal” notice, the Executive  
7 Director shall submit the SBPS recommendation and “Refusal to Recommend Initial  
8 Licensure or License Renewal” to the SBCC. The SBCC shall consider the  
9 recommendation at its next regularly scheduled meeting and vote to grant licensure  
10 or deny licensure to operate one or more programs. The SBCC action to grant or  
11 deny licensure shall become the SBCC’s final agency decision on the proprietary  
12 school’s application. Within five (5) business days of the SBCC’s action, the NCCCS  
13 General Counsel shall notify the proprietary school of the SBCC’s final decision.

14 (e) If the Executive Director receives a written response and request for hearing within 10  
15 business days of the proprietary school administrator’s receipt of the “Refusal to  
16 Recommend Initial Licensure or License Renewal” notice, the Executive Director shall  
17 submit the written response and request for hearing to the following: 1) the Chair of  
18 the SBPS; 2) the NCCCS General Counsel; and 3) the NCCCS Director of  
19 Communications. The SBPS shall calendar the informal hearing within 60 days of the  
20 Executive Director’s receipt of the written response and request for hearing.

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22 History Note: Authority G.S. 115D-89; 115D-93;

23 Eff. \_\_\_\_\_  
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25 **2B SBCCC 400.3 Hearing Process**

26 (a) The Executive Director of the SBPS shall provide the proprietary school at least 10  
27 business days’ notice of the date, time, and location of the informal hearing.

28 (b) The party appearing on behalf of the proprietary school at issue shall be an official of  
29 the proprietary school or attorney representing the proprietary school.

30 (c) The SBPS Chair or the Chair’s designee shall act as the Hearing Officer. The hearing  
31 shall be conducted as follows:

1 (1) The proprietary school's representative may present evidence for no more than  
2 one (1) hour in support of why the proprietary school's application for a license  
3 should be approved. The Hearing Officer has the discretion to extend this time, if  
4 circumstances warrant.

5 (2) The school's representative may present evidence in a question and answer format  
6 or a narrative format. The school may also offer exhibits into evidence and call  
7 witnesses. If witnesses are to be called, the school shall give the Executive  
8 Director at least five (5) business days notice of whom the school intends to call.

9 (3) The Hearing Officer or other SBPS members may ask questions at any time  
10 throughout the hearing.

11 (4) The legal rules of evidence will not apply, but the Hearing Officer may direct the  
12 presentation to the issues relevant to licensure.

13 (5) A court reporter will transcribe the hearing.

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15 History Note: Authority G.S. 115D-89; 115D-93; 150B-22;

16 Eff. \_\_\_\_\_

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18 **2B SBCCC 400.4 SBCC Final Agency Decision**

19 After the hearing detailed in 2B SBCCC 400.3, the SBPS shall make a final  
20 recommendation regarding the proprietary school's application for licensure to the SBCC.  
21 The SBCC shall consider the recommendation at its next regularly scheduled meeting  
22 and vote to grant licensure or deny licensure to operate one or more programs. The  
23 SBCC action to grant or deny licensure shall become the SBCC's final agency decision  
24 on the proprietary school's application. Within five (5) business days of the SBCC's  
25 action, the NCCCS General Counsel shall notify the proprietary school of the SBCC's  
26 final decision.

27  
28 History Note: Authority G.S. 115D-89; 115D-93; 150B-22;

29 Eff. \_\_\_\_\_