



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Dr. R. Scott Ralls, President

October 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 .0301, entitled "Admission to Colleges."

The amendment was published in the North Carolina Register on October 15, 2009, Volume 24, Issue 8, on pages 568 - 569.

For your convenience a copy of this rule, with the changes indicated, is attached to this memorandum. Please post a copy of the rule in prominent places so that all individuals affected by the 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 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 December 14, 2009. 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.

CC09-033
E-mail Copy

QSM/caa

Attachments

TITLE 23 – STATE BOARD 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 .0301.

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, 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: *The State Board of Community Colleges seeks to establish a policy addressing the admission of undocumented immigrants to community colleges.*

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 post marked by 11:59 p.m. on the last day of the comment period.*

Comments may be submitted to: *Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001; email publiccomments@nccommunitycolleges.edu*

Comment period ends: *December 14, 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 919-431-3000.

Fiscal Impact:

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

CHAPTER 02 - COMMUNITY COLLEGES

SUBCHAPTER 02C - COLLEGES: ORGANIZATION AND OPERATIONS

SECTION .0300 - STUDENTS

23 NCAC 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 who 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 (1) of this Paragraph may not receive state or federal financial aid in the form of a grant or loan.
- (4) An undocumented immigrant admitted under Subparagraph (1) of this Paragraph may not be considered a North Carolina resident for tuition purposes. All undocumented immigrants admitted under Subparagraph (1) of this Paragraph 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 should take into account that federal law prohibits states from granting professional licenses to undocumented immigrants.
- (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.

~~(b)~~(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.

~~(e)~~(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.

Authority G.S. 115D-1; 115D-5; 115D-20.