



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 amend the following rules:

23 NCAC 02C .0305, entitled "Education Services for Minors,"
23 NCAC 02D .0325, entitled "Limitations in Reporting Student Hours."

The amendments were published in the North Carolina Register on November 16, 2009, Volume 24, Issue 10, on pages 794 - 797.

For your convenience a copy of these rules, with the changes indicated, are attached to this memorandum. Please post a copy of these rules 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 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.

Thank you for your attention to this matter.

CC09-038
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 02C .0305 – *"Education Services for Minors" is proposed for amendment because the Legislature in G.S. 115D-1.2(b) directed the State Board of Community Colleges to adopt rules to implement the Learn and Earn Online program.*

23 NCAC 02D .0325 – *"Limitations in Reporting Student Membership Hours" is proposed for amendment because the proposed deletion is no longer consistent with the current law.*

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

CHAPTER 02 - COMMUNITY COLLEGES SUBCHAPTER 02C - COLLEGES: ORGANIZATION AND OPERATIONS

SECTION .0300 - STUDENTS

23 NCAC 02C .0305 EDUCATION SERVICES FOR MINORS

(a) The State Board shall encourage individuals to complete high school before seeking admission to a college.

(b) Drop-out. A minor, 16 years old or older, ~~may be considered a student with special needs and who is not currently enrolled in a public or private educational agency~~ may be admitted to ~~an appropriate~~ a Basic Skills or Continuing Education program at a college if the local public or private educational agency determines that admission to ~~the~~ a Basic Skills or Continuing Education program is the best educational option for the student and the admission of the student to ~~the~~ a Basic Skills or Continuing Education program is approved by the ~~college-college~~ college under one of the following conditions: ~~This requirement may be waived if the student has been out of school at least six months and the application is supported by a notarized petition of the student's parent, legal guardian, or other person or agency having legal custody and control. The petition shall certify the student's residence, date of birth, date of leaving school, and the petitioner's legal relationship to the student.~~

(1) If the minor, 16 years old or older, has officially withdrawn from a public or private educational agency in less than six months, a college may admit the minor to a Basic Skills or Continuing Education program if the minor obtains a signed official withdrawal form from the local public or private educational agency and a notarized petition of the minor's parent, legal guardian, or other person or agency having legal custody and control. The petition shall certify the minor's residence, date of birth, date of leaving school, name of last school attended, and the petitioner's legal relationship to the minor.

(2) If the minor, 16 years old or older, has officially withdrawn from a public or private educational agency for at least six months, a college may admit the minor to a Basic Skills or Continuing Education program without the release form from the public or private educational agency. However, the minor must obtain a notarized petition of the minor's parent, legal guardian, or other person or agency having legal custody and control. The petition shall certify the minor's residence, date of birth, date of leaving school, name of last school attended, and the petitioner's legal relationship to the minor.

(3) If the minor is an emancipated minor, the requirement for the release form from the public or private educational agency and the requirement for the notarized petition are waived. The minor must provide legal documentation of emancipation. Admission requirements for an emancipated minor shall be the same as for an applicant 18 years old or older.

(c) Concurrent Enrollment. A high school student, 16 years old or older, based upon policies approved by the local public or private board of education and board of trustees, may be admitted to any curriculum course one hundred level and above or any continuing education course, except adult basic skills, concurrently under the following conditions:

- (1) Upon recommendation of the chief administrative school officer and approval of the president of the college;
- (2) Upon approval of the student's program by the chief administrative school officer and the president of the college; and
- (3) Upon certification by the Chief Administrative School Officer that the student is taking the equivalent of one-half of a full-time schedule and is making progress toward graduation.

(d) High school students, taking courses pursuant to ~~Paragraphs (b) and Paragraph~~ (c) of this Rule, shall not displace adults but may be admitted during any term on a space-available basis to any curriculum course one hundred level and above or any continuing education course, except adult basic skills. Once admitted, they shall be treated the same as all other students.

(e) Huskins. Local boards of trustees and local school boards may establish cooperative programs in areas they serve in order to provide college courses to high school students. College credits shall be awarded to those high school students upon successful completion of the courses. Cooperative programs shall be approved, prior to implementation, by the State Board or its designee.

(f) Learn and Earn Online Program:

- (1) Definition of Credits. For the purposes of this section, credits mean curriculum courses 100 level or above. For the purposes of this section, credits do not include continuing education courses, cooperative education courses (COE), selected topics (SEL), or seminar topics (SEM).
- (2) Definition of Disabilities. For the purposes of this section, disabilities shall mean "persons with disabilities" as defined in G.S. 168A-3(7a).
- (3) Student Eligibility. A student shall be permitted to enroll in any online courses through North Carolina community colleges for college credit, regardless of the college service areas in which the student resides under the following conditions:
 - (A) The student must be enrolled in a North Carolina school or have completed all high school graduation requirements in a North Carolina school throughout the duration of the online course;
 - (B) The student must be enrolled in the 9th, 10th, 11th, or 12th grades;
 - (C) The student's enrollment in an online course for college credit is subject to space availability;
 - (D) The student must meet the prerequisites, co-requisites and course admission requirements as published in the college's catalog at the time the student seeks to enroll in the online course;
 - (E) The student is encouraged to complete an online readiness assessment prior to beginning the online course; subject to college having an online readiness assessment;
 - (F) A student enrolled in grades 9th, 10th, 11th, or 12th is participating in the Learn and Earn Online program by virtue of enrolling in a Learn and Earn Online course; and
 - (G) High school students attending a nonpublic school may enroll in any Learn and Earn Online course with space available that has been offered to but not filled by any eligible public school student.
- (4) Course Eligibility.
 - (A) Only online courses in the NCCCS Combined Course Library numbered 100 and above are eligible for Learn and Earn Online credits, excluding cooperative education courses (COE), selected topics (SEL), and seminar topics (SEM).
 - (B) Only online courses that generate budget FTE are eligible for Learn and Earn Online credits.
 - (C) To be eligible for course credit under the Learn and Earn Online Program, courses must be the same as those delivered to other adult college students.
- (5) Costs.
 - (A) A student enrolled in Learn and Earn Online shall be exempt from tuition and calculated as budget FTE regardless of the term during which the instruction is provided.
 - (B) North Carolina Community Colleges may seek reimbursement from the Department of Public Instruction for technology, course fees, and textbooks required for course participation.
 - (C) A student participating in the Learn and Earn Online program is exempt from any additional college fees.
- (6) Coding. Enrollment in a Learn and Earn Online course shall be coded as T90920.
- (7) Program Completion. If students meet the curriculum program requirements effective at the time of enrollment, they are awarded a certificate, diploma and/or degree. Students shall meet the curriculum program requirements that are applicable to the college from which they are seeking to obtain a certificate, diploma, and/or degree.
- (8) Transfer of Learn and Earn Online courses. Learn and Earn Online courses listed in the North Carolina Comprehensive Articulation Agreement or listed in the North Carolina

Independent Comprehensive Articulation Agreement shall be treated the same as all other courses listed in either Agreement.

(9) Transfer degree. Learn and Earn Online students who obtain a degree listed in the North Carolina Comprehensive Articulation Agreement or listed in the North Carolina Independent Comprehensive Articulation Agreement shall be treated the same as all other students who have obtained a degree listed in either Agreement.

(10) Persons with Disabilities. Learn and Earn Online students must abide by the college's disability eligibility standards, as set forth by the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, Chapter 1, Part 104, Subchapter E (34 C.F.R. 104.41 through 104.47).

~~(f)~~(g) Intellectually Gifted and Mature Students. Students less than 16 years old who are mature enough to function well in an adult education setting and are intellectually gifted as evidenced by a score in the range from the 92nd percentile to the 99th percentile on an aptitude and an achievement test selected from a list of tests approved by the System Office may be admitted to community colleges. Tests included on the System Office approved list shall be selected from the Mental Measurements Year Book published by the ~~Burd~~ Buros Institute of Mental Measurements. The student shall be ranked by an official of the student's school in the top 10 percent on the following behavioral characteristics: mature, observant, inquisitive, persistent, innovative, analytical, adaptable, leadership, desire to achieve, self-confidence and communications skills. Students less than 16 years old shall not displace adults but may be admitted any term on a space-available basis to any curriculum course one hundred level and above. Students admitted to community colleges under this Paragraph shall pay the same tuition and fees as other curriculum students.

~~(g)~~(h) Except as authorized by G.S. 115D-20(4), colleges shall not start classes, offer summer school courses, or offer regular high school courses for high school students.

~~(h)~~(i) A college may make available to persons of any age non-credit, non-remedial, enrichment courses during the summer reporting period. These courses shall be self-supporting and shall not earn credit toward a diploma, certificate, or degree at the college or high school.

~~(i)~~(j) At the request of the director of a youth development center having custody of juveniles committed to the Department of Juvenile Justice and Delinquency Prevention, a college may make available to these juveniles any course offered by that college if they meet the course admission requirements. The director's request shall include the director's approval for each juvenile to enroll in the course.

Authority G.S. 115D-1; 115D-5; 115D-20; S.L. 1995, c. 625.

SUBCHAPTER 02D - COMMUNITY COLLEGES: FISCAL AFFAIRS

SECTION .0300 - BUDGETING: ACCOUNTING: FISCAL MANAGEMENT

23 NCAC 02D .0325 LIMITATIONS IN REPORTING STUDENT MEMBERSHIP HOURS

(a) Student hours shall not be reported for budget/FTE which result from:

- (1) Conferences or visits.
- (2) Seminars or Meetings.
- (3) Programs of a service nature rather than instructional classes.
- (4) Enrollment of high school students not in compliance with 23 NCAC 02C .0301 and 02C .0305.
- (5) Unsupervised classes.
- (6) Proficiency or challenge exams except that the actual time required to take the exam may be counted in membership; students shall be registered in the class consistent with Paragraph (a) of Rules .0202 and .0203 of this Subchapter.
- (7) Homework assignments.
- (8) Inter-institutional or intramural sports activities including those of prison inmates.

- (9) Effective July 1, 1993, no budget/FTE shall be generated by occupational extension students after their first repetition of an occupational extension course. Students who take an occupational extension course more than twice within a five-year period shall pay their cost for the course based on the amount of funds generated by a student membership hour for occupational extension multiplied by the number of actual hours the class is to be taught. These students shall not generate budget/FTE. The funds collected from these students shall be used by the colleges to offer additional educational courses. This Subparagraph does not apply to fire, rescue, or law enforcement training courses taken by fire, rescue, or law enforcement personnel.

~~(10) — Learn and Earn Online Courses.~~

- (b) A statement on occupational extension course repetitions consistent with the requirements of this rule shall be included in college advertisements, schedules and catalogs. Students shall be notified during registration that they will be charged the full cost of courses which they have taken twice within a five-year period and in which they wish to enroll. Students shall be primarily responsible for monitoring course repetitions; however, the colleges shall review records and charge students full cost for courses taken more than twice.
- (c) Senior citizens who are legal residents of North Carolina and who wish to enroll in an occupational extension course, shall not be required to pay for taking the course twice. Senior citizens who take an occupational extension course more than twice within a five-year period shall pay their cost for the course based on the amount of funds generated by a student membership hour for occupational extension multiplied by the number of actual hours the class is to be taught. These senior citizens shall not generate budget/FTE. The funds collected from these senior citizens shall be used by the colleges to offer additional educational courses.
- (d) Students may repeat occupational extension courses more than once if the repetitions are required for certification, licensure, or recertification. The colleges shall submit annual reports to the State Board of Community Colleges naming the students and the certification, licensure or recertification requirements that necessitated the repetition.
- (e) Self-supporting classes shall not be reported for regular budget purposes (those classes supported by student fees or a class in which instruction is provided gratis); all recreational extension classes fall in this category.
- (f) Occupational extension instruction shall not be offered in sheltered workshops and adult developmental activity centers (ADAP) except sheltered workshops and ADAP centers may contract with the community college to provide occupational extension courses on a self-supporting basis.
- (g) Educational programs offered in a correctional department setting shall report full-time equivalent (FTE) student hours on the basis of contact hours.

Authority G.S. 115D-5.