



**NORTH CAROLINA COMMUNITY COLLEGE SYSTEM**

*Dr. R. Scott Ralls, President*

August 2, 2010

**IMPORTANT ADMINISTRATIVE CODE INFORMATION**

**MEMORANDUM**

**TO:** Members of the State Board of Community Colleges  
Community College Presidents  
NC Community College System Office Staff  
Other Interested Parties

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

**SUBJ:** **Changes in the Administrative Code**

The State Board has completed the rule-making process to amend the following rules, which were effective beginning yesterday, August 1, 2010:

23 NCAC 02C .0503, entitled "Donated or Loaned Property,"  
23 NCAC 02C .0506, entitled "Special Purchasing Delegations."

The State Board amended 23 NCAC 02C.0503, entitled "Donated or Loaned Property," because the State Board's reporting requirement to the Joint Legislative Education Oversight Committee on the use of community college facilities by private businesses has been repealed by Session Law 2009-451, section 8.9. As such, colleges no longer need to provide an annual report to the State Board on the use of community college facilities by private businesses.

23 NCAC 02C .0506, entitled "Special Purchasing Delegations," was amended to comply with House Bill 490 / Session Law 2009-132.

For your convenience, a copy of these rules and session laws are attached to this memorandum. Please post a copy of these rules in prominent places so that all individuals affected by the changes or adoption will be informed.

Thank you for your attention to this matter.

**CC10-031**  
**E-mail Copy**

QSM/caa

Attachments

**23 NCAC 02C .0503      DONATED OR LOANED PROPERTY**

- (a) A board of trustees may accept property donated to the college for any lawful educational purpose that is consistent with the mission and purpose of the community college system.
- (b) Prior to a board of trustees accepting any property that restricts the use of funds derived from the sale or lease of the property, the college shall submit to the ~~Department~~ System Office a copy of the document transferring the property for review.
- (c) Any funds derived from the sale or lease of property donated to a college for a specific educational purpose shall be used to accomplish that purpose.
- (d) A board of trustees may permit a private business enterprise that loans or donates instructional equipment to the college to use the college's facilities to demonstrate the donated or loaned equipment to customers or potential customers of the private business enterprise provided that:
- (1) The board of trustees develop procedures to regulate the use of its facilities for this purpose;
  - (2) The procedures must comply with G.S. 115D-15; and
  - ~~(3) The college provides an annual report to the State Board regarding the use of its facilities for these purposes; and,~~
  - (3)(4) The lender's or donor's use of the college facilities shall not interfere with the education of students.

*History Note: Authority G.S. 115D-5; 115D-15; 115D-20;  
Temporary Adoption Eff. October 21, 1998;  
Temporary Adoption Expired August 13, 1999;  
Eff. August 1, 2000;  
Amended Eff. August 1, 2010, May 1, 2006.*

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**SESSION LAW 2009-451  
SENATE BILL 202**

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

**PART I. INTRODUCTION AND TITLE OF ACT**

**INTRODUCTION**

**SECTION 1.1.** The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the State Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

**TITLE OF ACT**

**SECTION 1.2.** This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2009."

**PART II. CURRENT OPERATIONS AND EXPANSION GENERAL FUND**

**CURRENT OPERATIONS AND EXPANSION/GENERAL FUND**

**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2011, according to the following schedule:

<b>Current Operations – General Fund</b>	<b>2009-2010</b>	<b>2010-2011</b>
<b>EDUCATION</b>		
Community Colleges System Office	\$ 999,833,122	\$ 1,012,467,778
Department of Public Instruction	7,456,261,240	7,358,833,223
University of North Carolina – Board of Governors		
Appalachian State University	146,887,779	144,187,448
East Carolina University		
Academic Affairs	236,308,845	231,603,085
Health Affairs	54,594,731	54,591,731
Elizabeth City State University	37,652,375	37,192,086
Fayetteville State University	58,668,910	57,857,732
North Carolina Agricultural and Technical State University	102,786,986	100,942,266
North Carolina Central University	94,298,521	93,012,264
North Carolina School of the Arts	27,045,523	26,875,056
North Carolina State University		
Academic Affairs	411,626,246	406,156,905



report on these expenditures to the Education Appropriation Subcommittees of the House of Representatives and the Senate, the Office of State Budget and Management, and the Fiscal Research Division by ~~October 1~~ December 1 of each year."

## **REPEAL REPORT ON THE USE OF COMMUNITY COLLEGE FACILITIES BY PRIVATE BUSINESSES**

**SECTION 8.9.** G.S. 115D-5(q) is repealed.

## **ELIMINATE SOME TUITION WAIVERS**

**SECTION 8.11.(a)** G.S. 115B-2(a)(1) is repealed.

**SECTION 8.11.(b)** G.S. 115B-2.1 is repealed.

**SECTION 8.11.(c)** G.S. 115B-5(a) is repealed.

**SECTION 8.11.(d)** Effective July 1, 2009, G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Health and Human Services Development Programs, juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction, prison inmates, members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes, and elementary and secondary school employees enrolled in courses in first aid or cardiopulmonary resuscitation (CPR). Provided further, tuition shall be waived for up to six hours of credit per academic semester for senior citizens age 65 or older who are qualified as legal residents of North Carolina attending institutions operating under this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges, including students in early college and middle college high school programs, in accordance with G.S. 115D-20(4) and this section."

**SECTION 8.11.(e)** Effective July 1, 2010, G.S. 115D-5(b), as rewritten by subsection 8.11(d) of this section, reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local

2009. **SECTION 28.6.** Except as otherwise provided, this act becomes effective July 1,  
2009. In the General Assembly read three times and ratified this the 5<sup>th</sup> day of August,

s/ Marc Basnight  
President Pro Tempore of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 12:10 p.m. this 7<sup>th</sup> day of August, 2009

**23 NCAC 02C .0506 SPECIAL PURCHASING DELEGATIONS**

(a) ~~The State Board of Community Colleges, in consultation with the Department of Administration, Division of Purchase and Contract, shall have the authority to increase or decrease the purchasing delegations for each community college based on the college's overall capabilities, including staff resources, purchasing compliance reviews, and audit reports.~~ For the purposes of this Section, "purchasing delegation" means the maximum authorized dollar limits for purchases of commodities, printing, and services by community colleges.

(b) The State Board of Community Colleges shall not increase a community college's purchasing delegation in any calendar year without the concurrence of the Department of Administration, Division of Purchase and Contract. If the Department of Administration, Division of Purchase and Contract does not respond within 60 days of the State Board of Community Colleges notifying the Department of Administration, Division of Purchase and Contract of a college's request to increase its purchasing delegation, the State Board of Community Colleges ~~shall have the authority to~~ may increase a community college's purchasing delegation consistent with Subparagraph (d) of this Rule without the concurrence of the Department of Administration, Division of Purchase and Contract.

(c) The maximum purchasing delegation for a community college shall be no greater than one hundred thousand dollars (\$100,000).

(1) Tier Structure:

(A) Each community college's purchasing delegation ~~will~~ shall correspond to the following four-tiered structure:

Tier 1	Tier 2	Tier 3	Tier 4
\$10,000	\$25,000	\$50,000	\$100,000

(B) Each college is placed on the tier that corresponds to its current delegation. A college may request an increase in delegation only to the next ~~tier~~ tier; ~~and~~

(C) If the State Board approves a college's request for an increase in delegation, the new delegation ~~will~~ shall be effective for two years from the effective date of approval. If a college obtains an increased delegation and receives a negative compliance review from the Department of Administration, Division of Purchase and Contract or demonstrates problems managing the increased delegation during the two year period, the State Board of Community ~~Colleges has the authority, Colleges,~~ Colleges, in consultation with the Department of Administration, ~~to~~ may rescind the new delegation prior to two ~~years,~~ years depending on the severity of and the college's response to either a negative compliance review or demonstrated problems managing the increased delegation. A college may only request a delegation increase to the next tier after being at the current tier for two years.

(2) Required Documents. When requesting an increase in purchasing delegation, a college must submit the following hard copy items to the System Office's Business and Finance Division:

(A) Original letter signed by the college President on college letterhead requesting the next tier delegation and the rationale for the request;

(B) Request for Increase in Purchasing Delegation (Form 490);

(C) College Internal Purchasing Manual with policy and procedures for all transaction types;

- (D) Copy of a bid posted on the North Carolina Interactive Purchasing System within the 12 months prior to the date the System Office's Business and Finance Division receives the college's requests to increase its purchasing delegation;
- (E) Copy of a posted E-Quote within the 12 months prior to the date System Office's Business and Finance Division receives the college's requests to increase its purchasing delegation;
- (F) Copy of a favorable compliance review report from the Department of Administration, Division of Purchase and Contract. The compliance review report must have been conducted within 12 months prior to the date the college requests an increase in purchasing delegation. If any findings are noted in the compliance review report, the college must provide documentation that the college has corrected all findings by the date the college requests an increase in purchasing delegation.

(d) Evaluation Process. The State Board, acting by and through the System Office's Business and Finance Division, will evaluate the following factors before submitting a recommendation to increase the purchasing delegation to the Department of Administration, Division of Purchase and Contract:

- (1) The college's overall capabilities including:
  - (A) Staff capacity to absorb additional volume and complexity;
  - (B) Experience and training of the procurement staff of the requesting college; and
  - (C) Frequency of procurement staff turnover;
- (2) Purchasing compliance reviews;
- (3) College internal purchasing procedures; and
- (4) Audit reports from the North Carolina Office of the State Auditor.

(e) If the State Board approves a college's request to increase its purchasing delegation, the approval will be effective on the first day of the month following the State Board's approval.

(f) If a college receives an unfavorable compliance review from the Department of Administration, Division of Purchase and Contract or an unfavorable audit from the North Carolina Office of the State Auditor with findings related to purchasing, the State Board ~~has the authority to~~ may decrease the delegation ~~amount~~ amount depending upon the severity of and the college's response to an unfavorable audit with findings related to purchasing.

*History Note: Authority G.S. 115D-5; 115D-58.14(b); S.L. 2009-132, s. 1; Eff. August 1, 2010.*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

SESSION LAW 2009-132  
HOUSE BILL 490

AN ACT TO GRANT ADDITIONAL PURCHASING FLEXIBILITY TO COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115D-58.14 reads as rewritten:

**"§ 115D-58.14. Purchasing flexibility.**

(a) Community colleges may purchase ~~the same~~ supplies, equipment, and materials from noncertified sources ~~as that~~ are available under State term contracts, subject to the following conditions:

- (1) The purchase price, including the cost of delivery, is less than the cost under the State term contract; ~~and~~
- (2) The cost of the purchase shall not exceed the bid value benchmark established under ~~G.S. 143-53.1~~ G.S. 143-53.1; and
- (3) The items are the same or substantially similar in quality, service, and performance as items available under State term contracts.

(a1) Notwithstanding the provisions of this section, a community college may purchase, in any lawful manner, an item that is neither available under State term contracts nor substantially similar to an item available under State term contracts.

(b) The State Board of Community Colleges and the Department of Administration shall jointly adopt policies and procedures for monitoring the implementation of this section, including without limitation (i) definitions of substantial similarity, (ii) the content and frequency of reports and audits of such purchases, and (iii) a process for identifying any term contract existing as of October 1, 2009, with respect to which the exercise of purchasing flexibility could constitute a breach of that contract.

In the formation of each new term contract entered into after October 1, 2009, the Department of Administration shall, in its discretion, either provide in the contract for the purchasing flexibility set out in this section or make the term contract inapplicable to community colleges.

(c) The State Board of Community Colleges, in consultation with the Department of Administration, shall review the purchasing process for community colleges and may increase or decrease the purchasing/delegation benchmark for each community college based on the college's overall capabilities, including staff resources, purchasing compliance reviews, and audit reports. The State Board may, in its discretion, reduce a community college's purchasing/delegation benchmark at anytime. The State Board shall not increase a community college's purchasing/delegation benchmark by more than fifteen percent (15%) in any calendar year without the concurrence of the Department of Administration within 60 days of submission. The maximum purchasing/delegation benchmark for a community college shall be one hundred thousand dollars (\$100,000)."



**SECTION 2.** This act becomes effective October 1, 2009.  
In the General Assembly read three times and ratified this the 9<sup>th</sup> day of June, 2009.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 11:43 a.m. this 19<sup>th</sup> day of June, 2009