



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Dr. R. Scott Ralls, President

September 16, 2010

IMPORTANT ADMINISTRATIVE CODE 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, *General Counsel*

SUBJ: **Proposed Amendment to Open-Door Policy and Notice of Hearing**

The State Board has initiated the Rule-making process to amend the following rule:

23 NCAC 02C .0301, entitled "Admission to Colleges."

The State Board of Community Colleges seeks to establish a policy that allows community colleges to deny admission to applicants who pose a health or safety risk to themselves or others at the time the applicant seeks admission. **The proposed amendment was published in the North Carolina Register on September 15, 2010, Volume 25, Issue 6, on pages 727 - 728.** For your convenience, a copy of the proposed 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.

A public hearing will be held on **November 15, 2010 at 11:00 a.m.** for members of the public to provide oral comments about the proposed amendment to the open-door policy. More specific information about the public hearing is in the attached Notice of Hearing. **Written comments for the Rule must be received no later than 5:00 p.m. on November 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.

CC10-040
E-mail Copy

QSM/caa
Attachments

TITLE 23 – COMMUNITY COLLEGES

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Community Colleges intends to amend the rule cited as 23 NCAC 02C .0301.

Proposed Effective Date: February 1, 2011

Public Hearing:

Date: November 15, 2010

Time: 11:00 a.m. – 1:00 p.m.

Location: NC Community College System Office, State Board Room, Caswell Building, 200 West Jones Street, Raleigh, NC 27603

Reason for Proposed Action: *The State Board of Community Colleges seeks to establish a policy that allows community colleges to deny admission to applicants who pose a health or safety risk to themselves or others at the time the applicant seeks admission.*

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 MSC, Raleigh, NC 27699-5011 within the comment period and must be post marked by 11:59p.m. on the last day of the comment period.*

Comments may be submitted to: *Q. Shanté Martin, 200 W. Jones Street, MSC 5001, Raleigh, NC 27699-5001, phone (919)807-6961, fax (919)807-7171, email publiccomments@nccommunitycolleges.edu*

Comment period ends: November 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 (>\$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 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.

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



North Carolina State Board of Community Colleges

NOTICE OF PUBLIC HEARING

The State Board of Community Colleges has initiated the rule-making process to amend 23 NCAC 02C .0301 – "Admission to Colleges." The State Board of Community Colleges seeks to establish a policy that allows community colleges to deny admission to applicants who pose a health or safety risk to themselves or others at the time the applicant seeks admission. Please note that a **public hearing** on this Rule will take place from **11:00 a.m. – 1:00 p.m. on Monday, 15 November 2010** at the following location:

**North Carolina Community College System Office
State Board Room, Caswell Building
200 West Jones Street
Raleigh, NC 27603**

Oral Comments: All persons desiring to provide an oral comment will be required to sign in and provide his or her name, affiliation, city and state prior to speaking. Oral presentations will be limited to **three (3) minutes** per person. The Hearing Officer prefers that any person desiring to make an oral presentation at the public hearing present a written copy of the presentation prior to addressing the Hearing.

Written Comments: Parties wishing to provide written comments may do so. The deadline for submitting written comments is **5:00 p.m. on Monday, 15 November 2010**. Written comments may be submitted at the public hearing or may be submitted to the following:

**Q. Shanté Martin, Rule-making Coordinator
200 W. Jones Street, 5001 MSC, Raleigh, NC 27699-5001
Email: publiccomments@nccommunitycolleges.edu**

All comments received during the public hearing or during the written comment period will be considered in the final determination on the rule.