

SUBCHAPTER 300. EXEMPTIONS FROM LICENSURE

2B SBCCC 300.1 Claiming an Exemption from Licensure

If an entity believes it is exempt from the licensure requirements found in Article 8 of Chapter 115D of the North Carolina General Statutes and in Title II of the State Board of Community Colleges Code, the entity may request from the Executive Director of the State Board of Proprietary Schools a decision as to whether the entity is exempt from licensure.

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

Eff. February 1, 2020.

2B SBCCC 300.2 Notice of Decision and Right to Hearing

- (a) If the Executive Director decides the entity is not exempt from licensure, it shall send the entity its decision, along with the rationale for the decision, in writing, via email or postal mail. The written decision shall advise the entity of the right to provide a response and request a hearing prior to the State Board of Community Colleges' (SBCC) final agency decision to grant or not grant an exemption. The response and request for a hearing must be in writing and signed by the chief administrator or other authorized agent of the entity. The entity has ten (10) business days from the date of receipt of the decision to request a hearing in front of the State Board of Proprietary Schools (SBPS).
- (b) If the Executive Director does not receive a written request for hearing within ten (10) business days from the date the entity received the decision, the SBPS shall report this fact, along with a final agency decision recommendation to the State Board of Community Colleges to not grant an exemption.
- (c) The SBCC shall consider the recommendation at its next regularly scheduled meeting and vote to grant or not grant an exemption. The SBCC action to grant or not grant an exemption shall become the SBCC's final agency decision. Within five (5) business days of the SBCC's action, the NCCCS General Counsel shall notify the entity of the SBCC's final decision.

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

Eff. February 1, 2020.

2B SBCCC 300.3 Hearing Process

- (a) The Executive Director shall provide the entity at least 10 business days' notice of the date, time, and location of the hearing.
- (b) The party appearing on behalf of the entity shall be an official of the entity or an attorney representing the entity.
- (c) The Chair of the SBPS or the Chair's designee shall act as the Hearing Officer. The hearing shall be conducted as follows:
 - (1) The entity's representative may present evidence for no more than one (1) hour in support of why the entity is exempt from licensure. The Hearing Officer has the discretion to extend this time, if circumstances warrant.
 - (2) The entity's representative may present evidence in a question and answer format or a narrative format. The entity may also offer exhibits into evidence.
 - (3) The Hearing Officer or other SBPS members may ask questions at any time throughout the hearing.
 - (4) The legal rules of evidence will not apply, but the Hearing Officer may direct the presentation to the issues relevant to the entity's claim to be exempt from licensure.

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

Eff. February 1, 2020.

2B SBCCC 300.4 SBCC Final Agency Decision

After the hearing detailed in 2B SBCCC 300.3, the SBPS shall make a final recommendation regarding the entity's claim to be exempt from licensure to the SBCC. The SBCC shall consider the recommendation at its next regularly scheduled meeting and vote to grant an exemption or to not grant an exemption. The SBCC action to grant or not grant an exemption shall become the SBCC's final agency decision. Within five

(5) business days of the SBCC's action, the NCCCS General Counsel shall notify the entity of the SBCC's final decision.

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

Eff. February 1, 2020.