



Nonpublic Postsecondary Education Commission

2082 East Exchange Place, Suite 220

Tucker, Georgia 30084-5305

(770) 414-3300

Fax (770) 414-3309

Brian P. Kemp
Governor

Kirk Shook
Executive Director

NOTICE OF PROPOSED RULE MAKING

GEORGIA NONPUBLIC POSTSECONDARY EDUCATION COMMISSION

To: Rick Ruskell, Legislative Counsel
Georgia General Assembly
434 State Capitol
Atlanta, GA 30334
[VIA EMAIL: richard.ruskell@legis.ga.gov]

All Parties on the Nonpublic Postsecondary Education Commission's Rule Making Mailing List

All Interested Parties via Publication by the Nonpublic Postsecondary Education Commission

From: Georgia Nonpublic Postsecondary Education Commission
2082 East Exchange Place, Suite 220
Tucker, Georgia 30084-5305

Date: June 28, 2019

The Nonpublic Postsecondary Education Commission of the State of Georgia is exempt from the Georgia Administrative Procedure Act (APA) pursuant to O.C.G.A. § 50-13-2(1), however the Commission's current promulgated regulations incorporate certain requirements of the APA related to rule changes. Ga. Comp. R. & Regs. 391-1-.08(5). The Commission is taking steps to reserve the regulation chapters for Department 392 and update its rules, procedures and policies. NPEC will be holding its next commission meeting on Monday, July 29, 2019. At that meeting the Commission intends to take the following steps.

First, the Commission will vote regarding amending Rule 392-1-.08 Procedure for Adoption, Amendment, or Repeal of a Rule. Notice of this proposed change is as follows:

Adoption, Amendment, or Repeal of a Policy

1. The Commission will give seven (7) days' notice of its intended action to adopt, amend, or repeal a policy. The notice will include an exact copy of the proposed policy to be adopted, amended, or repealed and the time, date, and place at which the adoption, amendment, or repeal will be considered.
2. If a non-substantive grammatical error is found in a considered policy after formal notice, that error may be corrected by a unanimous vote of the Commission.
3. The formal notice will be given by publication of the notice in its entirety on the Commission's website.
4. Interested persons will be given reasonable opportunity to submit data, views, or arguments in writing, and the Commission will consider such information in reaching its decision.

Second, the Commission will vote regarding ratifying the following rules within the chapters for Department 392 as "policies."

392-1-.01 Organization

392-1-.02 NPEC General Powers and Duties

392-1-.03 Executive Director

392-1-.04 Repealed.

392-1-.05 Mailing Address and Office Location

392-1-.06 Public Inspection of Rules, Policies, Orders, Decisions, and Opinions

392-1-.07 Validity of Authorizations and Permits Previously Issued

392-1-.08 Adoption, Amendment, or Repeal of a Policy (as newly amended)

392-1-.09 Petition for Promulgation, Amendment, or Repeal of a Rule

392-1-.10 Declaratory Rulings

392-1-.11 Hearings in Contested Cases

392-5-.01 Minimum Standards for Educational Institutions

392-5-.02 Criteria for Meeting Minimum Standards

392-5-.03 Criteria for Approval for Receipt of Tuition Equalization Grant Funds for Proprietary Institutions of Higher Education

392-5-.04 Procedures for Biennial Review

392-5-.05 Collection of Tuition and Fees from Students

392-5-.06 Student Complaint Process

392-5-.07 Authorization of Message Therapy Schools

392-7-.01 Payment of Fees

392-7-.03 Tuition Guaranty Trust Fund

392-11-.03 State Review Standards

Third, the Commission will vote regarding notifying the Secretary of State's Office that all chapters for Department 392 are repealed because the Commission is no longer subject to the APA and that the chapters for Department 392 should be reserved. Additionally, Rule 392-7-.02 Schedule of Fees is redundant and Rules 392-11-.01, 392-11-.02, and 392-11-.04 through 392-11-.06 relate to a Federal program that no longer exists.

Finally, the Commission will vote regarding amending the policy for former Rule 392-1-.11 Hearings in Contested Cases as follows:

Hearing and Review

1. Any person aggrieved by a decision of the executive director respecting:
 - a. denial of an authorization to operate, whether on initial application or application for renewal;
 - b. denial of an agent's permit, whether on initial application or application for renewal;
 - c. conditions placed on an authorization or permit;
 - d. revocation of an authorization or permit; or
 - e. the imposition of a penalty by the executive director under Code Section 20-3-250.21

shall have the right to a hearing and review of such decision under these procedures. O.C.G.A. § 20-3-250.15.

2. Pursuant to O.C.G.A. § 20-3-250.15(d), the Commission appoints the Office of State Administrative Hearing (OSAH) to conduct hearings for any persons aggrieved by decisions of the executive director.
 - a. The Executive Director shall provide notice to the aggrieved party of the hearing date, time, and location within 30 days pursuant to OCGA 20-3-250.15(c).
 - b. The Executive Director, through OSAH, shall have the authority to change the hearing date, time, and location.
3. Hearings shall be conducted by a hearing officer in accordance with the Administrative Rules of Procedure.
4. The decision of the Office of State Administrative Hearings shall constitute an initial decision of the Commission.
 - a. An initial decision will become the final decision of the Commission following the conclusion of the next meeting of the Commission that falls more than thirty (30) days from the date of the issuance of the final decision, unless a majority of the Commission votes to issue a final decision different than the initial decision or votes to extend the review period of the initial decision to the next Commission meeting following the vote to extend the review period.
 - b. In reaching a Final Decision, the Commission may review any finding of fact, conclusion of law, or order contained in the Initial Decision. The Commission may review the complete record, including the transcript of the hearing and submitted exhibits. The Commission may also, at its sole discretion, request additional evidence from the parties. If the Commission requests further evidence, the Commission shall set forth a schedule and provide instructions regarding how the parties shall submit additional evidence.

5. The Commission shall serve its final decision on all parties no later than thirty (30) days from the issuance of the final decision, or, if applicable, the initial decision becoming the final decision of the Commission.

Interested persons may submit written comments to Kirk Shook, Executive Director, Georgia Nonpublic Postsecondary Education Commission, 2082 East Exchange Place, Suite 220, Tucker, Georgia 30084-5305, info@gnpec.ga.gov. All written comments must be received by 9:00 a.m. on Monday, July 29, 2019. Interested persons may also participate in the proposed rulemaking by presenting comments orally at a public hearing to commence at 1:00 p.m. on July 29, 2019, at 2082 East Exchange Place, Suite 220, Tucker, Georgia 30084-5305.

Oral presentations at the hearing may be limited to five (5) minutes per person in order to afford all interested persons an opportunity to be heard. If you have a physical impairment and require assistance or have any questions regarding this notice, please contact the Nonpublic Postsecondary Education Commission.

Based upon full consideration of all written and oral comments regarding the above matters, the Commission may reject or adopt the proposed rules and policies or may make changes to the proposed rules and policies.

The Commission intends to consider these matters at its meeting at 1:00 p.m. on July 29, 2019, at 2082 East Exchange Place, Suite 220, Tucker, Georgia 30084-5305.

Direct all correspondence to:

Kirk Shook, Executive Director
Georgia Nonpublic Postsecondary Education Commission
2082 East Exchange Place, Suite 220
Tucker, Georgia 30084-5305
info@gnpec.ga.gov