

**RULES
OF
THE TENNESSEE HIGHER EDUCATION COMMISSION**

**CHAPTER 1540-01-02
AUTHORIZATION AND REGULATION OF
REGULARLY AUTHORIZED POSTSECONDARY EDUCATIONAL INSTITUTIONS**

TABLE OF CONTENTS

| | | | |
|----------------|------------------------------------------------------------------------|----------------|-------------------------------------------------|
| 1540-01-02-.01 | Preface | 1540-01-02-.14 | Financial Standards |
| 1540-01-02-.02 | Role of the Commission, Executive Director, and Commission Staff | 1540-01-02-.15 | Institution and Student Records |
| 1540-01-02-.03 | Definitions | 1540-01-02-.16 | Personnel and Instructor Qualifications |
| 1540-01-02-.04 | Determination for Required Authorization | 1540-01-02-.17 | Cancellation and Refund Policy |
| 1540-01-02-.05 | Exemptions | 1540-01-02-.18 | Statistical Data Collection |
| 1540-01-02-.06 | Minimum Standards for Authorization | 1540-01-02-.19 | Fair Consumer Practices and Complaints |
| 1540-01-02-.07 | Institutional Applications, Requests, and Certifications of Compliance | 1540-01-02-.20 | Representations, Advertising, and Solicitations |
| 1540-01-02-.08 | Regulations for Specific Institutions and Programs | 1540-01-02-.21 | Authorization Status |
| 1540-01-02-.09 | Bonds | 1540-01-02-.22 | Causes for Adverse Action |
| 1540-01-02-.10 | Audits | 1540-01-02-.23 | Institution Closure |
| 1540-01-02-.11 | Institutional Catalog | 1540-01-02-.24 | Filing Methods and Requirements |
| 1540-01-02-.12 | Admissions Standards | 1540-01-02-.25 | Fees |
| 1540-01-02-.13 | Enrollment Checklists, Agreements, and Disclosures | 1540-01-02-.26 | Refund of Regulatory Fees |

1540-01-02-.01 PREFACE.

- (1) The Commission invites continuous, constructive cooperation with institutions, civic organizations, governmental agencies, Better Business Bureaus, students and others to ensure the enforcement and improvement of these standards for better service to all consumers and will work to implement these rules as staffing allows. The observance of these rules is the responsibility of each institution for the inherent advantage to each institution and for the common good of all institutions.
- (2) These rules are complementary to the Tennessee Higher Education Authorization Act of 2016, as amended, at Title 49, Chapter 7, Part 20 (the Act). Institutions and agents must comply with the current language of the Act and these rules.

Authority: T.C.A. §§ 49-7-2002, 49-7-2005, and 49-7-2014. **Administrative History:** Original rule filed March 26, 1975; effective July 1, 1975. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.02 ROLE OF THE COMMISSION, EXECUTIVE DIRECTOR, AND COMMISSION STAFF.

- (1) Role of the Tennessee Higher Education Commission (THEC or Commission):
 - (a) The Commission at each quarterly meeting shall consider recommendations from the Executive Director and Commission staff regarding authorizations and any other matter at the request of the Commission's Executive Director.
- (2) Role of the THEC Executive Director:

(Rule 1540-01-02-.02, continued)

- (a) The Executive Director is empowered to take any urgent action in furtherance of the Act during the periods between Commission meetings, provided that:
 - 1. The Executive Director gives written notice of such action to the affected party;
 - 2. The Executive Director notifies the affected party that they may notify the Commission within ten (10) business days if the aggrieved party desires a hearing and review by the Commission, and that otherwise the action shall be deemed final; and
 - 3. At the same time the Executive Director gives written notice of the action to members of the Commission.
 - (b) The Executive Director is empowered to review decisions and recommendations of Commission staff as provided for in these rules.
 - (c) On the advice of Commission staff, the Executive Director, in consultation with the Commission Chair, is authorized to waive these rules upon well documented extraordinary cause, where necessary to protect the public interest, and when consistent with the Act. A waiver shall not be effective for more than one (1) year from its effective date.
 - (d) The Executive Director may exempt an institution, program, or activity from authorization or from compliance with a specific rule if such an exemption can be demonstrated to be in the public interest. Such exemptions should be temporary and narrow in scope.
 - (e) The Executive Director is empowered to act in the following matters, subject to a hearing and review by the Commission upon the request of the aggrieved party in the manner provided by T.C.A. § 49-7-2012:
 - 1. Assess fines under the Act and these rules; and
 - 2. Intervene to alter, place conditions on, or revoke, in full or in part, an institution's authorization or program registrations.
 - (f) The Executive Director is empowered to grant provisional initial authorization to an institution seeking initial regular or optional expedited authorization subject to review and ratification by the Commission at a regularly scheduled meeting.
 - (g) The Executive Director is empowered to extend authorization time periods of institutions authorized as of July 1, 2022, in order to effectuate the purposes of the Act and these rules. At the Executive Director's direction, Commission staff shall post on the Commission's website notice of authorization extensions and future filing requirements and provide notification of the posting to institutions via email.
- (3) Role of the Commission staff:
- (a) The office and Commission staff responsible for oversight of the Act and Rule Chapters 1540-01-02 and 1540-01-10 shall be officially referred to as the Tennessee Higher Education Commission, Division of Postsecondary State Authorization (DPSA).
 - (b) Commission staff and, as needed, other industry representatives or subject matter experts appointed by the Executive Director, shall perform authorization site visits and/or audits to review, inspect, and investigate locations as necessary to ensure

(Rule 1540-01-02-.02, continued)

compliance with the Act and these rules. Authorization site visits or audits may be conducted at the discretion of Commission staff for reasons including, but not limited to, authorization determinations, program registrations, complaints, investigations, compliance checks, or any situation that may adversely affect students or people at the institution.

- (c) Commission staff shall investigate as necessary any activity believed to create a physical presence in Tennessee to verify adherence to the Act and these rules or to determine whether an exemption is appropriate.
- (d) Commission staff shall establish due dates, as necessary, for submission of all fees, applications, registrations, certifications, or other materials.
- (e) Commission staff may share with state or federal agencies information on institutions seeking, holding, or required to be authorized by the Commission as well as any unauthorized educational operations. Commission staff may share with appropriate accrediting bodies any adverse action recommended or taken by Commission staff, the Executive Director, or Commission.
- (f) Commission staff may recommend that the Executive Director take adverse action as described in of the Act or these rules.

Authority: T.C.A. §§ 49-7-2004 and 49-7-2014 and 2022 Tenn. Pub. Ch. No. 1044. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.03 DEFINITIONS.

- (1) "Ability-to-benefit" or "ATB" as an adjective describes:
 - (a) A student who has not provided proof of receiving a high school diploma or equivalency, but who has demonstrated by successfully passing an ability-to-benefit test that the student possesses the cognitive skills needed to benefit from a course or certificate or diploma program; or
 - (b) A test given by an authorized institution to determine whether a student possesses the cognitive skills to benefit from a certificate or diploma program.
- (2) "Academic" as an adjective describing a degree means a degree that is organized primarily for academic or professional training or transfer. Academic degrees include: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Business Administration, Bachelor of Science, Bachelor of Fine Arts, Master of Arts, Master of Divinity, Master of Science, Master of Fine Arts, Master of Business Administration, Doctor of Philosophy, Doctor of Psychology, and Doctor of Education.

(Rule 1540-01-02-.03, continued)

- (3) "Accreditation" is a non-governmental, peer evaluation of postsecondary educational institutions and programs by private educational associations that have adopted criteria for educational programs and have developed procedures for evaluating institutions or programs. The date of accreditation is the date applicable to a location and includes approval, recognition, or similar designation of a branch, satellite, instructional or other location descriptor used by an accreditor. These criteria determine whether or not institutions or programs are operating at basic levels of quality. The Commission only recognizes accrediting agencies that are recognized by the U.S. Department of Education.
- (4) "Activities and operations" mean to operate, to grant, to offer, and the prohibited actions described in 49-7-2007.
- (5) "Act" means the Tennessee Higher Education Authorization Act of 2016, T.C.A. §§ 49-7-2001, et seq., as amended.
- (6) "Adverse action" means action taken by the Executive Director or Commission to fine, limit, change, suspend, or cause to cease activity that is not compliant with the Act and these rules. Such adverse action includes fines of five hundred dollars (\$500) per violation per day, suspension of activity, conditional authorization or program registration, or revocation of authorization or program registration.
- (7) "Agent" means any person representing a postsecondary educational institution for payment, who solicits in any form and enrolls, or seeks to enroll, a student for education offered by an authorized institution, or offers to award educational credentials, for remuneration, on behalf of any such institution. Persons owning an interest in an institution and the institution's full-time employees and directors shall not be considered agents under the Act.
- (8) "Articulation and transfer of credit agreement" means an arrangement between two (2) higher education institutions that is approved and signed by authorized institutional representatives and constructed by faculty in the discipline that (1) equates for transfer of a defined set or block of academic credits that will meet requirements of a specified program at a degree-awarding institution or (2) provides that a specific credential from one (1) institution will meet the admission education requirement for a program leading to a higher credential at a second institution.
- (9) "Associate degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least sixty (60) semester credit hours, ninety (90) quarter credit hours, or the equivalent.
- (10) "Authorization" means approval of a postsecondary educational institution by the Commission for the institution to engage in activities or operations otherwise prohibited by T.C.A. § 49-7-2007. Authorization is for a specified time at a specified location. Institutions shall not use authorization to connote greater approval than simple permission to engage in allowed activities or operations. Terms which may not be used include, but are not limited to, "accredited by," "supervised by," "endorsed by," and "recommended."
- (11) "Authorization site visit" means visit to a location by Commission staff or other industry representatives or subject matter experts to verify, review, inspect, or investigate as necessary to ensure a location or program is compliant with the Act and these rules.
- (12) "Bachelor's degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least one hundred and twenty (120) semester credit hours, one hundred and eighty (180) quarter hours, or the equivalent.

(Rule 1540-01-02-.03, continued)

- (13) "Certificate program" generally means one (1) or more technical courses usually completed in one (1) to twenty-six (26) weeks, or up to and including five hundred (500) contact hours normally with a single skill objective. A program name or certificate credential should not include terms such as "certified," "registered," or "licensed" unless the postsecondary educational institution is recognized by a subject matter expert state or federal agency, board, or commission to award such a credential or recognized by a private company where the curriculum or product of the company is being taught, for example, Microsoft certifications.
- (14) "Clock hour" has the same meaning as contact hour.
- (15) "Closed enrollment" means instruction provided to a group or business by a postsecondary educational institution, whereby public solicitation does not occur and the institution is given a list of enrollees to train at no cost to the students.
- (16) "College" means (1) a unit of a university offering specialized degrees or (2) a postsecondary educational institution offering courses of study leading to a degree.
- (17) "Commission" means the Tennessee Higher Education Commission.
- (18) "Completion rate" shall have the same meaning as "graduation rate," and shall mean the number of completions as a percentage of the number of students not currently enrolled minus the number of withdrawals due to special circumstances, that is, $\text{Completion Rate} = \frac{\text{Number of Completions}}{\text{Number Not Currently Enrolled} - \text{Special Circumstance Withdrawals}} \times 100$.
- (19) "Contact hour" means a sixty (60) minute period of time that contains at least fifty (50) minutes of actual directed or supervised instructional time.
- (20) "Degree" means an educational credential from a postsecondary educational institution with the term associate, bachelor's, master's, specialist, or doctor in the credential designation.
- (21) "Diploma program" means a program of instruction offering technical and some basic course work. General education courses may be included. Program requirements generally range from more than five hundred (500) contact hours to less than the requirements for an associate degree.
- (22) "Distance learning" means a system and process that connects learners with distributed learning resources through delivery systems at a distance such as correspondence, video tape, audio tape, telecommunications, computer resources, computer network system or an electronic delivery system, where there is physical separation of the instructor and student.
- (23) "Division of Postsecondary State Authorization" or "DPSA" means the office and Commission staff responsible for oversight of the Act and Rule Chapters 1540-01-02 and 1540-01-10.
- (24) "Doctoral degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least ninety (90) semester hours of graduate credit, one hundred and thirty-five (135) quarter hours of graduate credit, or the equivalent.
- (25) "Enrollment" or "Enrolled" refers to those students who have attended one (1) session of class, turned in one (1) assignment, or received one (1) distance learning lesson.
- (26) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers or words

(Rule 1540-01-02-.03, continued)

which signify, purport or are generally taken to signify enrollment, attendance, progress or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution.

- (27) "Educational service" means any class, course or program of training, instruction or study.
- (28) "Federal student financial aid programs" means any of the various loans or grants offered to students, parents, or institutions through Title IV of the Higher Education Opportunity Act, as amended.
- (29) "Field Trip" means a congregation of students and instructors at a location in Tennessee for instruction in the subject of enrollment for not more than three (3) calendar days. Such field trips may not occur more than three (3) times a year in the same program.
- (30) "General education courses" means a category of academic subjects that students are required to take prior to graduation outside of their major area of study or vocational concentration. These subjects are intended to broaden students' intellectual growth and cover topics including humanities, communication/language skills, social science, science, and quantitative and ethical reasoning.
- (31) "Independent certified public accountant" means a certified public accountant not associated with the institution, its owners, or its affiliated businesses.
- (32) "In-field placement rate" means the Number Placed In-Field as a percentage of number placeable, that is, $\text{In-Field Placement Rate} = \frac{\text{Number Placed In-Field}}{\text{Number Placeable}} \times 100$.
- (33) "Institutional director" means the individual designated by the institution to assume responsibility for ensuring that the conduct of the institution and its agents are within the Act and these rules.
- (34) "License" or "Licensure" includes similar terms, such as registration and certification, and means a designation from a subject matter expert state agency, board, or commission indicating that the recipient has met certain requirements for obtaining the designation, for example, a licensed massage therapist or educator.
- (35) "Location" means an address that may be used for purposes of a postsecondary educational institution in compliance with all pertinent ordinances and laws, including any rules and regulations adopted pursuant to the ordinances and laws, relative to zoning and the safety and health of persons at the address. When physical presence activities or operations are not the result of instruction at a postsecondary educational institution location as determined by the Commission staff, such as supervised field experiences or similar activities or operations, then the postsecondary educational institution location from which the educational credential is awarded must be the authorized location.
- (36) "Master's degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least thirty (30) semester credit hours, forty-five (45) quarter credit hours, or the equivalent.
- (37) "Other fees" means fees, other than tuition, paid to the institution for housing, meals, or transportation or fees paid to the institution or third parties for products or services, including, but not limited to, fees paid for tangible goods, laboratory fees, technology fees, student activity fees, or graduation fees. Other fees may include, at the institution's discretion, optional fees, including post-program completion testing fees, if collected by the institution on behalf of a student.

(Rule 1540-01-02-.03, continued)

- (38) "Out-of-state institution" means an authorized postsecondary educational institution that maintains its primary campus in another state, but has a physical presence in Tennessee.
- (39) "Ownership" and "Owner" mean:
- (a) The individual, if the postsecondary educational institution is a sole proprietorship;
 - (b) All partners, whether full, silent, or limited, if the postsecondary educational institution is a partnership;
 - (c) All individuals and entities with an interest in the for-profit corporation or other for-profit legal entity, if the postsecondary educational institution is a for-profit corporation or other for-profit legal entity; or
 - (d) The executive committee of the governing board, if the postsecondary educational institution is a not-for-profit or nonprofit entity.
- (40) "Physical presence" means presence within the state of Tennessee for the purpose of conducting activity related to a postsecondary educational institution as given in T.C.A. § 49-7-2007. Physical presence as further outlined for purposes of authorization shall include but not be limited to:
- (a) Operating a location within the state;
 - (b) Offering instruction within or originating from Tennessee designed to impart knowledge with response utilizing teachers, trainers, counselors or computer resources, computer linking, or any form of electronic means;
 - (c) Granting an educational credential from a location within the state;
 - (d) Using an agent, recruiter, institution, or business that solicits for enrollment or credits or for the award of an educational credential; or
 - (e) Advertising, disseminating promotional material or conducting public solicitation in any form that targets Tennessee residents or uses local advertising markets in the state for institutions seeking, holding, or required to be authorized by the Commission.

Physical presence does not include field trips, sanctioned sports recruiting activities, or college fairs or other assemblies of institutions in Tennessee. As to college fairs or assemblies, an institution may not enroll an individual, allow an individual to sign any agreement obligating the person to the institution, accept any moneys from the individual, or follow-up with an individual by means of an in-person meeting in Tennessee.

- (41) "Placement rate" means the number placed as a percentage of the number placeable, that is, $\text{Placement Rate} = \text{Number Placed} / \text{Number Placeable} \times 100$.
- (42) "Postsecondary educational institution" includes, but is not limited to, a school, college, university, or other type of entity offering educational credentials, instruction, educational services, or other activities as described in T.C.A. § 49-7-2007, primarily to persons who have completed or terminated their secondary education, or who are beyond the age of compulsory high school attendance, for the attainment of educational, professional, or vocational objectives. The terms "campus," "location," "postsecondary educational institution," and "institution" may be used interchangeably such that determinations made pursuant to the Act and these rules are made in regard to the specific location.

(Rule 1540-01-02-.03, continued)

- (43) "Primarily located" means:
- (a) If accredited, the state recognized by the accreditor as the state in which the main campus or similarly designated campus is located;
 - (b) If unaccredited, the state where the main administrative or corporate office is located.
- (44) "Principal party" means an owner, executive board member, or institutional director.
- (45) "Prospective student" means a student who has been accepted for attendance at an institution but who is not enrolled as defined in subparagraph (25) of this rule.
- (46) "Quarter" is a period of instruction into which the academic year is divided. A quarter must consist of at least ten (10) weeks.
- (47) "Quarter credit hour" means a measurement of scholastic attainment earned by receipt of instruction for one (1) quarter of one (1) classroom lecture hour per week, two (2) hours of laboratory experience per week, or three (3) hours of intern/externship experience per week, or the equivalent number of hours.
- (48) "Refundable fees" means any fees charged by an institution to the student for a period of enrollment but excluding fees paid for (1) tangible goods retained by the student or (2) services provided in full to the student.
- (49) "Residential course" means a course in which the student comes to an authorized location as opposed to a course where the student and the instructor are in different locations.
- (50) "Semester" is a period of instruction into which the academic year is divided. A semester must consist of at least fifteen (15) weeks.
- (51) "Semester credit hour" means a measurement of scholastic attainment earned by receipt of instruction during one (1) semester of one (1) classroom lecture hour per week, two (2) hours of laboratory experience per week, or three (3) hours of intern/externship experience per week or the equivalent number of hours.
- (52) "Solicitation" means contact, written or verbal, on behalf of an institution for the purpose of supplying information in an attempt to enroll Tennessee residents.
- (53) "Specialist degree" means an advanced master's degree or post-master's degree with requirements less than those required for a doctoral degree.
- (54) "Supervised field experiences" means a student learning experience comprised primarily of the practical application of previously studied theories and skills, under the oversight of a supervisor, mentor, faculty member or other qualified professional who has a direct or indirect reporting responsibility to the institution where the student is enrolled, whether or not credit is granted. The supervised field experience is part of a program of study offered by the enrolling institution. Examples include, but are not limited to, practica, student teaching, clinical placements, or internships.
- (55) "These rules" means all rules contained in Rule Chapter 1540-01-02.
- (56) "Time to completion" means the total number of days from a student's start date until the completion date.

(Rule 1540-01-02-.03, continued)

- (57) "Tuition" means any fee involving the student, actually charged or tracked as a bookkeeping item for instruction provided. Pursuant to Rule .15(4) of these rules, all tuition charges must clearly indicate the period of enrollment for which the student is being charged, for example, if the program is a four (4) month program but the tuition charged is for one (1) month, the account statement might read "Tuition Charged for Month 1."
- (58) "Tuition guaranty fund" means the tuition guaranty fund created by T.C.A. § 49-7-2018 and the related rules in Rule Chapter 1710-01-02.
- (59) "Unearned tuition" means the dollar amount calculated pursuant to T.C.A. § 49-7-2018 and the related rules in Rule Chapter 1710-01-02.
- (60) "University" means a postsecondary educational institution that provides facilities for teaching and research, offers academic undergraduate and graduate degrees at the baccalaureate and higher level, and is organized into largely independent colleges or schools offering undergraduate, graduate, and/or professional programs.
- (61) "Vocational" in the description of a program or institution means that which is organized primarily for job entry or upgrading of job skills that would result in a new job title or position and is not intended for academic transfer.
- (62) "Withdrawal rate" means the number of withdrawals minus the number of withdrawals due to special circumstances as a percentage of program enrollment, that is, $\text{Withdrawal Rate} = (\text{Number of Withdrawals} - \text{Special Circumstance Withdrawals}) / \text{Program Enrollment} \times 100$.

Authority: T.C.A. §§ 49-7-2003 and 49-7-2005. **Administrative History:** Original rule filed March 26, 1974; effective April 4, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed February 3, 2000; effective June 28, 2000. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.04 DETERMINATION FOR REQUIRED AUTHORIZATION.

- (1) No postsecondary educational institution may create a physical presence unless the location is authorized by an affirmative vote of the Commission during a public meeting, is awarded provisional initial authorization, or is exempt. Authorization includes regular, provisional, and conditional authorization referred to in this Rule Chapter as well as optional expedited authorization referred to in Rule Chapter 1540-01-10.
- (2) Commission staff may recommend that the Executive Director take adverse action against any unauthorized school, college, university, or other type entity requiring authorization as a postsecondary educational institution. Such entities must make an immediate good faith effort toward compliance by submitting an Initial Authorization Application or Optional

(Rule 1540-01-02-.04, continued)

Expedited Authorization Application, as provided in Rule Chapter 1540-01-10, and the applicable fee by the due date provided by Commission staff.

Authority: T.C.A. §§ 49-7-2002, 49-7-2003, 49-7-2005, 49-7-2006, 49-7-2011, and 49-7-2022; Acts 2016, Ch. 868; and 2022 Tenn. Pub. Ch. No. 1044. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.05 EXEMPTIONS.

- (1) T.C.A. § 49-7-2004 of the Act includes general descriptions of institutions and programs that are exempt from the provisions of the Act and these rules. Institutions and programs meeting the specific provisions below shall be considered exempt pursuant to the general exemption descriptions of T.C.A. § 49-7-2004.

(a) Subject to subparagraph (b) of this rule, education that is:

1. Maintained or given by or on behalf of an employer or group of employers on a no-fee basis to employees or to persons they anticipate employing;
2. Maintained or given by a labor organization recognized by either the U.S. Department of Labor or the state (1) to its membership or apprentices or (2) on a no-fee basis to the individual;
3. Financed and/or subsidized by public funds, at no cost to the individual, and having a closed enrollment;
4. Given under a contract agreement, having a closed enrollment, on a no-fee basis to the individual, and not offering educational credentials that in the opinion of Commission staff are specifically directed toward new or additional vocational, professional, or academic goals; or
5. Given to a closed network of franchise owners and their employees on a no-fee basis to employees through a franchisor that does not advertise or provide its training to the general public and wherein such training is not the primary business of the franchisor.

(b) For purposes of subparagraph (a) of this rule, and T.C.A. § 49-7-2004(a)(2), any tuition charges, other fee charges, payroll deductions, minimum employment periods as a result of a company's investment in the employee, fees levied if an individual leaves that employment, or similar practices shall constitute a fee to the individual, except that the employer may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as determined by Commission staff.

(c) Programs, seminars, or workshops that are recreational or avocational, including, but not limited to, motivational or enrichment programs, as determined by Commission staff shall be considered exempt from registration requirements. Upon review by Commission staff, a provider that presents the instruction in such a way as to suggest a vocational end may be required to become authorized or clarify through public

(Rule 1540-01-02-.05, continued)

advertising that the program, seminar, or workshop is in fact recreational or avocational.

- (d) Short-term programs, seminars, or workshops that are solely for professional enhancement as determined by Commission staff shall be considered exempt from registration requirements. Education resulting in specialized certifications clearly used to denote technical, professional, or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation.
 - (e) Intensive review courses of instruction previously received by students that are designed solely to prepare students for graduate or professional school entrance exams and professional licensure exams shall be considered exempt from registration requirements. This exemption applies only when the review course is not designed to provide the initial training in the subject area.
 - (f) Training designed to prepare students for credit-by-examination tests may be considered exempt from registration requirements. The exemption is contingent on the entity's agreement to indicate in all promotional materials that the training is for test preparation for credit-by-examination tests and refrain from any misleading representations. Such misleading representations include:
 - 1. Suggesting in any way that the training results in receipt of an educational credential, such as a degree;
 - 2. Listing anticipated salary amounts; and
 - 3. Suggesting that the entity is accredited.
 - (g) Businesses offering limited computer training in hardware, software, delivery systems or any related technology for clients or customers directly related to a sale of equipment or services are exempt from the provisions of authorization.
 - (h) Businesses offering short-term computer courses in common software or basic computer hardware that is intended for enrichment or professional enhancement are exempt from the provisions of authorization unless in the opinion of Commission staff the courses are offered concurrently toward a vocational goal.
- (2) Any institution or program that qualifies as exempt under the Act and these rules is exempt from authorization or registration without a determination of the Commission. However, institutions can request that Commission staff issue a written determination of exemption as provided for in Rule .07 of these rules for the institution as a whole or for any program. Commission staff can revoke or amend an exemption determination if the basis for the exemption changes or no longer exists.

Authority: T.C.A. §§ 49-7-2002, 49-7-2003, 49-7-2004, 49-7-2005, 49-7-2006, and 49-7-2008.
Administrative History: Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed February 3, 2000; effective June 28, 2000. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Repeal and new rule filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee

(Rule 1540-01-02-.05, continued)

filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.06 MINIMUM STANDARDS FOR AUTHORIZATION.

- (1) Institutions authorized to operate or seeking authorization in Tennessee must meet the minimum standards for authorization stated in the Act and these rules. Commission staff shall verify that an institution meets minimum standards for authorization through review of applications, registration requests, and certifications.
- (2) No out-of-state institution will be considered for authorization if it is not authorized or exempt from authorization in the state where it is primarily located.
- (3) In relation to the size and scope of the institution, it shall furnish adequate student services and resources to fulfill the mission and claims of the institution. Such services must have staff available to students with the knowledge and skills in areas such as: academic standing and satisfactory progress, admissions, employment opportunities or placement, intern/externships, library, and financial aid.
- (4) Administrative capability must be demonstrated in the daily operational standards at the institution. Administrative capability is the ongoing effective operation of the institution such that the institution is able to comply with and, as applicable, coordinate federal, state and accreditation requirements in a positive and educationally enriching environment to the benefit of students. Indicators of a lack of administrative capability include: reoccurring violations in the same area, numerous student complaints during the year, failure to correct compliance issues, frequent or sudden turnover in faculty or staff, instances where a principal party has been or is involved with a postsecondary educational institution that ceased or ceases operation resulting in a loss of time or money for enrollees or prospective students or that had or has its institutional authorization to operate in a state revoked, or multiple findings in several different areas.
- (5) Institution Name:
 - (a) An institution's name may not duplicate another institution name or mislead potential students in violation of fair consumer practices or suggest guaranteed employment, completion, or other outcomes.
 - (b) An institution may not use the word "university" in its name unless the institution meets the definition of university in these rules and is accredited.
 - (c) An institution may use the word "college" in its name without a qualifier if the institution:
 1. Meets the definition of college as set forth in the Act and these rules;
 2. Has been approved by an accrediting body recognized by the U.S. Department of Education to offer degree level programs; and
 3. Offers or is seeking approval to offer at least one (1) degree program.
 - (d) An unaccredited or non-degree granting postsecondary educational institution may use the word "college" in its name as long as the institution meets the definition of college

(Rule 1540-01-02-.06, continued)

as provided for in the Act and these rules and the name contains an appropriate qualifier, such as career, vocational, or Bible. For institutions authorized after October 1, 2016, the qualifier shall precede the word college.

- (6) In the event that an institution seeks authorization and Commission staff is aware of an outstanding complaint against the institution, the institution must resolve the complaint to the satisfaction of Commission staff before an Initial Authorization Application will be reviewed.

Authority: T.C.A. §§ 49-7-2002, 49-7-2004, 49-7-2005, 49-7-2006, 49-7-2007, and 49-7-2008.
Administrative History: Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.07 INSTITUTIONAL APPLICATIONS, REQUESTS, AND CERTIFICATIONS OF COMPLIANCE.

- (1) Due dates, denials, withdrawals, and review:
 - (a) For purposes of these rules, application refers to any application, request, or certification.
 - (b) When a due date is provided by Commission staff, a complete application in the prescribed format shall be received at the Commission by the close of business on the due date. Applications received after the due date will be deemed late, will be reviewed after all timely filed applications are reviewed, and may be subject to a late fee.
 - (c) Initial Authorization Applications and Program Registration Requests shall be filed in the prescribed format and may be filed at any time. All other applications shall be filed as provided for in these rules. Applications will be reviewed when complete.
 - (d) When received, Commission staff shall determine whether an application is complete and notify the applicant if the application is incomplete. An applicant will have thirty (30) calendar days to complete an incomplete application. Incomplete applications include applications submitted without all applicable fees or in a format other than the prescribed format and applications missing a required attachment. An application that is not completed by the prescribed due date will be deemed withdrawn.
 - (e) Denial or withdrawal of an application does not prevent the applicant from submitting a new application.
 - (f) When an application is before Commission staff for consideration, Commission staff will provide the applicant written notice of its final determination. If, upon written notification of any action taken by Commission staff, an aggrieved applicant desires a review by the Executive Director, the applicant shall notify the Executive Director within ten (10) business days of the date of the action of the Commission staff, otherwise the action of Commission staff shall be deemed final and no further review available. Any

(Rule 1540-01-02-.07, continued)

request for review by the Executive Director shall be in writing, signed, and provide a detailed explanation of each alleged error with references to the Act or these rules. A request may be denied if it is not received in a timely manner.

- (g) If, upon written notification of any action taken by the Executive Director, an aggrieved applicant desires a hearing and review by the Commission, pursuant to T.C.A. § 49-7-2012, the applicant shall notify the Commission within ten (10) business days of the date of the action of the Executive Director, otherwise the action of the Executive Director shall be deemed final and no further review available. Any request for review by the Commission shall be in writing, signed, and provide a detailed explanation of each alleged error with references to the Act or these rules. A request may be denied if it is not received in a timely manner.
 - (h) Any person, agent, group or entity aggrieved or adversely affected by any final Commission action may obtain judicial review of the action as provided in T.C.A. § 49-7-2012.
- (2) Initial Authorization Application:
- (a) Institutions must demonstrate through the Initial Authorization Application that the institution meets minimum standards for authorization as provided for in the Act and these rules. The application shall require at a minimum:
 - 1. A name of the institution that complies with the Act and Rule .06(5) of these rules;
 - 2. Evidence of a business account with a financial institution that is federally insured in said institution's name;
 - 3. A description of the ownership of the institution, including names and contact information for owners or board of director members, percentage of ownership, and, when applicable, a corporate flowchart or tree showing the institution's position in relationship to all affiliated legal entities;
 - 4. The address and general description of facilities such that a determination can be made that the institution has adequate space, equipment, and instructional material to provide education consistent with the objectives of the course or program of study;
 - 5. Evidence demonstrating that the location meets the definition of location as provided for in these rules and that possession of the location is stable such that the institution will be able to use the location for a minimum of one (1) year from the date of application. Month-to-month leases are not acceptable;
 - 6. Qualifications for instructional staff and administrative personnel;
 - 7. Designation of and contact information for an institutional director and an affirmation from the director that the director will conduct the institution in accordance with the Act and these rules;
 - 8. A description of any administrative structure above the institutional director with the signature of the official that will notify the Commission if the director is replaced;
 - 9. A continuous institutional surety bond;

(Rule 1540-01-02-.07, continued)

10. A copy of the enrollment agreement the institution will use following receipt of authorization;
11. A copy of the pre-enrollment checklist the institution will use following receipt of authorization;
12. A copy of the institutional catalog the institution will use following receipt of authorization;
13. A copy of the student transfer of credit disclosure statement required by T.C.A. § 49-7-144 the institution will use following receipt of authorization;
14. Any specific requirements as outlined under Rule .08 of these rules;
15. Affirmation that the institution is maintained and operated in compliance with all pertinent ordinances and laws, including, but not limited to, rules and regulations adopted pursuant to ordinances and laws relative to the safety and health of all persons upon the premises;
16. If participating in Title IV federal student financial aid programs, the institution must meet financial standards and institutional stability deemed acceptable for eligibility in Title IV federal student financial aid programs and provide the following:
 - (i) The institution's Office of Postsecondary Education Identification (OPEID) number;
 - (ii) Documentation from Federal Student Aid Office of the U.S. Department of Education listing the institution's federal financial composite score as described in 34 C.F.R. § 668.172; and
 - (iii) Any correspondence issued in the past twenty-four (24) months from the Federal Student Aid Office of the U.S. Department of Education concerning eligibility for financial aid, including, but not limited to, a letter of credit alternative or a provisional certification alternative as well as any related correspondence from the institution;
17. Provide financial statements as follows:
 - (i) As to institutions that are not currently operating a location,
 - (I) A year-to-date balance sheet prepared by a certified public accountant or a bookkeeper certified by the National Association of Certified Public Bookkeepers that demonstrates resources adequate to fund facilities maintenance and overhead, staff and faculty payroll, books, supplies or equipment utilized by students, and general operating costs for a minimum of ninety (90) calendar days and
 - (II) Pro forma income statements prepared by a certified public accountant or a bookkeeper certified by the National Association of Certified Public Bookkeepers demonstrating that the location for which authorization is being sought will within the first three (3) years following receipt of initial authorization meet the ratios described in Rule .14(5)(e) of these rules; or

(Rule 1540-01-02-.07, continued)

- (ii) As to institutions that are operating a location,
 - (I) Current financial statement prepared by a certified public accountant or a bookkeeper certified by the National Association of Certified Public Bookkeepers with a balance sheet that demonstrates resources adequate to fund facilities maintenance and overhead, staff and faculty payroll, books, supplies or equipment utilized by students, and general operating costs for a minimum of ninety (90) calendar days and
 - (II) Pro forma income statements prepared by a certified public accountant or a bookkeeper certified by the National Association of Certified Public Bookkeepers demonstrating that the location for which authorization is being sought will within the first three (3) years following receipt of initial authorization meet the ratios described in Rule .14(5)(e) of these rules and financial statements of all owners; and
- 18. Such other information, clarification, or training deemed necessary by Commission staff.
- (b) A separate application for authorization must be made for each location located outside of reasonable walking distance from a previously authorized location. Commission staff may make reasonable exceptions for narrow purpose, highly structured programs at multiple locations where administrative requirements are limited and precise.
- (c) Initial authorization may be granted for up to four (4) years, unless otherwise determined by the Executive Director or the Commission. Institutions with a four (4) year initial authorization term shall submit Certifications of Compliance as provided for in these rules in years one (1), two (2), and three (3) and a Reauthorization Application as provided for in these rules in year four (4).
- (d) Commission staff will review an Initial Authorization Application and, upon finding that the application demonstrates that the institution complies with all requisite standards, recommend that the Executive Director grant the institution provisional initial authorization as further explained at Rule .21 of these rules.
- (e) The Commission is not required to authorize an institution, if, in its judgment:
 - 1. The institution is noncompliant with the Act or these rules;
 - 2. Adequate provisions for the institution or its programs exist within the proposed service area;
 - 3. If there is insufficient evidence that adequate employment opportunities exist in the related occupations for persons successfully completing the institution's programs; or
 - 4. If the costs of a program are unreasonable in relation to the reasonably expected earnings in occupations for which the program is designed.
- (f) In the event that the Initial Authorization Application fails to demonstrate that the institution complies with all requisite standards, Commission staff shall defer the application by providing written notice of the deficiencies to the applicant and providing

(Rule 1540-01-02-.07, continued)

applicant two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, the application will be denied.

(3) Reauthorization Application:

- (a) Institutions with regular, or conditional authorization shall file a reauthorization application by a due date to be established by Commission staff and posted on the Commission's website.
- (b) The Reauthorization Application constitutes a self-study through which institutions must demonstrate that the institution continues to meet the minimum standards for authorization as provided for in the Act and these rules. The application may require at a minimum:
 - 1. Updates to information previously submitted as part of other applications;
 - 2. Information related to required student enrollment documentation, such as enrollment agreements and disclosures;
 - 3. Financial statements as described at Rule .14(4) of these rules;
 - 4. A list of institutional personnel;
 - 5. Funding data for students enrolled during the reporting year, including, but not limited to, the amount of self-pay and state or federal aid program funds;
 - 6. Student data related to licensure examination passage rates as further explained in Rule .08(4) of these rules;
 - 7. Affirmation of the requirement to submit statistical data as described in Rule .18 of these rules; and
 - 8. Such other information or clarification deemed necessary by Commission staff.
- (c) Commission staff will review a Reauthorization Application and, upon finding that the application demonstrates that the institution complies with all requisite standards, grant reauthorization for four (4) years, unless a shorter term is determined to be appropriate by the Executive Director or Commission. In the event that the Reauthorization Application fails to demonstrate that the institution complies with all requisite standards, Commission staff shall defer the application by providing written notice of the deficiencies to the applicant and providing applicant two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, Commission staff will recommend that the Executive Director take adverse action, including but not limited to assessing a fine, placing the institution on conditional authorization status, or revoking authorization.

(4) Change of Ownership Application:

- (a) Authorization must be issued to the owner or governing body of the applicant institution and is nontransferable.
- (b) A change of ownership occurs when a transaction results in the controlling interest in the postsecondary educational institution changing from an authorized owner to an unauthorized owner. In the event of a change of ownership, the new owner must

(Rule 1540-01-02-.07, continued)

submit to Commission staff within five (5) business days after the change in ownership is finalized:

1. A Change of Ownership Application and
 2. A request that the Executive Director grant the new owner conditional authorization until the new owner obtains provisional initial authorization.
- (c) No later than thirty (30) calendar days after the grant of conditional authorization, the new owner shall submit an Initial Authorization Application and related applications or an Optional Expedited Authorization Application as provided for in Rule Chapter 1540-01-10.
- (d) The Change of Ownership Application shall require that the new owner provide the sales contract, bill of sale, deed, or other documents necessary to transfer ownership of the institution.
- (e) Commission staff will review a Change of Ownership Application and, upon finding that the application demonstrates that the institution complies with all requisite standards, grant the change of ownership and recommend that the Executive Director grant conditional authorization. In the event that the Change of Ownership Application fails to demonstrate that the institution complies with all requisite standards, Commission staff shall defer the application by providing written notice of the deficiencies to the applicant and providing applicant two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, the application will be denied and the closure process described in Rule .23 of these rules may commence.
- (5) Program Registration Request:
- (a) In order to offer a program, an institution must submit a Program Registration Request either along with an Initial Authorization Application or, for previously authorized institutions, as a stand-alone application. Program registration is required prior to offering the program, which includes enrolling, advertising, recruiting or soliciting. Program Registration Requests shall be filed in the prescribed format and may be filed at any time.
 - (b) The Program Registration Requests may include at a minimum:
 1. General program information, such as the program name, proposed start date, anticipated initial enrollment, itemized tuition and other fees, delivery mode, length, number of credits or contact hours, and accreditation status;
 2. Designation of a credential that is defined in Rule .03, such as certificate, diploma or bachelor's degree that conforms to the requirement that no institution may offer an academic degree program unless the institution is accredited;
 3. If applicable, evidence of approval from any subject matter expert state agency, board, or commission;
 4. A program overview;
 5. A job title and the associated Classification of Institutional Programs (CIP) code applicable to the job title;

(Rule 1540-01-02-.07, continued)

6. The most currently available entry level salary or wage data and job outlook projections for those CIP codes from a Tennessee or federal website;
 7. Admission criteria confirmation and, if necessary, an explanation;
 8. Instructor qualifications;
 9. A list of training equipment, indicating whether the equipment is owned or leased;
 10. If applicable, a list of all clinical or externships sites with which the institution has an executed agreement;
 11. If applicable, the maximum pupil to teacher ratio for each course that does not exceed the below acceptable ratios:
 - (i) Allied health labs or clinicals with no subject matter agency oversight: 20-1;
 - (ii) Class A truck cab: 4:1; and
 - (iii) Class B truck cab: 2:1;
 12. If applicable, distance learning specific information, such as:
 - (i) A mock password so that Commission staff can navigate through the online system used for instruction and
 - (ii) An explanation as to how educational goals and overall program goals are achievable through distance learning; and
 13. Such other information or clarification deemed necessary by Commission staff.
- (c) An institution revises a program when it changes any element of a program that has been registered with the Commission, for example, the name of the program, tuition, credit or contact hours, mandatory other fees, length, or delivery mode, or when it changes the status of the program, for example, inactivates or discontinues the program. Institutions may revise programs as follows:
1. When an institution revises a registered program, by more than twenty-five percent (25%) in the last twelve (12) months or by changing the program delivery mode, name, or credential, then the institution must reregister the program by submitting a Program Registration Request at least thirty (30) calendar days prior to implementing the revision. When calculating twenty-five percent (25%) in the last twelve (12) months, all revisions made to quantifiable program elements in the last twelve (12) months should be totaled. For example, if in the last twelve (12) months, the institution raises tuition by five percent (5%) and adds ten percent (10%) to the program length, then the institution has revised the program by a total of fifteen percent (15%). If within twelve (12) months of these revisions, the institution raises other fees by fifteen percent (15%), then the total of the revisions in the last twelve (12) months is now thirty percent (30%) and the institution must reregister the program by submitting a Program Registration Request.
 2. In all other instances, an institution may revise a program at its discretion and report the revisions to Commission staff when completing the annual Reauthorization Application or Certification of Compliance.

(Rule 1540-01-02-.07, continued)

- (d) Institutions shall not arbitrarily add a course, contact hours, or credit hours to an existing program in which a student would incur additional time or expense beyond the catalog requirements at the time of enrollment, unless the addition is in response to:
 - 1. State approval agency requirements;
 - 2. U.S. Department of Education recognized accreditor requirements; or
 - 3. Professional licensure requirements.

In any event, the institution shall give adequate notice to all students affected prior to any change.

- (e) Commission staff will review a Program Registration Request and, upon finding that the registration demonstrates that the institution complies with all requisite standards, register the program by including it or revising it in the postsecondary program inventory. In the event that the Program Registration Request fails to demonstrate that the institution complies with all requisite standards, Commission staff shall defer the registration by providing written notice of the deficiencies to the applicant and providing applicant two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, the program registration will be denied.

(6) Change of Location Application:

- (a) Absent extraordinary circumstances, an authorized institution shall submit a Change of Location Application thirty (30) calendar days prior to moving and receive Commission Staff approval prior to operation. An example of an extraordinary circumstance is the unexpected loss of a lease. In the event of extraordinary circumstances, the institution shall submit a Change of Location Application and receive Commission Staff approval prior to providing instruction to students.

(b) The Change of Location Application shall include at a minimum:

- 1. The address and general description of facilities such that a determination can be made that the institution has adequate space, equipment, and instructional material;
- 2. Evidence demonstrating that the location meets the definition of location as provided for in these rules and that possession of the location is stable such that the institution will be able to use the location for a minimum of one (1) year from the date of application. Month-to-month leases are not acceptable;
- 3. Affirmation that the institution is maintained and operated in compliance with all pertinent ordinances and laws including, but not limited to, rules and regulations adopted pursuant to ordinances and laws, relative to zoning and the safety and health of all persons upon the premises; and
- 4. Such other information or clarification deemed necessary by Commission staff.

- (c) Commission staff will review a Change of Location Application and conduct an authorization site visit, if Commission staff determines an authorization site visit is necessary. Upon finding that the application and an authorization site visit, if necessary, demonstrate that the institution complies with all requisite standards, Commission staff will grant the change of location. In the event that the Change of

(Rule 1540-01-02-.07, continued)

Location Application fails to demonstrate that the institution complies with all requisite standards, Commission staff shall defer the application by providing written notice of the deficiencies to the applicant and providing applicant two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, Commission staff will recommend that the Executive Director take adverse action, including but not limited to assessing a fine, placing the institution on conditional authorization status, or revoking authorization.

- (d) If a move is beyond ten (10) miles and a student is prevented from completing the training at the new location, a full refund of all moneys paid and a release from all obligations will be given to the student or loan holder.

(7) School Personnel Application:

- (a) Authorized institutions must maintain qualified faculty and staff in order to fulfill the mission of the institution and all obligations to the students. Following initial authorization, an institution must notify Commission staff when there is a change of institutional director, including the appointment of an interim institutional director, by submitting a School Personnel Application no later than five (5) business days after the hire or appointment date.
- (b) Administrative personnel are individuals that oversee areas as outlined in operational and administrative standards. This includes by function, but is not limited to titles of an institutional director; financial aid administrator; director of admissions; director of education; business officer or manager; director of student services (including counseling and placement) and the registrar. Support and clerical staff is not included as administrative personnel.
- (c) Commission staff will review a School Personnel Application and, upon finding that the qualifications of the institutional director meet all requisite standards, approve the application. In the event that the School Personnel Application fails to demonstrate that the qualifications of institutional director meet all requisite standards, Commission staff shall defer the application by providing written notice of the deficiencies to the applicant and providing applicant two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, the application will be denied.

(8) Institution Name Change Application:

- (a) An authorized institution shall submit an Institution Name Change Application thirty (30) calendar days prior to changing the institution's name unless the name change is the result of a change of ownership. In the case of a change of ownership, the authorized institution shall submit a Change of Ownership Application.
- (b) The Institution Name Change Application shall include at a minimum:
 - 1. Updated contact information;
 - 2. A proposed new name of the institution that is compliant with these rules;
 - 3. Updated surety bond information;
 - 4. Affirmation that the institution following approval and prior to using the new name will update the pre-enrollment checklist, enrollment agreement, transfer of credit disclosure statement, and catalog; and

(Rule 1540-01-02-.07, continued)

5. Such other information or clarification deemed necessary by Commission staff.
 - (c) Commission staff will review Institution Name Change Application and, upon finding that the application demonstrates that the institution complies with all requisite standards, Commission staff will grant the change of name. In the event that the Institution Name Change Application fails to demonstrate that the institution complies with all requisite standards, Commission staff shall defer the application by providing written notice of the deficiencies to the applicant and providing applicant two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, the application will be denied.
- (9) Certification of Compliance:
 - (a) Annually during the authorization term, institutions with regular or conditional authorization shall file a Certification of Compliance by a due date to be established by Commission staff and posted on the Commission's website.
 - (b) The Certification of Compliance shall require at a minimum that the institution self-certify that it is engaged in activities and operations in compliance with the Act and these rules, the institution provide an updated comprehensive program list, and the certification must be signed by the institutional director and, if other than the institutional director, the owner, or a representative thereof. For institutions that do not receive Title IV funds, the Certification of Compliance may require financial statements as described at Rule .14(4) of these rules.
 - (c) Commission staff will review a Certification of Compliance and, upon finding that the certification demonstrates that the institution complies with all requisite standards, notify the institution of such. In the event that the Certification of Compliance fails to demonstrate that the institution complies with all requisite standards, Commission staff shall defer the Certification of Compliance by providing written notice of the deficiencies to the institution and providing the institution two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, Commission staff will recommend that the Executive Director take adverse action, including but not limited to assessing a fine, placing the institution on conditional authorization status, or revoking authorization.
- (10) Exemption Determination Request:
 - (a) The Exemption Determination Request may include at a minimum:
 1. Full contact information for the requestor;
 2. The statutory or rule citation justifying exemption;
 3. An argument applying the statutory or rule citation to operations of the requestor;
 4. Documentation supporting the requested exemption such as: copies of all institutional materials; brochures; advertising; state charter or business license; or organizational ties and/or contracts with other educational providers; and
 5. Such other information or clarification deemed necessary by Commission staff.
 - (b) Commission staff will review an Exemption Determination Request and, upon finding that the exemption as requested is justified by statute or rule, notify the institution of such. In the event that Commission staff requires additional information, Commission

(Rule 1540-01-02-.07, continued)

staff shall defer the Exemption Determination Request by requesting such information and providing the institution two (2) opportunities to correct the deficiencies. Following the second failed attempt to correct deficiencies, the Exemption Determination Request will be denied.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008, and 49-7-2013 and 2022 Tenn. Pub. Ch. No. 1044. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Repeal and new rule filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.08 REGULATIONS FOR SPECIFIC INSTITUTIONS AND PROGRAMS.

(1) Degree Granting Institutions:

- (a) Authorization to offer any degree in the state will require either institutional accreditation by a U.S. Department of Education recognized accreditor or authority to grant degrees by affirmative vote of the Commission.
- (b) Unaccredited institutions seeking authority to grant degrees must meet, in addition to the requirements in the Act and these rules for initial authorization, at a minimum:
 - 1. The institution shall incorporate instructional procedures, texts, and materials appropriate to the purpose, curriculum and standards of other degree granting postsecondary educational institutions offering similar programs in the state;
 - 2. For undergraduate and degree granting programs and except as noted further in subparagraph (c) of this rule, twenty-five percent (25%) of the total program must be in general education courses and should be indicated separately in the curriculum presented;
 - 3. Library resources and holdings shall contain up-to-date titles, be available and accessible to all enrolled students and commensurate with the proposed degree level;
 - 4. Demonstration that the degree and the program have merit and value academically, professionally, or vocationally in Tennessee; and
 - 5. Master's and doctorate level degrees must demonstrate in the curriculum and outcomes increasing levels of critical, analytical, and interpretive thinking, use of primary documents or resources, and independent research skills.
- (c) Undergraduate degree programs must include at least twenty-five percent (25%) of the program in general education courses unless the institution can demonstrate program

(Rule 1540-01-02-.08, continued)

accreditation requirements which are lesser or for a unaccredited institution offering or proposing an associate degree level, demonstrate to the Commission that because of the occupational/technical nature of the program that a student would not benefit in the job from general education courses and demonstrate the need to use that twenty-five percent (25%) of the program for job skills courses.

- (d) Graduate degree programs, in addition to staffing and study time requirements in these rules, must provide experienced research staff to direct graduate research papers, provide a program of sufficient length and arrangement to facilitate student-to-student and student-to-staff exchange of ideas, provide appropriately credentialed staff in collateral areas, and provide access to a wide range of current reference materials in the subject field.
- (2) Unaccredited institutions shall not accept funds for tuition prior to ten (10) business days of the scheduled start date of the course or program.
 - (3) Bartending institutions:
 - (a) Pursuant to T.C.A. § 49-7-115, all schools involved in training in the areas of management, operation, procedures, or practice of dispensing alcoholic beverages or bartending shall include instruction in the problems of alcohol abuse and the effect of alcohol consumption on highway safety.
 - (4) Programs leading to licensure, certification, registration or similar recognition:
 - (a) Students shall not be required to take an examination given by a private or public third-party as part of an institution's program. For example, a truck driving program cannot include successful completion of the Commercial Driver's License examination.
 - (b) Institutions offering programs in fields that require a student to take an examination in order to be licensed or similarly recognized before the student can be employed in the field shall provide as part of the Reauthorization Application student-level data as to:
 - 1. Whether the student sat for the examination; and
 - 2. Whether the student passed the examination.
 - (c) Institutions may request a waiver from Commission staff of subparagraph (4)(b) of this rule. Commission staff shall grant the waiver upon receipt of documentation from the institution demonstrating that the examination provider or related state agency will not provide testing data to the institution.
 - (5) For programs of interest to other state agencies, such as dental programs, Commission staff will endeavor to streamline processes when a subject matter expert state agency has a law that is contrary or duplicitous of the Act or these rules.
 - (6) Computer Training:
 - (a) Businesses offering specialized certifications clearly used to denote technical, professional or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation of that training in the state.
 - (7) Institutions that require students to complete cleaning or similar tasks as part of any course or program shall limit such tasks to those that are reasonably related to the field for which the student is being prepared and that are consistent with the types of tasks that the student

(Rule 1540-01-02-.08, continued)

would be expected to complete as part of the student's primary duties or functions when working in the field that the education is preparing the student to enter.

Authority: T.C.A. §§ 49-7-2003, 49-7-2005, and 49-7-2008. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Repeal and new rule filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.09 BONDS.

- (1) Institutions, other than public institutions, must, on forms provided by the Commission, secure, from a surety company qualified and authorized to do business in Tennessee, a continuous surety bond in the amount of ten thousand dollars (\$10,000).
- (2) Institutions must provide a bond for each authorized location.
- (3) Subject to Commission staff approval, an irrevocable letter of credit secured by a certificate of deposit or a cash deposit with a bank may be accepted in lieu of the bond. Such deposits are subject to the same terms and conditions provided for in the surety bond form.
- (4) Commission staff shall provide the institution at least thirty (30) calendar days written notice that authorization shall be made conditional, subject to revocation, by operation of law when the institution is no longer covered by a surety bond. Absent exceptional circumstances, a postsecondary educational institution shall not continue to engage in activities or operations without a surety bond for more than ninety (90) calendar days.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2013, and 49-7-2014. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.10 AUDITS.

- (1) Commission staff may conduct audits to ensure compliance with the Act and these rules. Audits may be performed at the authorized location or by requesting that the institution forward copies of student records to Commission staff. In the case of the latter, the provided

(Rule 1540-01-02-.10, continued)

records will be retained by Commission staff as working papers but will be destroyed when the audit is closed.

- (2) Commission staff may audit an authorized institution at any time without notice to the institution. However, unless the circumstances mandate that no notice can or should be given, Commission staff should provide at least seventy-two (72) hours' notice. Notice shall be given by email to the institutional director.
- (3) Failure to comply with any audit request may be an audit finding, and Commission staff may recommend that the Executive Director take adverse action, including but not limited to assessing a fine, placing the institution on conditional authorization status, or revoking authorization.
- (4) Commission staff will provide the institution with an audit report that lists any findings and the frequency. The report shall require the institution to propose corrective action for all findings or to show cause why the Executive Director or Commission should not take adverse action, including but not limited to assessing a fine, placing the institution on conditional authorization status, or revoking authorization.
- (5) Tuition increases that in the opinion of the Commission are excessive, unreasonable or exceed initial disclosure to students may result in an in-depth audit of the institution's financial stability.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, and 49-7-2014. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.11 INSTITUTIONAL CATALOG.

- (1) Each institution must publish a catalog that includes at a minimum:
 - (a) The full and correct name and address of the institution;
 - (b) Identifying data, such as catalog number and publication date;
 - (c) Table of contents;
 - (d) Names of owners and officers and credential requirements for faculty;
 - (e) The institutional calendar, including holidays, application and registration periods and the beginning and ending dates of terms, courses, or programs;
 - (f) The institutional admission procedures and entrance requirements, including late admission, if permitted;
 - (g) The institutional attendance policy, including minimum attendance requirements, how attendance will be determined, the withdrawal policy, the circumstances under which a

(Rule 1540-01-02-.11, continued)

student will be interrupted for unsatisfactory attendance, and the conditions under which a student may be readmitted;

- (h) The institutional policy covering satisfactory progress, including an explanation of any grading system used, a description of any probation policy, and a description of the institutional system for making progress reports to students;
- (i) The institutional policy regarding student conduct, including causes for dismissal and conditions for readmission;
- (j) A description of each program offered including objectives, costs, length, program components, and course requirements, including, if applicable, cleaning or similar tasks as described in Rule .08(7). , Institutions that require students to complete cleaning or similar tasks as part of any program curriculum shall describe such tasks and explain how the tasks are reasonably related to the field for which the student is being prepared and are consistent with the types of tasks that the student would be expected to complete as part of the student's primary duties or functions when working in the field that the education is preparing the student to enter;
- (k) A description of student services provided, including whether placement assistance is available and, if none, so state;
- (l) A description of the facilities and equipment used for educational programs;
- (m) The policy concerning credit granted for previous education, training, and experience and, if none, so state;
- (n) The refund and cancellation policy, including the procedure for determining the last date of attendance and the time within which a refund will be provided;
- (o) A statement provided within the first four pages of the catalog which reads as follows: "The (name of institution) is authorized by the Tennessee Higher Education Commission. This authorization is based on an evaluation of minimum standards concerning the provision of education, ethical business practices, and fiscal responsibility";
- (p) A description of the student grievance procedure, including:
 1. The title, address, and telephone number of the institutional employee designated to receive student complaints;
 2. The timeframe for the institution's investigation of the complaint, the steps of the investigation and the timeframe and method for communicating the written decision to the student;
 3. If the institution allows for nonbinding mediation or voluntary arbitration, the catalog must describe the process in its entirety; and
 4. The address and telephone number of Commission staff along with a statement that reads: "Any person claiming damage or loss as a result of any act or practice by this institution that may be a violation of the Title 49, Chapter 7, Part 20 or Rule Chapter 1540-01-02 may file a complaint with the Tennessee Higher Education Commission, Division of Postsecondary State Authorization after exhausting the grievance process at the institution."

(Rule 1540-01-02-.11, continued)

- (q) A disclosure regarding the ability to transfer credit earned to another institution, with language sufficient to describe limitations on the transfer of credit. Institutions have a responsibility to advise potential enrollees that transfer of credit is controlled by the receiving institution and that accreditation does not guarantee transferability. Suggested language is as follows:
- “Students should be aware that transfer of credit is always the responsibility of the receiving institution. Whether or not credits transfer is solely up to the receiving institution. Any student interested in transferring credit hours should check with the receiving institution directly to determine to what extent, if any, credit hours can be transferred.”;
- (r) The cash discount policy, if offered to students;
- (s) The ATB testing policies, if any, in accordance with Rule .12(3) of these rules; and
- (2) Institutions may provide electronic catalogs to students as long as the institution provides the student a hard-copy upon the student’s request.
- (3) Use of supplemental pages must be done in a way as to ascertain that supplemental pages become an effective part of the catalog and must show an effective date and be presented to students prior to enrollment or payment of fees;
- (4) Catalogs should be written at a level that allows prospective students and enrollees to comprehend the information and make informed decisions.

Authority: T.C.A. §§ 49-7-2002, 49-7-2005, 49-7-2006, and 49-7-2008. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court’s October 2011 order](#). See also [Attorney General’s Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.12 ADMISSIONS STANDARDS.

- (1) The admissions policy for students must be based on the institution’s objectives and must be publicly stated and administered as written.
- (2) An institution should not enroll a student in a program leading to licensure when the institution knows or, by the exercise of reasonable care, should know the student is or will be ineligible to obtain licensure in the occupation for which the student is being trained. For example, an institution should not admit a student if the institution knows the student has a prior legal conviction that will prevent the student from obtaining licensure. If a student who is ineligible or likely to be ineligible for licensure desires to enroll in such a program, regardless of license eligibility, the institution may admit the student after the student submits a signed, written statement acknowledging the student is or is likely to be ineligible for licensure. The institution shall provide the student a copy of the statement and maintain the original in the student’s file.

(Rule 1540-01-02-.12, continued)

- (3) Basis of admission shall be at a minimum:
- (a) Students enrolling in a certificate or diploma program must possess a high school diploma, a high school diploma equivalency, a current Tennessee license in the field for which the training is intended, postsecondary credit in a degree program, or, subject to subparagraph (3)(d) of this rule, a passing score on an ATB test.
 - (b) Students enrolling in an associate or bachelor's degree program must possess, at a minimum, a high school diploma, a high school diploma equivalency, or postsecondary credit in a degree program.
 - (c) Students enrolling in a post-baccalaureate program must possess, at a minimum, a baccalaureate degree from an institution judged to be appropriate by the Commission.
 - (d) A student may be admitted as an ATB student if the student has terminated secondary enrollment and is beyond the age of compulsory attendance. An institution may use a standardized test formerly or currently recognized by the U.S. Department of Education or an ATB approved by Commission staff prior to January 1, 2023. The institution shall request approval from Commission staff before using the test and shall state the minimally acceptable scores and the maximum number of attempts allowable in a given period of time, for example, three (3) times in a six (6) month period. The following applies to all ability-to-benefit tests:
 - 1. Tests shall be administered in a secure environment, for example, monitors present.
 - 2. Tests shall not be administered in a manner that is inconsistent with the recommendations of the standardized test developers.
 - 3. An agent is not allowed to administer the test, nor is anyone allowed to assist the applicant in answering the questions.
- (4) Proof of the basis of admission shall be maintained in the student file in accordance with Rule .15 of these rules.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2008. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.13 ENROLLMENT CHECKLISTS, AGREEMENTS, AND DISCLOSURES.

- (1) Pre-Enrollment Checklist: Prior to signing an enrollment agreement, institutions shall require an institution representative and the prospective student to sign and date a pre-enrollment checklist using a form provided in the Initial Authorization Application. The document must clearly indicate that it is the pre-enrollment checklist, include the full and correct name and

(Rule 1540-01-02-.13, continued)

address of the authorized location, and, if multiple pages, be paginated using the format “ ___ of ___ pages.” The checklist shall include, at a minimum, affirmations that the student:

- (a) Toured the institution virtually or in-person (not applicable to institutions that deliver all instruction through distance learning);
- (b) Received an institution catalog and all addendums and attachments referenced therein. If the catalog and addendums/attachments are provided electronically understands that the student may request a hard copy of any of the documents at any time;
- (c) Was given the time and opportunity to review the institutional policies in the catalog;
- (d) Knows the length of the program for full-time and part-time students in academic terms and actual calendar time;
- (e) Has been informed of the total tuition and other fees of the program;
- (f) Has been informed of the estimated cost of books and any required equipment purchases such as a computer, specialized tools, or art supplies;
- (g) Has been given a copy of the institution refund policy;
- (h) Has executed a Transfer of Credit Disclosure Statement in compliance with T.C.A. § 49-7-144 and understands the specific limitations should the institution have articulation agreements;
- (i) Has been given the address and telephone number of Commission staff along with a statement that reads: “Any person claiming damage or loss as a result of any act or practice by this institution that may be a violation of the Title 49, Chapter 7, Part 20 or Rule Chapter 1540-01-02 may file a complaint with the Tennessee Higher Education Commission, Division of Postsecondary State Authorization after exhausting the grievance process at the institution.”;
- (j) Has received the most recent withdrawal, completion, and placement data as calculated by the Commission by including in the checklist:
 1. For institutions previously authorized by THEC and under new ownership:
 - (i) The following statement: “For the program entitled, (program name), I have been informed that, for the July (year)/June (year) period, the withdrawal rate is (percent)%, the completion rate is (percent)%, and the in-field placement rate is (percent)%. Detailed statistical data for this program may be viewed by going to <http://www.tn.gov/thec/bureaus/student-aid-and-compliance/postsecondary-state-authorization.html>.” or
 - (ii) A copy of the institution’s most recent Annual Performance Report created by Commission staff and posted on the Commission’s website.
 2. For institutions that are currently authorized by THEC but zero students were enrolled in the program the previous fiscal year, the following statement: “Understands that withdrawal, completion, and placement information is not currently available because the program has had zero students enrolled in the previous fiscal year. This information will be provided by THEC approximately one year after the institution reports enrollment for this program.”

(Rule 1540-01-02-.13, continued)

3. For institutions that are offering a new program or institutions that are not currently authorized by THEC, the following statement: "Understands that this is a new program and placement, completion and withdrawal information will be provided by THEC approximately one year after the institution begins offering the program."; and
 - (k) Has received and understands the institution's cash discount policy (applicable only to those institutions that have a cash discount policy).
- (2) Enrollment Agreement: Institutions enrolling an individual in a course or program shall require an institution representative and the prospective student to sign and date an enrollment agreement prior to the student attending one (1) session of class, turning in one (1) assignment, or receiving one (1) distance learning lesson, whichever occurs first. The document must clearly indicate that it is the enrollment agreement (not an application for admissions), and, if multiple pages, the pages of the enrollment agreement shall be paginated using the format "__ of __ pages."
 - (a) The enrollment agreement shall include, at a minimum:
 1. The full and correct name and address of the authorized location of the institution;
 2. The name, address, and social security number or unique student identification number of the student;
 3. The date training is to begin and program length;
 4. If students have the option to attend part-time, full-time or part-time status of the student;
 5. The projected date of completion;
 6. The program name as approved by the Commission;
 7. The total cost of the program, including itemized costs for tuition and other fees, as defined in Rule .03(37) and (57) of these rules, along with an indication of which fees are optional and which fees are program related or post-completion related, for example, third-party testing fees;
 8. Cancellation and refund policy;
 9. Verification that by signing the agreement the student understands the student's right to receive an exact signed copy of the agreement,
 10. Verification that by signing the agreement the institution understands its obligation to immediately provide the student an exact signed copy of the agreement;
 11. A guarantee of tuition cost for twelve hundred (1200) contact hours or twelve (12) months from the time of enrollment; programs less than twelve hundred (1200) contact hours must have a set total tuition; and
 12. The following statement: "The (name of institution) is authorized by the Tennessee Higher Education Commission. This authorization must be renewed

(Rule 1540-01-02-.13, continued)

each year and is based on an evaluation of minimum standards concerning quality of education, ethical business practices, and fiscal responsibility.”

- (b) Institutions that enroll students in individual courses may modify the pre-enrollment checklist or enrollment agreement as appropriate, but should strive to make as few modifications as necessary.
- (3) Transfer of Credit Disclosure Statement: Prior to signing an enrollment agreement and the pre-enrollment checklist, institutions shall require the student to complete a Transferability of Credit Disclosure Statement.
- (a) The written statement must be:
 - 1. A stand-alone document containing no other disclosures;
 - 2. Contain a space for the prospective student to initial and date; and
 - 3. Printed in type not less than sixteen (16) point font; and
 - 4. Contain the exact language in T.C.A. § 49-7-144(b)(2), except that institution offering contact hours only may substitute the word contact for credit.
 - (b) Institutions shall post the disclosure on its website, but the language does not have to be in at least sixteen (16) point font.

Authority: T.C.A. §§ 49-7-144, 49-7-2005, 49-7-2006, 49-7-2008, and 49-7-2019. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendments filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.14 FINANCIAL STANDARDS.

- (1) The Commission and its staff may share information with the Tennessee Student Assistance Corporation and other state and federal agencies as appropriate.
- (2) The institution shall maintain financial and business practices in-line with common business procedures utilizing standard accounting practices.
- (3) The institution shall maintain and be prepared to demonstrate at any time financial resources adequate to fund and maintain the following:
 - (a) Facility maintenance and overhead;
 - (b) Staff and faculty payroll;
 - (c) Books, supplies or equipment utilized by students; and

(Rule 1540-01-02-.14, continued)

- (d) General operating costs.
- (4) When financial statements are required by the Reauthorization Application or the Certification of Compliance, such statements shall be completed for the fiscal year that ended prior to one hundred-twenty (120) calendar days of the application due date and shall be prepared in the following format and manner:
- (a) Institutions with annual gross tuition revenue at the authorized location of one million dollars (\$1,000,000) or more shall submit audited financial statements, including an income statement, balance sheet, statement of cash flow, and notes, prepared in accordance with the Generally Accepted Accounting Principles by an independent certified public accountant.
 - (b) Institutions with annual gross tuition revenue at the authorized location of less than one million dollars (\$1,000,000) but more than one hundred thousand dollars (\$100,000) shall submit a reviewed balance sheet and income statement prepared in accordance with the Generally Accepted Accounting Principles by an independent certified public accountant.
 - (c) Institutions with annual gross tuition revenue at the authorized location of one hundred thousand dollars (\$100,000) or less shall submit a balance sheet and income statement using forms prepared by Commission staff as long as those forms are completed by a certified public accountant or a bookkeeper certified by the National Association of Certified Public Bookkeepers.
 - (d) As an alternative to subparagraphs (4)(a) through (c) of this rule, institutions owned by the same parent company may submit an audited consolidated corporate financial statement. The audited consolidated statement shall be prepared in accordance with the Generally Accepted Accounting Principles by an independent certified public accountant. Commission staff or the Commission may request additional campus or institution-specific information where needed to better understand the financial stability of a single authorized location or to protect the public interest.
- (5) The following is applicable to all financial statements:
- (a) The balance sheet must reflect the owner's (proprietorship, partnership, corporation, or other) assets and liabilities.
 - (b) The institution shall report total revenue on the income statement; however, total tuition revenue must be delineated.
 - (c) Related parties must be disclosed, including, but not limited to, related party footnotes, debt agreements with owners, and supplemental footnotes on separate campuses or branches are expected.
 - (d) It should be noted whether or not tuition revenue is recognized up front or on a pro rata basis.
 - (e) Within three (3) years from initially receiving authorization, neither the ratio of total revenues to total expenditures nor the ratio of current assets to current liabilities of either the authorized location or the parent company, where applicable, shall be less than 1:1 without convincing explanation.

(Rule 1540-01-02-.14, continued)

- (f) An institution shall elect during reauthorization whether it will rely on the financial statements of the authorized location or the parent company and must use the financial statements of the elected entity for at least three (3) consecutive years.
- (6) When there are questions about the institution's financial stability, the Commission staff may require the institution to file appropriate financial statements, which may include audited statements prepared in accordance with the Generally Accepted Accounting Principles by an independent certified public accountant, for the authorized location or the parent company.
- (7) All institutions must maintain a business account with a financial institution that is federally insured in said institution's name.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, and 49-7-2015. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.15 INSTITUTION AND STUDENT RECORDS.

- (1) Institutional directors must maintain on-site a current copy file of materials filed with the Commission as part of their current authorization which includes the application, documentation of appropriate bonding, and financial reports.
- (2) Institutions shall retain for three (3) years a record of student complaints that follow the institution grievance process, including a copy of the complaint, any investigatory documents, and a statement of the matter's disposition.
- (3) Student financial records must be maintained and open for inspection and copying by Commission staff in accordance with applicable confidentiality laws.
- (4) For each student, the institution must maintain an up-to-date reconciled account statement as a separate document. The statement must clearly reflect:
 - (a) The balance due the institution or student;
 - (b) All charges and payments;
 - (c) The reason for the debit or credit, for example, student cash payment, loan payment, tuition waiver, technology fee, or tuition charged; and
 - (d) All tuition charges must indicate the period of enrollment for which the student is being charged, for example, if the tuition charge is for five hundred (500) contact hours of instruction, the account statement might read "Tuition Charged for 500 Contact Hours" or if the tuition charge is for one (1) semester of instruction, the account statement might read "Tuition Charged for Spring 2022 Semester."

(Rule 1540-01-02-.15, continued)

- (5) Institutions must maintain a file for each prospective student or student enrolled in a program or course for three (3) years after the student's withdrawal from or completion of the program or course of enrollment. The file shall contain at a minimum:
 - (a) The executed transferability of credit disclosure statement required by T.C.A. § 49-7-144 and Rule .13(3) of these rules;
 - (b) Documentation evidencing the student's basis for admission as provided for in paragraph (6) of this rule;
 - (c) The executed pre-enrollment checklist;
 - (d) The executed enrollment agreement;
 - (e) An exhibit of the institution's enforcement of standards acceptable to the Commission related to attendance, academic satisfactory progress, and proper documentation of any leave of absence (LOA) that may affect progress;
 - (f) Written records of the previous training and education of the applicant student which clearly indicates the appropriate credit which has been given by the institution for previous training and education; and
 - (g) An up-to-date reconciled account statement.
- (6) Sufficient basis of admission documentation for purposes of the student file is as follows:
 - (a) If the basis of admission is successful completion of an ATB test, then the student file shall contain a copy of the scored test or a graded score sheet.
 - (b) If the basis of admission is a high school diploma or equivalency, then the student file shall contain:
 - 1. An official transcript from the high school or other government body, such as a county school board;
 - 2. An official high school equivalency transcript, HiSET, or GED score sheet from the appropriate issuing entity; or
 - 3. An official military document indicating that the student completed high school such as an Enlisted Record Brief.
 - (c) If the basis of admission is a Tennessee license in the field for which the training is intended, then the student file shall contain verification of current licensure from the issuing Tennessee subject matter expert agency, such as a current screenshot from the agency's website.
 - (d) If the basis of admission is postsecondary credit in a degree program, then the student file shall contain an official transcript from a postsecondary educational institution indicating that credit in a degree program was awarded to the student.
 - (e) If the basis of admission is a bachelor's degree or higher credential, the student file shall contain an official copy of the transcript from the postsecondary educational institution indicating that the student received the credential.

(Rule 1540-01-02-.15, continued)

- (f) If a transcript is from an institution outside the United States, documentation from a transcript translation service indicating that the education obtained is the equivalent of the applicable United States credential and, if necessary, a translated transcript.
- (7) Official documentation is a statement of the student's academic record received directly from the issuing institution or agency such as a transcript or score sheet. Paper transcripts printed on security sensitive paper that contains the issuing institution's seal or signature of an official from the institution is acceptable admission documentation. Electronic transcripts or scores sheets not printed on security sensitive paper must include indicia that the transcript or score sheet was received directly from the issuing institution or agency such as accompanying email correspondence or the envelope.
- (8) Institutions must offer a transcript for all programs other than programs registered as certificate programs. For a certificate program, an institution must provide a certificate to completers of the program and may offer a transcript to all enrolled students. In any event, all transcripts and certificates shall meet the requirements of this rule. Institutions offering programs where a subject matter expert agency requires that the institution maintain a transcript must do so.
 - (a) Transcripts and certificates for each student enrolled in a program or course offered by the institution shall be maintained for the life of the institution and provided to DPSA upon closure as provided for in Rule .23 of these rules.
 - (b) Transcripts shall be in a form that permits easy and accurate review by the student, transfer institutions, potential employers, and other state or federal agencies. The transcript shall include at a minimum the:
 1. Full and correct name and address of the authorized location of the institution;
 2. First and last name of the student;
 3. Last four digits of the student's social security number;
 4. Program name as registered with the Commission;
 5. Status of student, for example, active, withdrawn, probation, leave of absence, or graduate;
 6. Official date recorded for all student withdrawals and graduations;
 7. Beginning date or academic term with the year for each course attempted;
 8. As applicable to the type of institution, credit or contact hours attempted and earned;
 9. Name of each course and, if any, the course number as listed in the institution catalog along with the corresponding grade received;
 10. Indication of credits given by transfer from another institution or credit by exam;
 11. Cumulative Grade Point Average (GPA);
 12. Date the transcript was last updated and/or printed; and
 13. Signature of an institution official.

(Rule 1540-01-02-.15, continued)

- (c) Certificates shall be in a form that permits easy and accurate review by the student, transfer institutions, potential employers, and other state or federal agencies. The certificate shall include at a minimum the:
1. Complete name and address of the institution;
 2. First and last name of student;
 3. Program name as registered with the Commission;
 4. A certificate award date; and
 5. The signature of an institution official.
- (9) In lieu of hard copies of transcripts and certificates, an institution may maintain transcripts and certificates by electronic storage provided that the institution has a process for maintaining an up-to-date backup of the information in a separate system or at a different location. Commission staff must have complete and easy access to review student transcripts and certificates during authorization site visits and audits such that the institution can print any requested records upon request.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, and 49-7-2016. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.16 PERSONNEL AND INSTRUCTOR QUALIFICATIONS.

- (1) Administrative personnel and instructors shall meet all qualifications listed in this rule. Evidence of education, experience, or training, such as official transcripts, for each personnel and instructors must be maintained on-site at the authorized location. Institutions must provide this evidence at any time upon receiving a request from Commission staff.
- (2) The method of administration and procedure for staff selection must be defined in a way that each employee has specific duties and responsibilities. The process for selection of administrative personnel and instructors shall ensure that administrative personnel and instructors meet the qualifications in this rule. Additionally, institutions shall take reasonable actions to ensure that a supervisor of any experiential learning, regardless of whether the learning is conducted at the location or in the field, is qualified to supervise the learning. For example, the supervisor must hold an appropriate license if the subject is a vocation requiring licensure.
- (3) Administrative personnel at an authorized institution must be graduates of an accredited college or university or have sufficient background and training in the administrator's area of responsibility. If the institution employs a director of education, that director shall possess a baccalaureate degree or the highest educational credential offered by the institution, whichever is higher. Administrative personnel are individuals that oversee areas as outlined

(Rule 1540-01-02-.16, continued)

in operational and administrative standards. This includes by function, but is not limited to, titles of an institutional director; financial aid administrator; director of admissions; director of education; business officer or manager; director of student services (including counseling and placement) and the registrar. Support and clerical staff are not included as administrative personnel.

(4) Institutional Directors:

- (a) Each institution must designate one (1) person as the institutional director. The institutional director is responsible for ensuring that the conduct of the institution and its agents is in compliance with the Act and these rules. The institutional director shall serve as the official contact for all correspondence and business conducted between the institution and the Commission or Commission staff.
- (b) Institutional owners must ensure that each authorized location has an institutional director at the authorized location for at least fifty percent (50%) of the operational time each week the school has students present unless other provisions have been approved by Commission staff.
- (c) The institutional director implicitly accepts knowledge of and responsibility for compliance with the Act and these rules including, but not limited to, advertising, records, contracts, required benchmarks, annual due dates, and fee payments.
- (d) The institutional director at an authorized institution must:
 - 1. Be a graduate of an accredited postsecondary educational institution with at least one (1) year experience in administration or institutional management; or
 - 2. The total years of administration or institutional management experience in postsecondary education shall equal at least five (5) years.

(5) Instructors:

- (a) Instructional staff for all institutions must be selected at a minimum on the basis of these rules.
- (b) Instructors in a trade related or specific skill area must have documented proficiency and practical applied experience in that trade or skill.
- (c) An instructor must hold the appropriate license if the subject is a vocation requiring licensure.
- (d) An instructor must be qualified by education and experience/background and must meet at a minimum the following qualifications:
 - 1. Doctorate level courses:
 - (i) Hold a doctorate degree from a college or university judged to be appropriate by the Commission and either:
 - (I) A doctorate degree with a major or concentration in the subject area to be taught; or
 - (II) A doctorate not in the subject area but with a minimum of one (1) year of practical experience within the last five (5) years in the

(Rule 1540-01-02-.16, continued)

subject area to be taught and completion of nine (9) semester hours or twelve (12) quarter hours of doctoral level courses in the subject.

2. Master's level courses:

- (i) Hold a master's or higher degree from a college or university judged to be appropriate by the Commission and either:
 - (I) A master's or higher degree with a major or concentration in the subject area to be taught; or
 - (II) A master's or higher degree not in the subject area but with a minimum of one (1) year of demonstrated practical experience within the last five (5) years in the subject area to be taught and completion of nine (9) semester hours or twelve (12) quarter hours in graduate level courses in the subject.

3. Baccalaureate level courses:

- (i) Hold a baccalaureate or higher degree from a college or university judged to be appropriate by the Commission and either:
 - (I) A baccalaureate or higher degree with a major or concentration in the subject area to be taught; or
 - (II) A baccalaureate or higher degree not in the subject area but with a minimum of one (1) year of demonstrated practical experience within the last five (5) years in the subject area to be taught and completion of nine (9) semester hours or twelve (12) quarter hours in the subject. Additional years of documented experience in the subject area may be substituted for semester/quarter hour requirements.

4. Associate level courses:

- (i) Meet the minimum requirements for doctorate, master's or baccalaureate level; or
- (ii) Hold an associate degree from a postsecondary institution judged to be appropriate by the Commission and either:
 - (I) An associate degree with a concentration in the subject to be taught and one (1) year of practical experience; or
 - (II) An associate degree not in the subject area but with a minimum of two (2) years of practical experience within the last five (5) years in the subject area to be taught and satisfactory completion in a postsecondary educational institution of nine (9) semester hours or twelve (12) quarter credit hours in the subject area to be taught. Additional years of documented experience in the subject area may be substituted for semester/quarter hour requirements.

5. Diploma and certificate level courses or programs:

- (i) Meet the minimum requirements for doctorate, master's or baccalaureate or associate level; or

(Rule 1540-01-02-.16, continued)

- (ii) Hold a high school diploma or GED and a certificate of completion from a postsecondary institution judged to be appropriate by the Commission in a relevant subject area and a minimum of three (3) years of practical experience within the last seven (7) years in the subject area to be taught. Additional years of documented experience in the subject area or licensure in the field may be substituted for the postsecondary educational requirements.
- 6. General education courses: All general education courses must be taught by holders of baccalaureate degrees with at least twenty-five percent (25%) of the general education staff with, at minimum, earned master's degrees.
- (6) The Executive Director may approve a variance from the specific qualifications in paragraph (5) of this rule with sufficient justification and an assurance that the program quality will not be lessened. In such a situation, the institutional director must submit written justification and documentation using the School Personnel Application submission within five (5) business days of the personnel hire date. In addition, the instructor must be institutionally evaluated at the close of the first instructional period for effectiveness and quality. This evaluation shall be made available to Commission staff upon request.
- (7) Instructors shall be evaluated annually in writing by students and annually in writing by the institutional director or chief academic/instructional officer. The institution shall maintain such evaluations for six (6) years from the date of the evaluation.
- (8) Agents:
 - (a) An institution is responsible for any representations or misrepresentations, expressed or implied, made by the agent.
 - (b) Any student solicited or enrolled by an agent whose actions are in contravention with these rules is entitled to a refund from the institution of all moneys paid. Upon payment by the institution, the student shall release the institution from any further obligations to the student. Any contract signed by a prospective student as a result of solicitation or enrollment by an agent shall be null and void and unenforceable at the option of the student. In cases where the institution is willing to honor the contract and the student wishes the contract enforced, it can be. However, in cases where the contract has been fully executed between the institution and the student, the student is not entitled to a refund solely because the student was improperly solicited or enrolled by an agent.
 - (c) An agent is prohibited from inappropriate activities in procuring enrollees including, but not limited to, the following:
 - 1. Administering the admission test;
 - 2. Advising students about financial aid other than informing the student of the general availability of financial assistance;
 - 3. Giving false, misleading, or deceptive information about any aspect of the institution's operation, job placement, or salary potential;
 - 4. Representing that a program has sponsorship, approval, characteristics, uses, benefits, or qualities which it does not have;

(Rule 1540-01-02-.16, continued)

5. Soliciting enrollments in a program which has not been approved by the Commission; or
6. Otherwise acting in contravention of these rules.

Authority: T.C.A. §§ 49-7-2002, 49-7-2005, 49-7-2006, 49-7-2009, and 49-7-2011. **Administrative History:** Original rule filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.17 CANCELLATION AND REFUND POLICY.

- (1) All authorized institutions must comply with the laws of the local, state, and federal government concerning cancellations and refunds and must revise all policies and practices if laws are revised.
- (2) An authorized institution may use the following refund policies:
 - (a) The refund policy contained in paragraph (3) of this rule;
 - (b) An institution policy, as provided for in paragraph (3) of this rule except the institution may increase the percentage listed in paragraph (3)(c) to more than 20%; or
 - (c) As applicable, a refund policy mandated by an accreditor or as a condition for students of the institution to participate in a governmental student assistance program, such as Veterans Benefits.
- (3) The refund policy is as follows:
 - (a) A student who at any time withdraws, is withdrawn (including expulsion) by the institution, or otherwise fails to attend class is entitled to a full refund of any fee, regardless of whether the fee is included in tuition, paid to the institution for tangible goods or services not delivered to or fully provided to the student.
 - (b) In addition to subparagraph (3)(a) of this rule, if a student fails to begin class on the program start date as written in the enrollment agreement or as amended by the institution, the refund shall equal the sum of all refundable fees paid and, if the student has institutional loans, forgiveness of the amounts owed by the student, less an administrative fee of one hundred dollars (\$100.00).
 - (c) In addition to subparagraph (3)(a) of this rule, if after the program has commenced and before expiration of twenty percent (20%) or less of the period of enrollment for which the student was charged, a student withdraws, is withdrawn (including expulsion) by the institution, or otherwise fails to attend classes, the refund shall be a pro rata portion of refundable fees, less an administrative fee of one hundred dollars (\$100.00). If applicable, the refund shall include forgiveness of institutional loans. For

(Rule 1540-01-02-.17, continued)

example, if a student's last day of attendance equals ten percent (10%) of the period of enrollment for which the student was charged, the institution is entitled to retain only ten percent (10%) of the refundable fees charged for the period of enrollment as well as one hundred dollars (\$100.00). However, in no instance will the institution be responsible for any refund in excess of the amount paid by or on behalf of the student for the period of enrollment for which the student was charged.

- (d) Except as provided for in subparagraph (3)(a) of this rule, if after expiration of twenty percent (20%) of the period of enrollment for which the student was charged, a student withdraws, is withdrawn (including expulsion) by the institution, or otherwise fails to attend classes, the student may be deemed obligated for one hundred percent (100%) of the refundable fees charged by the institution up to the last period of enrollment charged.
 - (e) For a student who cannot complete one (1) or more classes because the institution discontinued such a class during a period of enrollment for which the student was charged, the institution shall refund the sum of all refundable fees paid and, if the student has institutional loans, forgive the amounts owed by the student.
- (4) For purposes of calculating percentages of attendance in clock hour programs the number of scheduled hours up to the last date of attendance will be the numerator. For credit hour programs, percentages are calculated based on calendar days.
 - (5) When computing refunds pursuant to the refund policy, the last day of attendance for a student who meets the definition of enrolled shall be either:
 - (a) The date of the student's last recorded day of attendance or
 - (b) When applicable, the date the student failed to return from an approved leave of absence.
 - (6) Pursuant to Rule .15(4) of these rules, the reconciled account statement must indicate the period of enrollment for which the student is being charged for each tuition charge. If the institution does not maintain the requisite account statement or the reconciled account statement does not clearly indicate the period of enrollment for which the student is being charged, the institution shall be liable for all refundable fees paid by or on behalf of the student.
 - (7) In any event, the last date of attendance will be determined and any refund due disbursed within forty-five (45) calendar days of the last date of attendance.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008, and 49-7-2013. **Administrative History:** Original rule filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.18 STATISTICAL DATA COLLECTION.

- (1) Annually by October 15 or the next business day if October 15 is a state holiday or weekend day, all authorized institutions shall provide student-level statistical data on a Commission data form that will allow Commission staff to calculate the following statistical information by institution and program:
 - (a) The enrollment count;

(Rule 1540-01-02-.18, continued)

- (b) Demographic statistics;
 - (c) Withdrawal rates;
 - (d) Completion rates;
 - (e) Number of credentials awarded;
 - (f) Categories of credentials awarded;
 - (g) Placement rates;
 - (h) In-field placement rates; and
 - (i) Average time to completion.
- (2) THEC shall publish the results of its calculations on its website except that withdrawal, completion, placement, and in-field placement rates shall not be reported for programs with ten (10) or fewer students.
- (3) Data shall include all students enrolled at the institution between the twelve (12) months beginning July 1 and ending June 30 of the year prior to the report.
- (4) Data form:
- (a) Commission staff will provide institutions either a blank data form or a spreadsheet that is prepopulated with continuing student data.
 - (b) At a minimum, the data form shall include:
 - 1. Student's first name, middle initial, and last name;
 - 2. Student's social security number or unique student identification number;
 - 3. Demographic information, such as race, gender, and date of birth;
 - 4. Program name;
 - 5. Program code;
 - 6. Date started;
 - 7. Date completed or date withdrawn; and
 - 8. Placed or placed in-field along with employer contact information.
- (5) All authorized institutions shall maintain in the student's file evidence of placement sufficient for Commission staff to verify placement. Depending on the field, sufficient evidence includes a written record of an employee of the institution, correspondence from the student, or evidence from a social media site or post indicating that the student is working independently.
- (6) If annual average institutional or individual program withdrawal rates exceed twenty-five percent (25%) or if annual average institutional or individual program in-field placement rates are less than seventy percent (70%), institutions shall explain the circumstances contributing

(Rule 1540-01-02-.18, continued)

to these rates, demonstrate how these rates are not an indicator of poor instructional value and administrative capability, and describe what actions the institution will take to lower the withdrawal rates and/or increase the in-field placement rates. Additionally, Commission staff may compare an institution's rates to the state average for that type of institution and/or program. Institution types are unaccredited, accredited non-degree granting, and accredited degree granting; program type is based on CIP codes and length. When an institution-level or program-level rate fails to meet the state average for two (2) consecutive years Commission staff may recommend to the Executive Director that adverse action be taken against the institution.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013, and 49-7-2022 and 2016 Acts, Ch. 868. **Administrative History:** Original rule filed June 15, 1992; effective September 28, 1992. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.19 FAIR CONSUMER PRACTICES AND COMPLAINTS.

- (1) All institutions and their administrative personnel, instructors, agents, and other staff shall act in accordance with fair consumer practices. Fair consumer practices means honesty, fairness, and disclosure to students in areas including, but not limited to, class schedules, recruitment, admissions, contractual agreements, student financial assistance, obligations to repay student loans, placement assistance, job placement rates, advertising, refund policies, the meaning and recognition of different types of accreditation, the transferability of the institution's credits to other postsecondary institutions, and competitors.
 - (a) Institutions shall ensure that nothing is hidden and all verbal and written representations by the institution are accurate.
 - (b) Fair consumer practices require an institution to apply its policies as written. The student shall be subject to the written policies in place at the time of the student's initial enrollment into the applicable program. Any changes to the written policies that occur during the student's period of enrollment shall only be applied to the student if the student signs and dates a document acknowledging the new policy and agreeing that said policy shall be applied to the student.
 - (c) As applicable, verbal and written representations must reasonably allow enrolled or prospective students to make informed decisions concerning their investment of time or money and provide information needed to understand, evaluate, and comply with institution policies and program requirements.
- (2) Students have a reasonable expectation to complete programs as printed in the institutional catalog at the time of enrollment.
- (3) Institutions may not use mandatory arbitration provisions.
- (4) Findings by Commission staff and/or ongoing complaints by current or prospective students that show a pattern of misinformation, misrepresentation, lack of disclosure, or discrepancies

(Rule 1540-01-02-.19, continued)

between verbal and written information, intimidation, or coercion may require corrective public announcements in addition to adverse action as set forth in Rule .22 of these rules.

- (5) An institution must report to Commission staff in writing within thirty (30) calendar days any unresolved written complaint filed in a Tennessee court about the institution of which the institution is knowledgeable.
- (6) Institutions may provide a discount for cash payments provided:
 - (a) The institution has a written policy in the catalog that includes the definition of cash and details the qualifications for receiving and the amount of a cash discount; and
 - (b) The student verifies receipt and understanding of the policy in the pre-enrollment checklist.
- (7) An institution may award a scholarship, tuition waiver, or other similar award provided:
 - (a) The eligibility requirements for the offering, including terms, conditions, application procedures, due dates, basis for selection, and amount to be awarded, are clearly defined in writing;
 - (b) The institution has a form and procedure to verify eligibility; and
 - (c) The amount of the award is a flat dollar amount or subject to calculation using a defined formula or scale.
- (8) Any person claiming damage or loss as a result of any act or practice by an authorized postsecondary educational institution or its agent that is a violation of the Act or these rules, may file a verified complaint on forms provided by the Commission. Any student who files a complaint or on behalf of whom a complaint is filed must first exhaust the grievance process at the institution. Parties to the complaint shall be the complainant and any named institution or agent thereof. The investigation and further review of written complaints will occur in accordance with the following provisions:
 - (a) Complaints shall be signed and submitted as provided for in Rule .24 of these rules.
 - (b) Any complaint as described in subparagraph (a) shall be commenced within three (3) years of the subject student's withdrawal from or completion of the program or course of enrollment.
 - (c) Any named institution or agent will receive a copy of the complaint and be provided an opportunity to respond to all allegations contained in the complaint.
 - (d) Any named institution or agent shall provide all information requested by Commission staff as part of the investigation.
 - (e) As part of the investigation process, Commission staff may work with the complainant and the named institution or agent to effectuate a resolution.
 - (f) When resolution is not reached and if, based on all the evidence obtained through the investigation, Commission staff finds that any person, agent, group, or entity is, is about to, or has been violating the Act or these rules:
 1. Commission staff may recommend that the Executive Director take action as provided for in T.C.A. § 49-7-2010 and § 49-7-2017 and these rules. Parties to

(Rule 1540-01-02-.19, continued)

- the complaint shall be provided an opportunity to show cause why such recommendations should not be forwarded to the Executive Director. Such opportunity shall detail the basis for the findings and provide any party ten (10) business days to respond.
2. The Executive Director shall act on a recommendation from Commission staff after the time for the show cause response has expired by providing a Notice of Decision to the parties to the complaint. Such notice shall explain the right to a hearing and review by the Commission as provided in T.C.A. § 49-7-2012. Any request for review shall be filed with the Commission within ten (10) business days of the date of the Notice of Decision, otherwise the action of the Executive Director shall be deemed final and no further review available. Any request for review shall be in writing, signed, and provide a detailed explanation of each alleged error with references to specific statutes or rules. A request may be denied if it is not received in a timely manner.
- (g) When resolution of the complaint is not reached and if, based on all the evidence obtained through the investigation, Commission staff makes no findings or determines that an adverse action recommendation is not justified:
1. Commission staff shall provide the parties to the complaint notice of the lack of findings or determination.
 2. If, upon written notification of any action taken by Commission staff, an aggrieved party to a complaint desires a review by the Executive Director, the party shall notify the Executive Director within ten (10) business days of the date of the action of Commission staff, otherwise the action of Commission staff shall be deemed final and no further review available. Any request for review by the Executive Director shall be in writing, signed, and provide a detailed explanation of each alleged error with references to the Act or these rules. A request may be denied if it is not received in a timely manner.
 3. If, upon written notification of any action taken by the Executive Director, an aggrieved party to the complaint desires a hearing and review by the Commission, pursuant to T.C.A. § 49-7-2012, the party shall notify the Commission within ten (10) business days of the date of the action of the Executive Director, otherwise the action of the Executive Director shall be deemed final and no further review available. Any request for review by the Commission shall be in writing, signed, and provide a detailed explanation of each alleged error with references to the Act or these rules. A request may be denied if it is not received in a timely manner.
- (h) Any party to the complaint aggrieved or adversely affected by any final Commission action may obtain judicial review of the action as provided in T.C.A. § 49-7-2012.
- (i) A complaint investigation may be placed on hold or closed if litigation or investigation involving similar issues is on-going at any court or other government agency.
- (9) Notwithstanding the provisions of paragraph (8) of this rule, Commission staff may take appropriate action to investigate any complaint or suspected non-compliance in order to protect the public interest.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008, 49-7-2011, and 49-7-2013 and 2022 Tenn. Pub. Ch. No. 1044. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County](#)

(Rule 1540-01-02-.19, continued)

Chancery Court's October 2011 order. See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.20 REPRESENTATIONS, ADVERTISING, AND SOLICITATIONS.

- (1) Institutions may reference having authorization in advertising, promotional material, and on letterhead stationery using the following language: "(name of institution) is authorized for operation by the Tennessee Higher Education Commission." The entire statement must appear with the same size and type of font used throughout the statement.
- (2) Entities or individuals that own an authorized institution as well as a related business, for example, truck driver training and trucking company, must maintain clear separation in function and advertising of the business and the institution.
- (3) The Commission logo may not be used by an institution.
- (4) Institutions authorized by the Commission that have a website on, advertise through, or offer instruction via the internet must state on the institution's home page or Tennessee specific webpage: "[name of institution] is authorized for operation as a postsecondary educational institution by the Tennessee Higher Education Commission." The entire statement must be used, have the same size font, and type of print. The reference to the "Tennessee Higher Education Commission" must be a hyperlink to www.tn.gov/thec.
- (5) No statement shall be made that the institution or its courses of instruction have been accredited unless the accreditation is identified and is an accreditor recognized by the U.S. Department of Education.
- (6) No statement shall be made that the institution or its courses of instruction have been approved by a state or the federal government unless the approval can be substantiated by an appropriate certificate or letter of approval issued by the approving agency of the state or federal government.
- (7) All advertisements seeking prospective students must include and clearly indicate the full and correct name of the institution, the authorized location city, and, if out-of-state, the authorized location state.
- (8) Any promotion of the institution must primarily be based on the institution's educational programs, not student aid promotion or the number of jobs available, must not guarantee employment, and must comply with fair consumer practices as described in Rule .19 of these rules.
- (9) Other than entry level salary data available on a Tennessee or federal government website, no dollar amount will be quoted in any advertisement as representative or indicative of the earning potential of graduates without prior approval by Commission staff.
- (10) Institutions shall not use images of any kind in such a manner as to convey a false impression as to the location's size, importance, equipment, or facilities.

(Rule 1540-01-02-.20, continued)

- (11) Institutions or representatives shall not make deceptive statements concerning other institutions when attempting to enroll students.
- (12) Other than referencing the most recent rates calculated by Commission staff, no institution shall use job placement percentages or related statistics except by written permission of Commission staff.
- (13) If loans are available at the institution, the school may advertise them only with the language "student loans available" in type no larger than that used for the name of the institution. This does not preclude disclosure of the institution's eligibility under the various state and federal loan programs.
- (14) Promotional materials or agent solicitation practices must not state or infer that programs are available on a free tuition basis unless the tuition and other fee amount reported to Commission staff is zero (0).
- (15) No statement shall be made by an institution that the programs or courses are transferable to another institution without a current articulation agreement or transfer of credit agreement.
- (16) Claims must not be vague. For example, "award winning" institution should include the full name of the award in advertisement; specify year of any such attainment, and the source of the award.
- (17) No institution may publicize, promote or imply an accreditation that is not recognized by the U.S. Department of Education.
- (18) If an institution represents that it has an educational certification from any entity, other than those given by other Tennessee agencies, the institution must produce at the request of Commission staff proof of such certification.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008, and 49-7-2013. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.21 AUTHORIZATION STATUS.

- (1) Provisional Initial Authorization:
 - (a) An award of provisional initial authorization shall be subject to review and ratification by the Commission.
 - (b) If an award of provisional initial authorization is ratified by the Commission, authorization becomes regular or conditional as determined by the Commission.
 - (c) If an award of provisional initial authorization is not ratified by the Commission, the institution shall cease all activities and operations as directed by Commission staff in accordance with the Act and these rules.

(Rule 1540-01-02-.21, continued)

- (d) An institution awarded provisional initial authorization may engage in activities and operations; however, limitations as to time, procedures, functions, or other conditions may be imposed as deemed necessary. Such limitations may include, but not be limited to, notifying prospective students in the enrollment agreement that the institution:
 - 1. Is authorized provisionally subject to ratification by the Commission, and
 - 2. Notwithstanding Rule .17 of these rules, must refund all moneys paid by or on behalf of prospective or enrolled students in the event that the Commission does not ratify the award of provisional authorization thereby requiring the institution to cease activities or operations such that students are unable to begin or complete the program of enrollment.
- (2) Regular Authorization:
 - (a) Provisional authorization shall become regular authorization following review and ratification of the Commission.
- (3) Conditional Authorization or Registration:
 - (a) Conditional authorization or registration is authorization or program registration, but with conditions, such as reporting requirements, performance standard requirements, securing new or additional bonds, a limited period of time to operate such as during change of ownership, or for the purpose of teaching out existing students. Institutions with conditional authorization or registration may also be required to suspend or cease any part of institutional activity, such as enrolling students, advertising, or conducting specific classes or programs. Such suspension or cessation shall remain in effect until activities precipitating the condition are corrected and Commission staff has completed all related reviews and investigations. Conditional authorization or registration may be issued when deemed necessary to protect the public interest.
 - (b) An institution may request conditional authorization, including, but not limited to, suspension of the operation, rather than expose the institution to adverse action, for situations such as unexpected loss of lease, extended inactivity, or reorganization.
 - (c) Nothing in this section shall be construed to absolve institutions of their educational and financial obligations to currently enrolled students.
- (4) Revocation of Authorization or Program Registration:
 - (a) Revocation of authorization or program registration is the immediate and complete withdrawal of the institution's authorization or program registration to enroll, advertise, or operate a postsecondary educational institution in the state.
 - (b) Possible grounds for immediate revocation of authorization or program registration include but are not limited to:
 - 1. Loss of right to use the authorized location without immediate notification to the Commission;
 - 2. Instances where a principal party has been or is involved with a postsecondary educational institution that ceased or ceases operation resulting in a loss of time

(Rule 1540-01-02-.21, continued)

- or money for enrollees or prospective students, or that had or has its institutional authorization in a state revoked;
 - 3. A pattern of deceptive practices;
 - 4. Failure to correct any situation that resulted in conditional authorization or program registration within a reasonable time period to be determined by the Executive Director;
 - 5. Disregard for any specific directive issued by the Commission, the Executive Director, or Commission staff;
 - 6. Failure to pay assessed fines;
 - 7. Closing an institution without proper notification to the Commission or failure to complete all required closure obligations; and
 - 8. Failure to submit a Certification of Compliance by the required due date or a Reauthorization Application by the authorization term expiration.
- (c) Revocation of authorization or program registration shall not relieve an institution of complete compliance with the requirements in these rules applicable to an institution closing, including, but not limited to, refunds to students, arranging instructional teachouts, and securing the disposition of student records.

Authority: T.C.A. §§ 49-7-2004, 49-7-2005, 49-7-2008, and 49-7-2010. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.22 CAUSES FOR ADVERSE ACTION.

- (1) The Commission or Executive Director in the interest of the public welfare, consumer protection and statutory responsibility may assess fines of five hundred dollars (\$500) per day per violation or revoke or make conditional the authorization of an institution or its program registrations under the process as given in subparagraph .02(2)(e) of these rules for reasons including, but not limited to:
- (a) Disregard of provisions of the Act and/or these rules;
 - (b) Willful violation of any commitment made in an application for authorization or reauthorization;
 - (c) Presenting to the general public or students or prospective students information that violates Fair Consumer Practices as outlined in these rules;
 - (d) Advertising, recruiting, or operating a group of classes or a program that has not been approved by the Commission;

(Rule 1540-01-02-.22, continued)

- (e) Failure to provide or maintain premises or equipment in a safe and sanitary condition as required by laws, regulations, or ordinances applicable at the authorized location of the institution;
 - (f) Failure to provide and maintain adequate faculty and/or staff;
 - (g) Failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered;
 - (h) Operating a postsecondary educational institution at a location that has not been authorized by the Commission;
 - (i) Failure to correct findings or areas of non-compliance resulting from an authorization site visit, investigation, or audit;
 - (j) A pattern of coercion, threats, or intimidation by institutional personnel to students or other school personnel;
 - (k) Failure to advise the Commission about significant factors, such as:
 - 1. Financial difficulties affecting program consistent with the objectives of the course or program of study, including, but not limited to, when applicable, receipt of Title IV funds;
 - 2. Significant staff changes in a short period of time;
 - 3. Change of ownership;
 - 4. Outcomes of audits by other government agencies;
 - 5. Any factor or clearly developing factor that could alter the basis for authorization;
 - 6. Loss or lowering of accreditation status; and
 - 7. Legal action against the Tennessee authorized school;
 - (l) Activities described in Rule .21 of these rules;
 - (m) Failure to comply with the requirements of the tuition guaranty fund under § 49-7-2018 and the related rules;
 - (n) Submitting false information in any application or correspondence related to an audit, investigation, or complaint; and
 - (o) Retaliating against a complainant who exercises their right to complain.
- (2) Repeated and/or consistent violations of the Act or these rules, particularly in the same areas such as advertising, fair consumer practices or operational standards may be grounds for conditional or revocation of authorization in addition to fines.
- (3) Institutions that advertise in formats that will be in the public domain for long periods and where such advertising cannot be rewritten or retracted may be fined in accordance with the Act and these rules for each day, week, or month the advertisement is in active circulation.

(Rule 1540-01-02-.22, continued)

- (4) Commission staff at any time may require that an institution furnish proof to the Commission of any of its advertising claims. If proof acceptable to Commission staff cannot be furnished, Commission staff may recommend to the Executive Director that the institution publish a retraction of such advertising claims in the same manner as the claims themselves. Continuation of such advertising shall constitute cause for further adverse action.
- (5) Any action by the Commission or Executive Director under this rule shall be subject to review as provided in T.C.A. § 49-7-2012. All Commission actions are subject to due process provisions of the Uniform Administrative Procedures Act.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2010. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed February 3, 2000; effective June 28, 2000. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.23 INSTITUTION CLOSURE.

- (1) When an authorized postsecondary educational institution proposes to discontinue its activities or operation, including allowing authorization to expire, such institution shall notify Commission staff within seventy-two (72) hours of that decision.
- (2) Commission staff will provide the institution a list of items that must be provided to Commission staff to close the institution in good-standing and a due date by which to provide the items. The list may include, but is not limited to:
 - (a) Anticipated date to terminate teaching activity;
 - (b) Ending date of present term;
 - (c) A listing by name of all students in all programs. Such list shall include student's social security number, unique student identification number, address, phone number, program of enrollment, and estimated completion dates;
 - (d) The status of all current refunds due or the amount of unearned tuition paid by each student and for which the institution is obligated;
 - (e) A verified agreement with one or more local institutions able to provide sound education to all students in all programs;
 - (f) Disposition and servicing of all academic records as required by T.C.A. § 49-7-2016;
 - (g) A request for conditional authorization where required;
 - (h) Updated statistical data;
 - (i) Official transcripts and certificates for all students enrolled at the institution since it was first authorized and any transcripts or certificates held by the institution that were awarded by another institution that had previously closed and deposited its records with the institution or that was purchased; and
 - (j) Demonstration that current educational obligations by the institution will be met on behalf of the presently enrolled students.

(Rule 1540-01-02-.23, continued)

- (3) An institution that ceases operations shall maintain sufficient and qualified faculty, staff, and equipment to teach all subjects to all currently enrolled students, regardless of the size of the class, until such time as the institution closes.
- (4) Should the institution fail to make arrangements satisfactory to the Commission staff for the completion of the programs in which the currently enrolled students are enrolled and/or for the reimbursement of unearned tuition and fees, the institution shall be subject to fines. Unearned tuition is not the same as a refund calculation or return to Title IV calculation. Unearned tuition shall be calculated as provided for in Rule Chapter 1710-01-02.
- (5) Institutions that close without proper notification to the Commission or that fail to comply with closure obligations given in this rule may be deemed retroactively by the Executive Director to have had the institutional authorization officially revoked. Such a revocation status shall be maintained as part of the Commission closure file on that institution and any individuals directly involved, including, but not limited to, the director, owners, and/or the board chair.
- (6) Student Completion of Education (“Teachouts”):
 - (a) The Executive Director may approve other authorized or exempt institutions to teachout students who were currently enrolled in an institution which ceases operation. An approved teachout institution shall:
 1. Offer the course of study or similar course of study as those offered at the closed institution;
 2. Be in the same geographic area as that in which the closed institution existed or provide necessary transportation expenses;
 3. Provide the student the opportunity to complete the program at no cost in excess of that for which the student originally contracted at the closed institution;
 4. Accept any and all credits earned at the closed institution; and
 5. Not reduce total course hours required for the student to complete.
 - (b) If the closed or closing institution fails to provide an acceptable plan to the Executive Director, Commission staff may work toward effecting teachout arrangements or transfer agreements with other authorized institutions.
 - (c) Teachout plans may involve other institutions or be carried out by the terminating institution as circumstances may dictate.
- (7) As an alternative to the deposit of records with the Commission, the institution may propose a plan for permanent retention of the records for consideration by Commission staff.

Authority: T.C.A. §§ 49-7-2002, 49-7-2005, and 49-7-2016. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court’s October 2011 order](#). See also [Attorney General’s Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017.

(Rule 1540-01-02-.23, continued)

Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.24 FILING METHODS AND REQUIREMENTS.

- (1) Applications shall be filed electronically as prescribed in the application or using DPSA's electronic forms portal.
- (2) As to any filing requiring the payment of a fee, the fee must be submitted along with the filing or else the filing will be considered incomplete pursuant to Rule .07(1) of these rules.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2018. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed February 3, 2000; effective June 28, 2000. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.25 FEES.

- (1) All fees collected pursuant to the provisions of the Act shall be deposited in the state treasury as a special agency account to administer the provisions of the Act.
- (2) Annual fees shall be paid with the Reauthorization Application and Certification of Compliance as follows:
 - (a) Annual Fee:
 - 1. A fee of five hundred dollars (\$500) if enrollment is zero (0) to three hundred (300) students;
 - 2. A fee of one thousand five hundred dollars (\$1,500) if enrollment is three hundred and one (301) to six hundred (600) students; and
 - 3. A fee of three thousand five hundred dollars (\$3,500) if enrollment is six hundred and one (601) or more students.
 - (b) Application or Certification Deadline Extension Fee \$500
 - (c) Late Application or Certification Fee \$500
- (3) The following fees apply to the filing of applications and other services:
 - (a) Initial Authorization Application \$3,000
 - (b) Program Registration Request \$500
 - (c) Authority for Unaccredited Institutions to Grant Degrees (paid in addition to the Program Registration Request fee) \$1,000
 - (d) Credential Level Elevation for Authorized Institutions (paid in addition to the Program Registration Request fee) \$2,000

(Rule 1540-01-02-.25, continued)

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|-----|---------------------------------------------------------|--------------------------|
| (e) | Institution Name Change Application | \$500 |
| (f) | Change of Location Application | \$500 |
| (g) | Fines (assesses at a maximum of per day, per violation) | \$500 |
| (h) | Exemption Determination Request | \$100 |
| (i) | Closed Institution Transcript Request | \$10 |
| (j) | Convenience Charge for Electronic Payments | amount charged by vendor |

Authority: T.C.A. §§ 49-7-2005, 49-7-2014, and 49-7-2017. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendment filed May 14, 2009; effective July 28, 2009. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Emergency rules filed June 29, 2022; effective July 1, 2022 through December 28, 2022. Amendments filed September 30, 2022; effective December 29, 2022.

1540-01-02-.26 REFUND OF REGULATORY FEES.

- (1) At the request of an institution a refund will be made as follows:
 - (a) If an institution withdraws an application within three (3) business days from filing, then all fees assessed less the convenience charge for electronic payments shall be refunded. Thereafter all fees are nonrefundable.
 - (b) Institutions that fail to complete the application process described in Rule .07(1) of these rules shall forfeit all fees paid.
- (2) Fees for a Closed Institution Transcript Request and convenience charges for electronic payments are nonrefundable.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2014. **Administrative History:** Original rule filed April 1, 2013; to have been effective September 28, 2013. However, a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However, the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014. Emergency rules filed August 15, 2016; effective October 3, 2016 through April 1, 2017. Repeal and new rules filed December 21, 2016; effective March 21, 2017. Amendments filed September 30, 2022; effective December 29, 2022.