

Mike Krause
Executive Director



Bill Lee
Governor

State of Tennessee
Tennessee Higher Education Commission
9th Floor, 312 Rosa L. Parks Avenue
Nashville, TN 37243
(615) 741-3605

Memorandum

To: Stephanie Bellard Chase
Division of Postsecondary State Authorization
Tennessee Higher Education Commission

From: Mike Krause, Executive Director
Tennessee Higher Education Commission 

Date: October 6, 2020

Re: Waiver of Provisions of Rules 1540-01-02-.07(5) and (7)

On the advice of Commission Staff and in consultation with the Tennessee Higher Education Commission (THEC), Rule 1540-01-02-.02(2)(c) authorizes me to waive the rules and regulations found in Rule Chapter 1540-01-02 upon well-documented extraordinary cause, when necessary for the public interest, and when consistent with the Tennessee Higher Education Authorization Act of 2016 (HEAA). Recently, you advised that I waive two provisions in Rule 1540-01-02-.07 in an effort to reduce regulatory requirements applicable to authorized institutions during the on-going Coronavirus Disease (COVID-19) pandemic and to improve the workflow of the Division of Postsecondary State Authorization (DPSA).

I agree with your advice. The waivers, as detailed below, are a simple and useful approach to reducing an institution's regulatory requirements during the extraordinary pandemic facing our state. The waivers will also allow DPSA to focus its limited resources on explicit statutory requirements such as considering initial applications for authorization and investigating student complaints. Clearly, these waivers are necessary to the public interest. Additionally, the waivers are consistent with the HEAA.

Rule 1540-01-02-.07(5)(c)

Currently, Rule 1540-01-02-.07(5)(c) states:

When an institution revises an approved program, then the institution must seek approval from Commission staff by submitting a Program Revision Notification at least thirty (30) days prior to implementing the revision. If the program revision amounts to change of more than twenty-five percent (25%) in the last twelve (12) months or if Commission staff determines a significant revision has occurred, then the institution must submit a New Program Application prior to implementing the revision.

In accordance with Rule 1540-01-02-.02(2)(c) and through this memorandum, this temporary waiver will allow an institution to revise a program without filing a Program Revision Notification. An institution revises a program when it changes any element of a program that has been approved by THEC, for example, the name of the program, tuition, credit or contact hours, other fees, length, and curriculum, or when it changes the status of the program, for example, inactivates or discontinues the program.

An institution will still be required to file a New Program Application, as provided for in the current rule, if Commission Staff determines that the institution has implemented a program revision of more than twenty-five percent (25%) in the last twelve (12) months, has changed the delivery mode of a program, or if Commission staff determines a significant revision has occurred.

As to a change of program name or credential, an institution must notify Commission staff at least thirty (30) days prior to the effective date of the change. Notification shall be made by email to THEC.DPSA-Application@tn.gov and must explain the specific change and the proposed effective date.

Rule 1540-01-02-.07(7)

Authorized Institutions must provide and maintain qualified faculty and staff in order to fulfill the mission of the institution and all obligations to the students. Currently, Rule 1540-01-02-.07(7) requires institutions, depending on accreditation, to submit faculty and staff member qualifications on a School Personnel Application no later than ten (10) business days after the hire date. In accordance with Rule 1540-01-02-.02(2)(c) and through this memorandum, this temporary waiver will allow, with the exception of the institutional director, institutions to maintain evidence of the faculty and staff qualifications on-site and eliminate the need to submit the School Personnel Application to DPSA.

Such evidence shall clearly indicate that the faculty or staff member meets all institution qualifications and the qualifications listed in Rule 1540-01-02-.16(5). Per Rule 1540-01-02-

.16(1), “[i]nstitutions must submit a copy of this evidence at any time upon receiving a request from Commission staff.” An institution shall submit a School Personnel Applications to DPSA for institutional directors no later than ten (10) business days after the director’s hire date.

These waivers shall remain in effect until I determine that there is no longer sufficient cause and it is no longer necessary to the public interest or until rule revisions are promulgated in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 5, Chapter 4, Part 2.

Signature: 
MIKE KRAUSE (Oct 12, 2020 14:04 CDT)
Email: mike.krause@tn.gov