



MIKE KRAUSE
Executive Director

STATE OF TENNESSEE
HIGHER EDUCATION COMMISSION
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BILL HASLAM
Governor

MEMORANDUM

TO: All Authorized Postsecondary Educational Institutions

FROM: Dr. Stephanie Bellard Chase, Associate Executive Director, DPSA *SBC*

DATE: May 31, 2018

RE: Collection of Student Level Statistical Data

On May 30, 2018, Mike Krause, the Executive Director of the Tennessee Higher Education Commission (THEC) adopted the recommendation of the Division of Postsecondary State Authorization (DPSA) to exercise his authority under Rule 1540-01-02-.02(c) to waive certain rules so that student level statistical data (SLSD) is collected annually on October 15 of each year. Thus, 2017/2018 SLSD will be due October 15, 2018. DPSA will distribute to all institutions prepopulated or blank SLSD spreadsheets on or before June 15, 2018. This waiver will remain in effect until the waiver is lifted or the rules are lawfully amended.

Collecting SLSD on a quarterly basis did not improve DPSA's workflow as expected and resulted in inequities to institutions and incomparable SLSD. There is well documented extraordinary cause for the rule waivers, and the waivers are necessary to protect the public interest and are consistent with the HEAA. Under the current collection process, institutions have different lengths of time during which to collect and report required data points, such as placed or placed-in-field. Treating our institutions equitably and using comparable SLSD is in the public interest and consistent with the HEAA.

If you have questions, please contact Julie Woodruff, Assistant Executive Director & Lead Attorney, at (615) 253-8857 or julie.woodruff@tn.gov.



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MEMORANDUM

TO: Dr. Stephanie Bellard Chase, Associate Executive Director, DPSA

FROM: Mike Krause, Executive Director, Tennessee Higher Education Commission MK

DATE: May 30, 2018

RE: Adoption of Recommendation to Waive Provisions of Rule 1540-01-02-.07(3) and 1540-01-10-.03(1) Related to the Collection of Student Level Statistical Data

On May 3, 2018, Commission staff of the Division of Postsecondary State Authorization (DPSA) recommended that I consult with the Tennessee Higher Education Commission and waive the provisions of Rules 1540-01-02-.07(3)(b)7 and 1540-01-10-.03(1)(c)11 related to the collection of student level statistical data (SLSD) as part of the reauthorization or optional expedited authorization (OEA) application.

I have reviewed the Recommendation Memorandum attached hereto from DPSA and consulted with the Commission. I conclude that DPSA's recommendation should be adopted as set forth in the memorandum. DPSA shall immediately notify all authorized institutions of this determination.





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Governor

RECOMMENDATION MEMORANDUM

TO: Mike Krause, Executive Director, Tennessee Higher Education Commission

FROM: Dr. Stephanie Bellard Chase, Associate Executive Director, DPSA 
Julie Woodruff, Assistant Executive Director & Lead Attorney, DPSA 

DATE: May 3, 2018

RE: Recommendation to Waive Provisions of Rule 1540-01-02-.07(3) and 1540-01-10-.03(1) Related to the Collection of Student Level Statistical Data

Commission staff of the Division of Postsecondary State Authorization (DPSA) recommends that the Executive Director pursuant to Rule 1540-01-02-.02(c) consult with the Tennessee Higher Education Commission (THEC or Commission) and waive the provisions of Rules 1540-01-02-.07(3)(b)7 and 1540-01-10-.03(1)(c)11 related to the collection of student level statistical data (SLSD) as part of the reauthorization or optional expedited authorization (OEA) application. Rule 1540-01-02-.02(c) provides: "On the advice of Commission staff, the Executive Director, in consultation with the Commission is authorized to waive these rules upon well documented extraordinary cause, where necessary to protect the public interest, and when consistent with the Act."¹ DPSA has concluded that the recommended waiver meets the criteria of Rule 1540-01-02-.02(c) as detailed below.

As part of the implementation of the Tennessee Higher Education Authorization Act of 2016 (HEAA), the Commission promulgated rules designed, in part, to better utilize the resources of DPSA. As a result, Rules 1540-01-02-.07(3)(b)7 and 1540-01-10-.03(1)(c)11 were drafted to include SLSD collection as part of the applications that are due from each

¹ This rule is incorporated into the rules governing institutions with optional expedited authorization. See Rule 1540-01-10-.01.

institution once a year on one of the quarterly deadlines. The previous rules required statistical reporting annually on October 15.²

We recommended the quarterly filing to spread work related to SLSD over the entire year thereby avoiding surges in workload. Recently, we reviewed this process as a result of our regular evaluation of workload and feedback from institutions. DPSA opines that the efficiency expected from quarterly SLSD collection has not been as expected and any efficiency realized is outweighed by inequities to institutions and potential inconsistency of SLSD.

There is well documented extraordinary cause for the rule waivers. Extraordinary cause exists because continued quarterly collection of SLSD will exacerbate the problems resulting from the current collection method and delay the implementation of Rule 1540-01-02-.18(6), which contains SLSD benchmarks. Timing is also of importance as the first set of 2017/2018 SLSD is due July 27. Exercising the authority of the Executive Director to issue waivers is the best tool available to quickly change the collection time and alleviate the concerns prior to July 27.

Not only is there extraordinary cause in this case, but as required by Rule 1540-01-02-.02(c), the waivers are necessary to protect the public interest and are consistent with the HEAA. Under the current collection process, institutions have different lengths of time during which to collect and report required data points, such as placed or placed-in-field. The chart below illustrates this point for the reporting period which ended on June 30, 2017:

Deadline Dates	Approximate Time to Report
July 28, 2017	<1 month
October 16, 2017	3.5 months
February 2, 2018	7 months
April 13, 2018	9.5 months

The differing lengths of time to report reveal at least two problems of critical concern. First, adverse action can be taken against institutions that do not meet certain benchmarks. See Rule 1540-01-02-.18(6). It is inequitable to take action against any institution for failing to meet benchmarks when all institutions do not have the same amount of time to collect and report SLSD. Second, the usefulness of the reported SLSD is questionable as it is not comparable. Certainly, treating our institutions equitably and using comparable SLSD is in the public interest and consistent with the HEAA; the stated purpose of which is "to provide for the protection, education, and welfare of the citizens of

² Rule 1540-01-02-.09 (Dec. 2014) required all institutions to submit a reauthorization application each October 15, including statistical reporting now referred to as SLSD.

this state, its postsecondary educational institutions, and its students, through regulatory oversight to ensure consumer protections are appropriately maintained”

DPSA is not recommending that THEC forego SLSD collection; rather the recommendation of DPSA is to alter the due date such that SLSD is collected once a year from all institutions. To this end, DPSA recommends that the Executive Director waive Rules 1540-01-02-.07(3)(b)7 and 1540-01-10-.03(1)(c)11, such that SLSD is collected annually on October 15 of each year from all authorized institutions. Thus, 2017/2018 SLSD will be due October 15, 2018. DPSA will distribute to all institutions prepopulated or blank SLSD spreadsheets on or before June 15, 2018.

DPSA recommends that this waiver remain in effect until the waiver is lifted or the rules are lawfully amended. Please contact us if you have any questions concerning this memorandum.