

**DATE:** July 20, 2016**SUBJECT:** Postsecondary Authorization Rule Revisions**ACTION RECOMMENDED:** Approval

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**BACKGROUND INFORMATION:**

Public Acts Chapter 868, referred to as The Higher Education Authorization Act of 2016 passed the General Assembly earlier this year. The Act contemplated substantive changes as well as the promulgation of new rules. Therefore, the Act was effective for rulemaking purposes when signed on April 19, 2016, yet the substantive provisions of the Act will not be effective until October 1<sup>st</sup> of this year.

The Act includes changes that are specific to degree granting, accredited institutions and others that are applicable to all institutions. Additionally, the Act directs the executive director to reexamine THEC's regulatory function and its structure "considering specifically, efficiency, adequacy, and overall effectiveness."

As to the promulgation of rules, the Act mandates that THEC seek input from institutions subject to the Commission's oversight. In furtherance of this mandate, the Division of Postsecondary State Authorization (DPSA) held workshops with authorized institutions on May 5th and 6th. Additionally, DPSA reviewed the rulemaking provisions in the Uniform Administrative Procedures Act and determined it was necessary to proceed with a dual rulemaking process, namely Emergency Rules and Rulemaking Hearing Rules, in order to ensure that rules are in place by October 3, 2016, the first business day following October 1, 2016. During the rulemaking hearing later this year, interested persons, including institutions subject to the Commission's oversight, will be able to provide comment.

Given the breadth of the legislative changes, DPSA is proposing to delete the rules in Rule Chapter 1540-01-02 in their entirety and replace them with new rules. Additionally, DPSA drafted a new rule chapter, Rule Chapter 1540-01-10, which applies to optional expedited authorization. Two versions of the rules are included in your materials; a version with all changes accepted and a redlined version. With one exception, the language before you will be used for both the Emergency Rule Filing Form and the Notice of Rulemaking Hearing. The exception is that the rules included with the Emergency Rule Filing Form will also include language at Rule 1540-01-02-.01(3) that reads: "These rules are filed as emergency rules and shall

take effect on October 3, 2016, the first business day following the effective date of Public Chapter 868.”

On July 7, 2016, the Committee on Postsecondary Educational Institutions voted unanimously to recommend that the Commission approve the proposed rule revisions for the purposes of proceeding with the rulemaking process. If the Commission adopts the Committee’s recommendation, then THEC will transmit the rules to the Office of the Attorney General for approval prior to submitting them to the Tennessee Secretary of State’s office.

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-.02 Role of the Commission, Executive Director, Committee, and Commission Staff  
1540-01-02-.03 Definitions  
1540-01-02-.04 Determination for Required Authorization  
1540-01-02-.05 Exemptions  
1540-01-02-.06 Minimum Standards and Requirements  
1540-01-02-.07 Institutional Applications  
1540-01-02-.08 Regulations for Specific Institutions and Programs  
1540-01-02-.09 Bonds  
1540-01-02-.10 Audits  
1540-01-02-.11 Institutional Catalog  
1540-01-02-.12 Admissions Standards  
1540-01-02-.13 Enrollment Checklists, Agreements, and Disclosures  
1540-01-02-.14 Financial Standards  
1540-01-02-.15 Institution and Student Records  
1540-01-02-.16 Personnel and Instructor Qualifications  
1540-01-02-.17 Cancellation and Refund Policy  
1540-01-02-.18 Statistical Data Collection  
1540-01-02-.19 Fair Consumer Practices and Complaints  
1540-01-02-.20 Representations, Advertising, and Solicitations  
1540-01-02-.21 Authorization Status  
1540-01-02-.22 Causes for Adverse Action  
1540-01-02-.23 Institution Closure  
1540-01-02-.24 Filing Methods and Requirements  
1540-01-02-.25 Fees  
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. 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 at Title 49, Chapter 7, Part 20. Institutions and agents must comply with the current language of the Act and these rules.

Authority: T.C.A. § 49-7-2014.

1540-01-02-.02 ROLE OF THE COMMISSION, EXECUTIVE DIRECTOR, COMMITTEE, 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 Committee on Postsecondary Educational Institutions and the Division of Postsecondary State Authorization regarding authorizations, program approvals, and any other matter at the request of the Commission's Executive Director.

- (2) Role of the Tennessee Higher Education Commission Executive Director:
- (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) Whenever Commission staff cannot resolve a complaint or dispute involving the Act or these rules, the Executive Director upon a written request from an aggrieved party that in the view of the Executive Director is justifiable will provide a review and/or hearing for parties involved prior to presentation of the unresolved complaint or dispute to the Commission.
  - (c) 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.
  - (d) The Executive Director may exempt a 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 and be subject to annual review.
  - (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. § 49-7-2010(b):
    - 1. assess fines under the Act and these rules;
    - 2. intervene to alter, place conditions on, suspend, or revoke, in full or in part, an institution's or agent's authorization to operate; and
    - 3. issue temporary or conditional authorization.
- (3) Role of the Committee on Postsecondary Educational Institutions (Committee):
- (a) The Committee shall meet quarterly or at the call of the Chairman of the Committee, at the call of a majority of the Committee members, or at the call of the Chairman of the Commission to serve as an advisory committee to the Commission.

- (b) At meetings, the Committee may take any action delegated to it by the Commission pursuant to T.C.A. § 49-7-207, including, but not limited to, making recommendations on:
    - 1. applications for authorization;
    - 2. applications for program approvals;
    - 3. proposed rules; and
    - 4. consideration of such other matters relating to the Act at the request of the Executive Director.
  - (c) The Committee and, as needed, other experts appointed by the Executive Director, may participate in institution site visits for purposes of evaluating compliance with the Act and these rules;
  - (d) The Committee shall exercise such other powers and undertake such other obligations as are delegated to it by the Commission under the provisions of the Act.
  - (e) The Chairman of the Committee may appoint subcommittees as needed.
- (4) Role of the Commission Staff:
- (a) Beginning October 1, 2016, 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 shall perform site visits and/or audits to review, inspect, and investigate locations as necessary to ensure compliance with the Act and these rules. Site visits or audits may be conducted at the discretion of Commission Staff for reasons including, but not limited to, authorization determinations, program approvals, 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 for submission of all fees, applications, and other materials to be included on the agenda for meetings of the Committee.
  - (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, Committee, or Commission.
  - (f) Commission Staff may recommend that the Executive Director take adverse action as described in Rule .22 of these rules.

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 or physical 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 or physical 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 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 Science, Master of Fine Arts, Master of Business Administration, Doctor of Philosophy, Doctor of Psychology, and Doctor of Education.
- (3) “Accreditation” is a non-governmental, peer evaluation of educational institutions and programs. Private educational associations of regional and national scope that have adopted criteria for educational programs and have developed procedures for evaluating institutions or programs. 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) “Act” means the Tennessee Higher Education Authorization Act of 2016, T.C.A. §§ 49-7-2001, et seq., as amended.
- (5) “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 revocation of authorization or approval.
- (6) “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 this part.
- (7) “Agent's permit” means a nontransferable written authorization issued to a natural person by Commission Staff that allows that person to solicit, recruit, or enroll students for education in an authorized postsecondary educational institution.
- (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 institution will meet the admission education requirement for a program leading to a higher credential at a second institution.

- (9) "Associate's 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 to operate" means approval of the Commission to operate or to contract to operate a postsecondary educational institution in this state as described in T.C.A. § 49-7-2007(1) – (3) or (5). Authorization to operate is for a specified time at a specified location. Institutions shall not use an authorization to operate to connote greater approval than simple permission to operate. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."
- (11) "Authorization site visit" means an institutional site visit conducted by Commission Staff or a Committee member to verify 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.
- (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 500 contact hours normally with a single skill objective.
- (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) "Committee" means the Committee on Postsecondary Educational Institutions.
- (19) "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,  $\text{Completion Rate} = \frac{\text{Number of Completions}}{\text{Number Not Currently Enrolled} - \text{Special Circumstance Withdrawals}} \times 100$ .
- (20) "Contact hour" means a sixty (60) minute period of time that contains at least fifty (50) minutes of actual directed or supervised instructional time.
- (21) "Degree" means an educational credential from a postsecondary educational institution with the term associate, bachelor, masters, specialist, or doctor in the credential designation.
- (22) "Degree-granting postsecondary educational institution" includes institutions offering education or training above the high school level and where the institution awards degrees, such as associate, bachelors, masters, specialist, or doctoral degrees.
- (23) "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.

- (24) "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.
- (25) "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- .
- (26) "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.
- (27) "Enrollment" refers to those students who have attended one (1) session of class, turned in one (1) assignment, or received one (1) distance learning lesson.
- (28) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers or words 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.
- (29) "Educational service" means any class, course or program of training, instruction or study.
- (30) "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.
- (31) "General education courses" means academic subjects intended to broaden communication/language skills, contribute to the intellectual growth of the student and give balance to the total program beyond the area of vocational or professional concentration.
- (32) "Independent certified public accountant" means a certified public accountant not associated with the institution, its owners, or its affiliated businesses.
- (33) "In-field placement rate" means the Number Placed In-Field as a percentage of number placeable, that is,  $\text{In-Field Placement Rate} = \frac{\text{Number Placed In-Field}}{\text{Number Placeable}} \times 100$ .
- (34) "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.
- (35) "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.

- (36) "Location" means an address that is zoned for commercial purposes for use as a postsecondary educational institution.
- (37) "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.
- (38) "Non-degree-granting postsecondary educational institution" includes all postsecondary educational institutions that do not meet the definition of a degree-granting postsecondary educational institution. Non-degree granting postsecondary institutions are frequently referred to as "career," "vocational," or "technical" schools. Non-degree granting postsecondary educational institutions are institutions offering programs designed primarily for job entry or upgrading of skills and usually measured in contact hours. These programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to affect outcomes.
- (39) "Other fees" means fees, other than tuition, 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, graduation fees, or fees paid for housing, meals, or transportation.
- (40) "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.
- (41) "Ownership" means ownership of a controlling interest in the institution or in the event the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling the institution.
- (42) "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:
- (a) operating an instructional site 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.
- (43) "Placement rate" means the number placed as a percentage of the number placeable, that is,  $\text{Placement Rate} = \text{Number Placed} / \text{Number Placeable} \times 100$ .

- (44) "Postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives.
- (45) "Quarter" is a period of instruction into which the academic year is divided. A quarter must consist of at least ten (10) weeks.
- (46) "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.
- (47) "Refundable fees" means any fees paid by or on behalf of the student to the institution but excluding fees paid for (1) tangible goods retained by the student or (2) services provided in full to the student.
- (48) "Residential course" means a course in which the student comes to an institution's authorized location as opposed to a course where the student and the instructor are in different locations.
- (49) "Semester" is a period of instruction into which the academic year is divided. A semester must consist of at least fifteen (15) weeks.
- (50) "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.
- (51) "Solicitation" means contact, written or verbal, on behalf of an institution for the purpose of supplying information in an attempt to enroll Tennessee residents.
- (52) "Specialist Degree" means an advanced master's degree or post-master's degree with requirements less than those required for a doctoral degree.
- (53) "These rules" means all rules contained in Rule Chapter 1540-01-02.
- (54) "Time to completion" means the total number of days from a student's start date until the completion date.
- (55) "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."
- (56) "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.
- (57) "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.

- (58) "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.
- (59) "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.
- (60) "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

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

- (1) No location of a postsecondary educational institution may create a physical presence unless the location is authorized by an affirmative vote of the Commission during a public meeting or is exempt. Authorization includes regular, temporary, 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 individual, business, or institution 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 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 2016 Public Acts Ch. 868.

#### 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 an employer or group of employers, for employees or for persons they anticipate employing at no cost to the individual;
    - 2. maintained or given by a U.S. Department of Labor or state recognized labor organization (1) to its membership or apprentices or (2) at no cost to the individual;
    - 3. financed and/or subsidized by public funds, at no cost to the individual, and having a closed enrollment; or

4. given under a contract agreement, having a closed enrollment, at no cost to the individual, and does not offer educational credentials that in the opinion of Commission Staff are specifically directed toward new or additional vocational, professional, or academic goals.
  - (b) For purposes of subparagraph (a) of this rule, 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 cost 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 authorization 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 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 authorization 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 designed solely to prepare students for graduate or professional school entrance exams and professional licensure exams shall be considered exempt from authorization 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 authorization 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 without a determination of the Commission. However, institutions can request that Commission Staff issue a written determination of exemption 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.

- (3) Except as provided in paragraph (4) of this rule, to request a determination of exemption, institutions shall submit an Exemption Application along with a descriptive narrative explaining how the institution or program qualifies for an exemption. The application shall require a citation to the exemption provision relied on in the Act and these rules and 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. Upon receipt of an Exemption Application, Commission Staff shall make a written determination and, if denied, provide a date by which an aggrieved institution may submit a request for further review by the Executive Director. Such date shall not be earlier than ten (10) business days after the date of the written determination.
- (4) Institutions that are exempt pursuant to T.C.A. § 49-7-2004(a)(6) shall submit the Information Request Form in order to obtain a determination of exemption.
- (5) If the institution is aggrieved by a determination concerning exemption status, the institution may seek review as provided for in Rule .02(2)(b) of these rules. Any request for review shall be in writing, signed, list each instance where Commission Staff erred, and provide a detailed explanation of each alleged error with references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in paragraph (3) of this rule.

Authority: T.C.A. § 49-7-2002, 49-7-2003, 49-7-2004, 49-7-2005, 49-7-2006 and 49-7-2008.

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

- (1) Institutions authorized to operate or seeking authorization to operate 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, including, but not limited to, Initial Authorization Applications, New Program Applications, Program Revision Notification, School Personnel Applications, and Reauthorization Applications.
- (2) No out-of-state institution will be considered for authorization if it is not authorized 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 breakdown 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, 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 has been so approved by a regional accrediting body so recognized by the U.S. Department of Education.
  - (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 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 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.

Authority: T.C.A. §§ 49-7-2002, 49-7-2004, 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008.

#### 1540-01-02-.07 INSTITUTIONAL APPLICATIONS.

- (1) Application due dates and deferrals:
- (a) For each quarterly meeting of the Committee, Commission Staff shall establish a due date that is no more than ninety (90) days before the date of the meeting. Unless stated by Commission Staff, the established due date shall apply to Initial Authorization Applications, New Program Applications, and Reauthorization Applications. Applications shall be received at the Commission on the due date. Applications received after that date will be deemed late and may be deferred to the next due date.
  - (b) An application submitted without the appropriate fee will be considered incomplete and will not be reviewed until all applicable fees are received. In any event, Commission Staff may defer the application to the next due date.
  - (c) Further, an incomplete application is an application that is missing any information or contains noncompliant information. Commission Staff may defer consideration of the application to the next due date.
  - (d) If an application is deferred, the institution shall have until the next established due date to complete the application.
  - (e) An application can be deferred either by the institution or Commission Staff a total of two (2) times. After the second deferral, the application will be deemed

withdrawn if the institution does not submit a completed application by the next due date.

(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 these rules;
2. documentation demonstrating the institution is operating lawfully in the state. Institutions registered by the Tennessee Secretary of State shall submit a Certificate of Existence issued no more than two (2) months prior to the date of the application. Institutions that are not registered with the Secretary of State shall submit a local business license;
3. evidence of a business account with a financial institution that is federally insured in said institution's name;
4. 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 showing the institution's position in relationship to all affiliated corporate entities;
5. 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 of good quality;
6. evidence demonstrating that the location is commercially zoned 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;
7. qualifications for instructional staff and supervisors;
8. designation of and contact information for an institutional director for each location and an affirmation from the director that he or she will conduct the institution in accordance with the Act and rules;
9. 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;
10. a continuous institutional surety bond;
11. a copy of the enrollment agreement the institution will use following receipt of authorization;
12. a copy of the pre-enrollment checklist the institution will use following receipt of authorization;
13. a copy of the institutional catalog the institution will use following receipt of authorization;

14. a copy of the student transfer of credit disclosure statement required by T.C.A. § 49-7-144;
15. any specific requirements as outlined under Rule .08 of these rules;
16. 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;
17. if participating in Title IV federal student financial aid programs,
  - (i) the institution's Office of Postsecondary Education Identification (OPEID) number;
  - (ii) the most recently calculated three-year official cohort default rate from the Office of Federal Student Aid of the U.S. Department of Education; and
  - (iii) documentation demonstrating that the institution is currently maintaining financial standards and institutional stability deemed acceptable for eligibility in Title IV federal student financial aid programs. Documentation shall include at a minimum:
    - (I) the most recent independent audit completed, in part, for purposes of calculating the institution's federal financial composite score as described in 34 C.F.R. § 668.172 and
    - (II) 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, financial ratios, a letter of credit alternative, or a provisional certification alternative as well as any related correspondence from the institution;
18. institutions must provide current or pro forma financial statements evidencing institutional financial resources adequate to fund and maintain the following:
  - (i) facility maintenance and overhead;
  - (ii) staff and faculty payroll;
  - (iii) books, supplies or equipment utilized by students; and
  - (iv) general operating costs;
19. provide financial statements as follows:
  - (i) as to institutions that are not currently operating a location in Tennessee or out-of-state, pro forma financial statements 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(6)(d) of these rules and financial statements of all owners or

- (ii) as to institutions that are operating a location in Tennessee or out-of-state, pro forma financial statements 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(6)(d) of these rules and the most recent financial statements of the existing entity; and

20. such other information or clarification 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.

(3) Reauthorization Application:

- (a) Effective January 1, 2018, institutions with regular, temporary, or conditional authorization shall file a reauthorization application by the due date for the Committee meeting that is approximately one year from the institution's initial authorization date. In order to efficiently transition to this process in 2017, Commission Staff will post on its website by October 3, 2016, a schedule for institutions to follow in 2017 to obtain reauthorization prior to the current authorization expiration date of June 30, 2017. If necessary to effectuate the transition, the Executive Director may extend an institution's authorization.
- (b) Institutions must demonstrate through the Reauthorization Application that the institution continues to meet the minimum standards for authorization as provided for in the Act and these rules. The application shall 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 for the most recent institutional fiscal year as given under Rule .14 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. statistical data as described in Rule .27 of these rules; and
  - 8. such other information or clarification deemed necessary by Commission

Staff.

- (4) Change of Ownership Application:
- (a) Authorization to operate cannot be transferred.
  - (b) The sale or transfer of an ownership interest after the death of an owner of an institution to either an approved partner or current stockholder of the corporation is not considered a change in ownership. The Executive Director may determine that other similar transfers should also be excluded from these requirements.
  - (c) In the event of a change of ownership, as defined in Rule .03(41) of these rules, the new owner or governing body must submit to Commission Staff within ten (10) 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 or governing body conditional authorization to operate until the new owner or governing body obtains temporary authorization.
  - (d) The new owner or governing body shall submit an Initial Authorization Application by the first quarterly filing due date after filing the Change of Ownership Application.
  - (e) The Change of Ownership Application shall require that the new owner or governing body provide the sales contract, bill of sale, deed, or other documents necessary to transfer ownership of the institution.
- (5) New Program Application and Program Revision Notification:
- (a) In order to offer a program, an institution must submit a New Program Application either along with an Initial Authorization Application or, for previously authorized institutions, as a stand-alone application. Program approval by the Commission is required prior to offering the program, which includes enrolling, advertising, recruiting or soliciting. Applications must be received by the quarterly due date established by Commission Staff.
  - (b) The New Program Application shall 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. When program lengths exceed standard times or program periods established by these rules, the institution must justify expansion of training in terms of exceptional student benefits;
    - 2. designation of the credential awarded which conforms to the requirement that no institution may offer instruction leading to an academic degree unless the institution is approved by a regional accrediting body recognized by the U.S. Department of Education. An exception may be approved by the Executive Director upon recommendation of Commission Staff. Any request for exception shall be made in writing and include proof of the following:

- (i) The institution is accredited by an U.S. Department of Education approved accreditor for the specific degree type; the program is accredited by the appropriate accrediting agency if such accreditation is necessary for employment in or licensure by the state; and the institution has articulation and transfer of credit agreements with two (2) regionally accredited institutions both having a physical location in the Southeast region or
  - (ii) special or unique circumstances.
- 3. if applicable, evidence of approval from any subject matter expert state agency, board, or commission;
- 4. a program overview;
- 5. syllabi for courses or, for short programs, an outline and description of the training;
- 6. a job title and the associated Classification of Institutional Programs (CIP) code applicable to the job title;
- 7. the most currently available entry level salary or wage data for those CIP codes from a Tennessee or federal website;
- 8. admission criteria;
- 9. instructor qualifications and, when applicable, School Personnel Applications;
- 10. library holdings and in-house resources available to students related to the program;
- 11. a list of training equipment, indicating whether the equipment is owned or leased;
- 12. a description of how this program is consistent with the institution's mission;
- 13. a description of how the institution is structured (administration, staff and resources) to ensure educational quality;
- 14. if applicable, a list of all clinical or externships sites with a copy of an affiliation agreement with each site;
- 15. The maximum pupil to teacher ratio for each course. Acceptable ratios, without special permission from the Commission, are as follows:
  - (i) lecture: 40-1;
  - (ii) allied health and nursing labs: 20-1;
  - (iii) class A truck cab: 4:1; and
  - (iv) class B truck cab: 2:1.

16. 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;
    - (ii) an explanation as to how educational goals and overall program goals are achievable through distance learning; and
    - (iii) an explanation as to how graduates of the program will exhibit skills and knowledge equivalent to similar residential programs; and
  17. such other information or clarification deemed necessary by Commission Staff.
- (c) 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.
- (d) Institutions shall not arbitrarily add a course 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. demonstrated educational necessity;
  2. a reasonable program completion period elapsed;
  3. state approval agency requirements;
  4. U.S. Department of Education recognized accreditor requirements; or
  5. professional licensure requirements.

In any event, the institution shall provide written notification to Commission Staff and give adequate notice to all students affected prior to any change.

- (6) Change of Location Application:
- (a) Absent extraordinary circumstances, an authorized institution shall submit a Change of Location Application thirty (30) days prior to moving. An example of an extraordinary circumstance is the unexpected loss of a lease.
  - (b) The Change of Location Application shall include at a minimum:
    - (i) 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 of good quality;
    - (ii) evidence demonstrating that the location is commercially zoned 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;

- (iii) 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; and
  - (iv) such other information or clarification deemed necessary by Commission Staff.
- (c) Commission Staff shall approve the application after it determines that the application is complete and conducts a successful site visit.
- (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 provide and maintain qualified faculty and staff in order to fulfill the mission of the institution and all obligations to the students. Qualifications must be submitted to Commission Staff on a School Personnel Application no later than ten (10) business days after the hire date.
    - 1. Unaccredited institutions must submit to Commission Staff School Personnel Applications for all instructors and administrative personnel as that term is defined in subparagraph (6)(b) of this rule.
    - 2. Institutions accredited by an accrediting body recognized by the U.S. Department of Education must submit to Commission Staff School Personnel Applications for all administrative personnel as that term is defined in subparagraph (6)(b) of this rule. For each instructor, an accredited institution shall maintain on-site documentation that demonstrates the minimum qualifications and must submit such documentation and a School Personnel Application at any time upon request from Commission Staff.
  - (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.
- (8) Agent Permit Application:
- (a) Agents must submit an Agent Permit Application, as provided by Commission Staff, and must receive approval and an agent permit from Commission Staff prior to any solicitation. The application shall include at a minimum:
    - 1. general contact information for the agent;
    - 2. recommendations by two (2) reputable persons certifying that the applicant is of good character and reputation;

3. a surety bond as specified in Rule .09 of these rules; and
  4. certification by the institution director that the applicant will be directed to act in accordance with the Act and these rules.
- (b) Agent permits must be renewed every year. The expiration date of a permit is one (1) year from the date of issue or immediately upon termination of employment whichever occurs first.
  - (c) Agents must have separate permits to represent separate institutions unless the institutions have common ownership such that the institutions present a common name to the public and have the same mission. Mutual agreement by institutions is required.
  - (d) All agents must verify by signature that they have read and are familiar with rules on advertising and solicitation and must verify intent to follow rules as set forth in Fair Consumer Practices.
- (9) Institution Name Change Application:
- (a) An authorized institution shall submit an Institution Name Change Application thirty (30) 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 compliance with these rules;
    3. updated surety bond information;
    4. an updated copy of the pre-enrollment checklist, enrollment agreement, and catalog; and
    5. such other information or clarification deemed necessary by Commission Staff.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008 and 49-7-2013.

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 has merit and value academically, professionally, or vocationally in Tennessee; and
  5. master 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 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) Successful completion of an examination given by a private or public third-party cannot be part of an institution's program or be a completion requirement. 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:
  - (i) whether the student sat for the examination and
  - (ii) whether the student passed the examination.
- (c) Institutions may request a waiver from Commission Staff of subparagraph (3)(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.

Authority: T.C.A. §§ 49-7-2003, 49-7-2005, and 49-7-2008.

#### 1540-01-02-.09 BONDS

- (1) Institutions must, on forms provided by the Commission, secure for student indemnification purposes, from a surety company qualified and authorized to do business in Tennessee, a continuous surety bond in the amount of:
  - (a) ten thousand dollars (\$10,000) for in-state institutions, out-of-state public institutions and all institutions providing primarily religious instruction, and
  - (b) twenty thousand dollars (\$20,000) for all other institutions, including out-of-state private institutions.
- (2) Out-of-state institutions must, on forms provided by the Commission, secure a surety bond for agents in the amount of five thousand dollars (\$5,000) per agent from a surety company qualified and authorized to do business in Tennessee with the institution as principal.
- (3) Institutions must provide a bond for each authorized location.
- (4) 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.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2013.

#### 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 institution's authorized location or by requesting that the institution forward copies of student records to Commission Staff. In the case of the latter, the provided 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 result in adverse action against the institution.
- (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.
- (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.

#### 1540-01-02-.11 INSTITUTION CATALOG

- (1) Each institution must publish a catalog that includes at a minimum:
  - (a) the 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, including any governing boards, and faculty with credentials for position;
  - (e) the institutional calendar, including holidays, enrollment periods and the beginning and ending dates of terms, courses, or programs;
  - (f) the institutional enrollment procedures and entrance requirements, including late enrollment, if permitted;
  - (g) the institutional attendance policy, including minimum attendance requirements, how attendance will be determined, the circumstances under which a 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 or course requirements, or in the case of correspondence instruction, the number of lessons;
- (k) a description of the placement assistance 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 official date of termination, the time within which a refund will be provided, and how a refund must be requested;
- (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 must be renewed each year and is based on an evaluation of minimum standards concerning quality 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. if applicable, the process for escalating or appealing a complaint;
  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 1520-01-02 may file a complaint with the Tennessee Higher Education Commission, Division of Postsecondary State Authorization."
- (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:

"(name of institution) is a special purpose institution. That purpose is (institution's mission statement). This purpose does not include preparing students for further college study. 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; and

- (s) the ATB testing policies, if any, along with the admissions policies.
- (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 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.

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.
- (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, 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 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 either a standardized test formerly or currently recognized by the U.S. Department of Education or, if such a test is not applicable to the particular subject matter of the program, a test developed by the institution. In either case, the institution shall request approval from Commission Staff before using the test and shall state the minimally acceptable scores. 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. § 49-7-2008.

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. The document must clearly indicate that it is the pre-enrollment checklist, and, if multiple pages, the pages of the pre-enrollment checklist shall be paginated using the format “\_\_ of \_\_ pages.” The checklist shall include, at a minimum affirmations that the student:
- (a) toured the institution (not applicable to institutions that deliver all instruction through distance learning);
  - (b) received an institution catalog and if provided electronically understands that the student may request a hard-copy of the catalog 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 is a violation of the Title 49, Chapter 7, Part 20 or Rule Chapter 1520-01-02 may file a complaint with the Tennessee Higher Education Commission, Division of Postsecondary State Authorization.”; and
  - (j) has received the most recent withdrawal, completion, and placement data as calculated by the Commission by including in the checklist:

1. 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://state.tn.us/thec/> and clicking on the Authorized Institution Data button.";
  2. a chart listing all approved program names and the related percentage rates for withdrawal, completion, and in-field placement, identifying the July/June reporting period, and stating that "detailed statistical data for all approved programs may be viewed by going to <http://state.tn.us/thec/> and clicking on the Authorized Institution Data button"; or
  3. a copy of the institution's most recent Annual Performance Report created by Commission Staff and posted on the Commission's website.
- (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, 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 the approximate costs for other 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 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), exempt that institutions 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. §§ 49-7-2005, 49-7-2006, 49-7-2008, 49-7-2019 and 49-7-144.

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.
- (3) The institution shall maintain financial and business practices in-line with common business procedures utilizing standard accounting practices.
- (4) 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
  - (d) general operating costs.

- (5) As part of reauthorization, authorized institutions must file financial statements for the most recently completed fiscal year as follows:
- (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 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 (\$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 (\$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 an independent certified public accountant or a bookkeeper certified by the National Association of Certified Public Bookkeepers.
  - (d) As an alternative to subparagraphs (5)(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, the Committee, 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.
- (6) 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.
  - (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.
- (7) When there are questions about the institution's financial stability, the Commission 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.

- (8) 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.

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, financial reports, and agent permit documentation.
- (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:
  - (a) clearly reflect 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 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."
- (5) Institutions must maintain a file for each 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; and
- (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.
- (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 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 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.
  - (d) 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.
  - (e) 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 shall maintain for the life of the institution a transcript or a certificate for each student previously or currently enrolled in a program offered by the institution. Institutions may only use certificates with well-defined short term programs, such as bartending and truck driving, where there is no separation of courses by subject content. Institutions offering programs where a subject matter expert agency requires that the institution maintain a transcript must do so.
- (a) 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. complete name and address of the authorized location of the institution;
  2. full name of student;
  3. last four digits of the student's social security number;
  4. program name as approved by 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.
- (b) 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. full name of student;
  3. program or department of enrollment;
  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 site visits and audits such that the institution can print any requested records upon request.

Authority: T.C.A. §§ 49-7-2006, 49-7-2016.

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 must be maintained on-site at the authorized location. Institutions must submit a copy of 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.
- (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 post-baccalaureate degree or the highest educational credential offered by the institution, whichever is higher.
- (4) Institutional Directors:
  - (a) Each institution must designate one 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, the Committee, or Commission Staff.
  - (b) Institutional owners or the controlling board 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 college or university 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 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 year of practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours of doctoral level courses in the subject.
2. Masters level courses:
  - (i) Hold a masters or higher degree from a college or university judged to be appropriate by the Commission and either:
    - (I) a masters or higher degree with a major or concentration in the subject area to be taught; or
    - (II) a masters or higher degree not in the subject area but with a minimum of one year of demonstrated practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 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 year of demonstrated practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 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, masters 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 (1) one 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, masters or baccalaureate or associate level; or
- (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 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 earned master's degrees or equivalent.

- (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 with the School Personnel Application submission. 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 at least annually by students, as well as the director or chief academic/instructional officer, and the institution shall have on file at the campus evidence of such evaluations.
- (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 a non-permitted agent is entitled to a refund of all moneys paid and a release of all obligations by the institution. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed 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 would not be entitled to a refund solely because he or she was solicited

by a non-permitted 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; or
  - 5. soliciting enrollments in a program which has not been approved by the Commission.
- (d) An agent must display the current permit to all prospective students and other interested parties.

Authority: T.C.A. §§ 49-7-2002, 49-7-2005, 49-7-2006, 49-7-2009 and 49-7-2011.

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) Each authorized institution shall have a fair and equitable refund policy which governs the repayment of institution charges assessed a student when:
  - (a) The student does not begin classes for the period of enrollment for which he or she was charged; or
  - (b) The student withdraws, drops out, is expelled from the institution, or otherwise fails to complete the period of enrollment for which he or she was charged.
- (3) An authorized institution may use the following refund policies:
  - (a) the default refund policy contained in paragraph (4) of this rule;
  - (b) an institution policy, as long as the refund due a student pursuant to that policy is equal to or greater than the refund due according to the default refund policy; or
  - (c) a refund policy mandated as a condition for students of the institution to participate in a governmental student assistance program, such as Veterans Benefits.
- (4) The default refund policy is as follows:
  - (a) If a student withdraws from the institution on or before the first day of classes, or fails to begin classes, 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 for the period of enrollment for which the student was charged, less an administrative fee of one hundred dollars (\$100.00);
- (b) A student who withdraws at any time 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;
  - (c) In addition to subparagraph (4)(b) of this rule, if after classes have commenced and before expiration of ten percent (10%) of the period of enrollment for which the student was charged, a student withdraws, drops out, is expelled, or otherwise fails to attend classes, the refund shall equal seventy-five percent (75%) of all refundable fees paid and, if the student has institutional loans, forgiveness of the loan amount in excess of the twenty-five percent (25%) the student owes the institution, less administrative fee of one hundred dollars (\$100.00);
  - (d) In addition to subparagraph (4)(b) of this rule, if after expiration of the of ten percent (10%) of the period of enrollment for which the student was charged, and before expiration of twenty-five percent (25%) of the period, a student withdraws, drops out, is expelled, or otherwise fails to attend classes, the refund shall equal twenty-five percent (25%) of all refundable fees paid and, if the student has institutional loans, forgiveness of the loan amount in excess of the twenty-five percent (75%) the student owes the institution, less administrative fee of one hundred dollars (\$100.00); or
  - (e) In addition to subparagraph (4)(b) of this rule, if after expiration of twenty-five (25%) of the period of enrollment for which the student was charged, a student withdraws, drops out, is expelled, or otherwise fails to attend classes, the student may be deemed obligated for one hundred (100%) of the tuition and other fees charged by the institution.
  - (f) For a student who cannot complete one 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.
- (5) When computing refunds pursuant to the default refund policy, the last day of attendance for a student shall be one of the following:
- (a) the date on the expulsion notice if a student is expelled from the institution;
  - (b) the date the institution receives a written notice of withdrawal from a student;
  - (c) when no written notice of withdrawal is given, the institution shall use the last day of attendance as the date of withdrawal; or
  - (d) the date the student fails 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.

Authority: T.C.A. §49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013.

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

- (1) All authorized institutions shall provide student-level statistical data on a Commission Staff data form that will allow Commission Staff to calculate the following statistical information by institution and program:
  - (a) the enrollment count;
  - (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. Commission Staff assigned 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 25% or if annual average institutional or individual program in-field placement rates are less than 70%, institutions shall explain the circumstances contributing to these rates, demonstrate how these rates are not an indicator of poor educational quality, 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 Commission that adverse action be taken against the institution.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006 and 2016 Public Chapter 868.

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

- (1) All institutions and their representatives shall act in accordance with fair consumer practices to ensure current and prospective students that nothing is hidden and verbal and written representations by the institution are accurate, such that students can make informed decisions concerning their investment of time or money.
- (2) Fair consumer practices means honesty, fairness, and disclosure to students in areas including, but not limited to, 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. Fair consumer practices require an institution to apply its policies as written.
- (3) Students should have a reasonable expectation to complete programs as printed in the institutional catalog at the time of enrollment.
- (4) Institutions may not use mandatory arbitration provisions.
- (5) 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 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.
- (6) An institution must report to Commission Staff in writing within thirty (30) days any unresolved written complaint filed in a Tennessee court about the institution of which the institution is knowledgeable.
- (7) 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.
- (8) 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.
- (9) The investigation and further review of written complaints will occur in accordance with the following provisions:
- (a) Complaints shall be signed and submitted through hand delivery, mail, or electronic mail has provided for in Rule .27 of these rules.
  - (b) Commission Staff shall investigate all written complaints.
  - (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 settlement.
  - (f) Following completion of the investigation, Commission Staff shall provide to all parties written determinations and proposed recommendations and provide a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule.02(2)(b) of these rules. Such date shall not be earlier than ten (10) business days after the date of the determinations and proposed recommendations.
  - (g) Any request for review shall be in writing, signed, list each instance where Commission Staff erred, 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 as set forth is subparagraph (8)(f) of this rule.
- (10) Notwithstanding the provisions of paragraph (8) of this rule, Commission Staff may take appropriate action to investigate any complaint in order to protect the public interest.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008 and 49-7-2011.

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

- (1) Institutions may reference having authorization in advertising, promotional material, and on letterhead stationary using the following language: "(name of institution) is authorized

- for operation by the Tennessee Higher Education Commission.” The entire statement must be used, have the same size font, and type of print.
- (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](http://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 size, importance, or location of the institution, its equipment, or its facilities.
  - (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 statistics except by written permission of Commission Staff.
  - (13) If tuition loans are available at the institution, the school may advertise them only with the language "student tuition loans available" in type no larger than that used for the name of the school. 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.
- (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. §§ 49-7-2006, 49-7-2007, 49-7-2008 and 49-7-2013.

1540-01-02-.21 AUTHORIZATION STATUS.

- (1) Temporary Authorization:
  - (a) Commission Staff will recommend temporary authorization to the Committee after determining that the institution has demonstrated through the Initial Authorization Application and a site visit that it is compliant with the Act and these rules.
  - (b) An institution will receive temporary authorization after favorable Commission action.
  - (c) Temporary authorization must be maintained for at least twenty-four (24) months prior to eligibility for regular authorization.
- (2) Regular Authorization:
  - (a) Commission Staff shall recommend for regular authorization any institution authorized for more than twenty-four (24) months that demonstrates all minimum standards for authorization through the Reauthorization Application.
- (3) Conditional Authorization:
  - (a) Conditional authorization is authorization to operate, 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 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 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:
- (a) Revocation of authorization is the immediate and complete withdrawal of the institution's authorization to enroll, advertise, or operate a postsecondary educational institution in the state.
  - (b) Grounds for immediate revocation of authorization to operate shall include but not be limited to:
    - 1. loss of right to use the authorized location without immediate notification to the Commission;
    - 2. a principal party, owner, or administrator involved with the institution who has ever been associated with a postsecondary educational institution that ceased operation with resulting loss of time or money for enrollees or had institutional authorization to operate in a state revoked or had a felony conviction involving moral turpitude, fraud or a capital crime;
    - 3. a pattern of deceptive practices;
    - 4. failure to correct any situation that resulted in conditional authorization 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; and
    - 7. closing an institution without proper notification to the Commission.
  - (c) Revocation of authorization 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.

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 \$500 per day per violation or revoke or make conditional the authorization of an institution or approval of an agent permit 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;
  - (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 resulting from a site visit 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 quality, 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; and
  - (l) activities described in Rule .21 of these rules.
- (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.

- (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 under this rule shall be in conformance with T.C.A. § 49-7-2010(c). All Commission actions are subject to due process provisions of the Tennessee Uniform Administrative Procedures Act.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2010.

1540-01-02-.23 INSTITUTIONAL CLOSURE.

- (1) When an authorized postsecondary educational institution proposes to discontinue its operation, 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:
  - (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 school 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 student records as required by T.C.A. §49-7-2016;
  - (g) a request for conditional authorization to operate where required;
  - (h) updated statistical data;
  - (i) official transcripts and certificates; and
  - (j) demonstration that current educational obligations by the institution will be met on behalf of the presently enrolled students.
- (2) 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.

- (3) Should the institution fail to make arrangements satisfactory to the Executive Director 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.
- (4) 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.
- (5) 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.

Authority: T.C.A. §§ 49-7-2002, 49-7-2005 and 49-7-2016.

1540-01-02-.24 Filing Methods and Requirements.

- (1) Unless otherwise provided, all filings must be received via hand delivery, mail, electronic mail, or facsimile. Current addresses and fax numbers will be posted on the THEC webpage.
- (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)(b)
- (3) Filings shall be received at DPSA on the due date. Items postmarked on the due date but not received at DPSA will be deemed late-filed and, if applicable, may be deferred pursuant to Rule 07(1)(a).

Authority: T.C.A. §§ 49-7-2005.

1540-01-02-.25 FEES.

- (1) All fees collected pursuant to the provisions of this part shall be deposited in the state treasury as a special agency account to administer the provisions of this part.
- (2) Annual reauthorization fees shall be paid with the Reauthorization Application as follows:
  - (a) Annual Reauthorization Fee:
    1. a fee of \$500 if enrollment is 0 to 300 students;
    2. a fee of \$1,500 if enrollment is 301 to 600 students; and
    3. a fee of \$3,500 if enrollment is 601 or more students.
  - (b) Reauthorization Extension Fee..... \$500
  - (c) Late Reauthorization Fee..... \$500
- (3) The following fees apply to the filing of applications and other services:
  - (a) Initial Authorization Application ..... \$3,000
  - (b) New Programs Application..... \$500
  - (c) Authority for Unaccredited Institutions to Grant Degrees ..... \$1000  
(paid in addition to the New Program Application fee)
  - (d) Credential Level Elevation for Authorized Institutions ..... \$2,000  
(paid in addition to the New Program Application fee)
  - (e) Agent Permit Application – Initial ..... \$500
  - (f) Agent Permit Application – Renewal ..... \$250
  - (g) Institution Name Change Application ..... \$500
  - (h) Change of Location Application ..... \$500
  - (i) Fines (assesses at a maximum of per day, per violation)..... \$500
  - (j) Exemption Determination Application ..... \$100
  - (k) Closed Institution Transcript Request..... \$10
  - (l) Convenience Charge for Electronic Payments..... amount charged by vendor

Authority: T.C.A. §§ 49-7-2005, 49-7-2014 and 49-7-2017.

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 a pending application within three (3) working days from receipt or prior to the start of Commission Staff's review, then all fees assessed shall be refunded.
- (b) If an institution withdraws a pending application more than three (3) working days from receipt and once Commission Staff review begins, the Commission may retain fifty percent (50%) of the assessed fees.
- (c) Once Commission Staff's review of a pending application is complete or a site visit has been conducted, the Commission may retain one hundred percent (100%) of the assessed fees.
- (d) Institutions that fail to complete the application process described in Rule 1540-01-02-.07(1)(b) shall forfeit all fees paid.
- (e) Any other fee collected is nonrefundable once Commission Staff has performed the associated review or work related to that fee.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2014.

RULES OF THE TENNESSEE HIGHER EDUCATION COMMISSION  
CHAPTER 1540-01-10  
REGULATION OF POSTSECONDARY EDUCATION INSTITUTIONS WITH OPTIONAL EXPEDITED  
AUTHORIZATION (OEA)

Table of Contents

1540-01-10-.01 Incorporation of Rules  
1540-01-10-.02 Definitions  
1540-01-10-.03 Eligibility and Application Requirements  
1540-01-10-.04 Required Notifications to Commission Staff  
1540-01-10-.05 Denial of OEA Status  
1540-01-10-.06 Revocation of OEA Status  
1540-01-10-.07 Complaints  
1540-01-10-.08 Filing Methods and Requirements  
1540-01-10-.09 Fees

1540-01-10-.01 INCORPORATION OF RULES.

- (1) Rules 1540-01-02-.01, .02, .04, .18 and .26 shall be incorporated into this Rule Chapter as if fully written herein.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.02 DEFINITIONS

- (1) "Accreditation" is a non-governmental, peer evaluation of educational institutions and programs. Private educational associations of regional and national scope that have adopted criteria for educational programs and have developed procedures for evaluating institutions or programs. 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.
- (2) "Act" means the Tennessee Higher Education Authorization Act of 2016, T.C.A. §§ 49-7-2001, et seq., as amended.
- (3) "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 institution will meet the admission education requirement for a program leading to a higher credential at a second institution.
- (4) "Authorization to operate" means approval of the Commission to operate or to contract to operate a postsecondary educational institution in this state as described in T.C.A. § 49-7-2007(1) – (3) or (5). Authorization to operate is for a specified time at a specified location. Institutions shall not use an authorization to operate to connote greater approval than simple permission to operate. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."
- (5) "Commission" means the Tennessee Higher Education Commission.

- (6) "Committee" means the Committee on Postsecondary Educational Institutions.
- (7) "Degree-granting postsecondary educational institution" includes institutions offering education or training above the high school level and where the institution awards degrees, such as associate, bachelors, masters, specialist, or doctoral degrees.
- (8) "Division of Postsecondary State Authorization" or "DPSA" means the division within the Tennessee Higher Education Commission tasked with overseeing the implementation and enforcement of the Act and these rules.
- (9) "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.
- (10) "Location" means an address that is zoned for commercial purposes for use as a postsecondary educational institution.
- (11) "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.
- (12) "Optional expedited authorization" or "OEA" means the optional expedited authorization available pursuant to 2016 Public Chapter 868 and these rules to certain accredited degree-granting institutions.
- (13) "Other fees" means fees, other than tuition, 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, graduation fees, or fees paid for housing, meals, or transportation.
- (14) "Postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives.
- (15) "These rules" means all rules contained in Rule Chapter 1540-01-\_\_.
- (16) "Tuition" means any fee involving the student, actually charged or tracked as a bookkeeping item for instruction provided.

Authority: 2016 Public Acts Ch. 868.

#### 1540-01-10-.03 ELIGIBILITY AND APPLICATION REQUIREMENTS.

- (1) In order to receive OEA, a postsecondary educational institution must meet the following eligibility requirements:
  - (a) Meet the definition of degree-granting postsecondary educational institution;
  - (b) Be accredited by a regional or national institutional accrediting agency recognized by the U.S. Department of Education; and

- (c) Provide the following information and documentation as part of a signed and notarized OEA Application created by Commission Staff:
1. evidence of good-standing and valid institutional accreditation from a regional or national institutional accrediting agency recognized by the U.S. Department of Education;
  2. documentation evidencing an established, clearly articulated, and comprehensive process for the resolution of student complaints. In order to be a comprehensive process, the process must contain:
    - (i) a detailed explanation as to how a student escalates a grievance to the highest level at the authorized institution location;
    - (ii) an opportunity for all persons involved in the complaint to be heard at any final step at the institutional location level, including, but not limited to, an appeal;
    - (iii) an explanation as to how the institution will notify students that complaints not resolved at the institutional location level may be filed with the Commission; and
    - (iv) an explanation as to how students will be notified of the institution's comprehensive process;
  3. documentation demonstrating the institution is operating lawfully in the state. Institutions registered by the Tennessee Secretary of State shall submit a Certificate of Existence issued no more than two (2) months prior to the date of the application. Institutions that are not registered with the Secretary of State shall submit a local business license;
  4. documentation demonstrating that the institution is currently maintaining financial standards and institutional stability deemed acceptable for eligibility in Title IV federal student financial aid programs. Documentation shall include at a minimum:
    - (i) the most recent independent audit completed, in part, for purposes of calculating the institution's federal financial composite score as described in 34 C.F.R. § 668.172 and
    - (ii) 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, financial ratios, a letter of credit alternative, or a provisional certification alternative as well as any related correspondence from the institution;
  5. a comprehensive list or verification of all programs offered at the institution along with, when applicable, documentation evidencing receipt of all requisite program approvals from subject matter expert state licensing agencies, boards, or commissions. Evidence shall be provided for any program designed to train a student for employment in a field where a license is required in order to be employed in that field. The evidence shall clearly demonstrate that the state agency, board, or

commission has determined that the program meets the educational requirements necessary to receive a license or sit for a required exam. The comprehensive list or verification shall include, at a minimum, the following information:

- (i) program name;
  - (ii) DPSSA assigned program code;
  - (iii) credential awarded;
  - (iv) credit hours or contact hours to be awarded;
  - (v) length of time expected to complete the program;
  - (vi) cost of program tuition;
  - (vii) cost of other fees;
  - (viii) program status;
  - (ix) a Classification of Instructional Programs (CIP) code;
  - (x) whether programmatic accreditation is required for the program and the name of the accreditor that has reviewed and accredited the program; and
  - (xi) the website address to the gainful employment data for the program. The address should provide a reasonable person easy access to this information;
6. a report of any illegal or unethical conduct by employees, agents, contractors, or third-party service providers related to the delivery of educational programs and services to students with any corrective action and remedies taken by the institution;
  7. a description of the ownership of the institution and when applicable, a corporate flowchart showing the institution's position in relationship to all affiliated corporate entities;
  8. copies of all executed articulation and transfer of credit agreements with other institutions operating in Tennessee;
  9. the most recently calculated three-year official cohort default rate from the Office of Federal Student Aid of the U.S. Department of Education. Institutions with official cohort default rates for the three most recent years equal to or greater than thirty percent (30%) or a current official cohort default rate greater than forty percent (40%) are not eligible for OEA; and
  10. statistical data as described in Rule 1540-01-02-.18.
- (2) After receipt of an institution's application, Commission Staff shall conduct a detailed review and verification of the application. OEA applications will be processed as follows:

- (a) Upon satisfactory examination of all submitted documentation, Commission Staff will recommend the application for recommendation of approval by the Committee to the Commission. Thereafter, the Committee's recommendation will be submitted to the Commission and upon approval by the Commission, Commission Staff shall issue notification of the OEA status noting that it is valid for one (1) year.
- (b) If the Commission upon review and consideration of the application determines the applicant is not eligible and fails to meet the OEA criteria established in this section, the Commission shall notify the applicant of its decision to deny the application and set forth the reasons for the denial in writing. Such denial can be reviewed as further described in Rule .05 of these rules.
- (c) In order to continue OEA for an additional year, an institution must complete an application as described in Rule .03(1)(c) of these rules and file it with Commission Staff by the due date immediately preceding the expiration date of the institution's current OEA. In the event that an application is timely filed but is not considered by the Commission prior to the current OEA expiration date, Commission Staff may continue an institution's OEA for not more than six (6) months.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.04 REQUIRED NOTIFICATIONS TO COMMISSION STAFF.

- (1) OEA institutions shall notify Commission Staff, within five (5) business days, of the following:
  - (a) action by an accrediting agency in regard to the institution's accreditation status, such as revocation, suspension, probation, warning, or similar action;
  - (b) notice of legal action involving the institution, or its parent entity if applicable, and Tennessee students, related to the delivery of educational programming or student consumer practices, including, but not limited to, class action lawsuits;
  - (c) utilization by the institution of a letter of credit or a cash management agreement with the U.S. Department of Education; or
  - (d) public announcement of investigation by any governmental agency. The institution shall notify Commission Staff whether the investigation is related to the institution's academic quality, financial stability, or student or consumer practices.
- (2) Institutions shall submit a New Program Notification Form on the Committee meeting due dates for any programs implemented since the last due date. Once processed, Commission Staff will issue the institution a program code for use when submitting statistical data.
- (3) At the request of Commission Staff, the Executive Director, the Committee, or the Commission, OEA institutions shall provide any information deemed necessary to monitor the institution's eligibility for OEA.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.05 DENIAL OF OEA STATUS.

- (1) A decision of the Commission to deny OEA status shall be provided to the institution in writing through the Executive Director, provide the basis for denial, and be effective as of the date of the decision.
- (2) Any person aggrieved by a decision of the Commission respecting denial of OEA status shall have the right to a hearing and review of the decision by the Commission as provided in 2016 Public Chapter 868 and these rules. An aggrieved party for purposes of this rule is any postsecondary educational institution denied OEA status.
- (3) If an aggrieved party desires a hearing and review, the party shall file a written notice within ten (10) business days after the date of the Commission's written notice of denial. If written notice is not provided by an aggrieved party, then the action shall be deemed final.
- (4) Upon receiving notice from an aggrieved party, the Commission shall fix the time and place for a hearing and shall notify the aggrieved party of the time and place of the hearing. The Commission may vote to have an administrative law judge from the Administrative Procedures Division of the Tennessee Secretary of State's Office conduct a contested case proceeding and issue an initial order pursuant to the Uniform Administrative Procedures Act.
- (5) At the hearing, the aggrieved party may employ counsel, shall have the right to hear the evidence upon which the action is based, and present evidence in opposition or in extenuation. If an administrative judge is not appointed, then any member of the Commission may preside except when a clear conflict of interest may be demonstrated.
- (6) Any decision by the Commission or an initial order by an administrative law judge shall include a statement of findings and conclusions upon all material issues of fact, law or discretion presented at the hearing and the appropriate rule, order, sanction, relief, or denial thereof.
- (7) Any final decision of the Commission shall be subject to the right of judicial review provided in T.C.A. § 49-7-2012.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.06 REVOCATION OF OEA STATUS.

- (1) OEA may be revoked for just cause. Revocation can occur as a result of:
  - (a) a vote of the of Commission on its own motion or at the recommendation of the Committee or Commission Staff or
  - (b) a determination of the Executive Director pursuant to Rule 1540-01-02-.02(e).
- (2) Just cause includes activities where the institution acted contrary to the public interest, exhibits questionable financial strength, or is not operating educational programs with acceptable outcomes and includes, but is not limited to:
  - (a) Loss or failure to meet any of the listed criteria for eligibility in Rule .03(1) of these rule;
  - (b) Failure to fulfill the requirements in Rule .03 of these rules;

- (c) A finding resulting from a signed student complaint that:
    - 1. the institution did not follow its policies as presented to the student or
    - 2. the institution hid a fact or made a verbal or written inaccurate representation to the student that affected the student's ability to make an appropriate decision concerning the student's investment of time and money; or
  - (d) Having an institution-level or program-level withdrawal, completion, placement, or in-field placement rate that is less than the state average rate for other OEA institutions or a program type for more than two (2) consecutive years;
  - (e) Providing false or misleading statistical data;
  - (f) Failure to comply with the requirements of the tuition guaranty fund under § 49-7-2018 and the related rules;
  - (g) A three-year federal financial aid cohort default rate as calculated by the U.S. Department of Education of thirty percent (30%) or higher for three (3) consecutive years or over forty percent (40%) for any single year;
  - (h) Allowing OEA to expire without timely filing an OEA Application or Initial Authorization Application.
- (3) Upon revocation of any institution's OEA, the following shall occur:
- (a) The institution shall immediately be subject to all provisions of the Act and Rule Chapter 1540-01-02.
  - (b) The institution shall apply for Commission authorization under T.C.A. § 49-7-2008 and Rule Chapter 1540-01-02 by the next due date which is more than ten (10) business days from the date of revocation.
  - (c) The Executive Director may grant the institution conditional authorization to continue its operation as a non-OEA institution. Such conditional authorization shall not be for more than six (6) months. Failure to fulfill all conditions of authorization within six (6) months can lead to revocation of authorization.
  - (d) Any institution whose OEA is revoked by the Commission shall be ineligible to reapply for OEA for no less than twenty-four (24) months from the date of revocation.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.07 COMPLAINTS.

- (1) Commission Staff shall investigate any signed student complaint involving an OEA institution after verifying that the student has escalated the complaint to the institutional director and the institutional director has had an opportunity to investigate and resolve the complaint yet the complainant contends it remains unresolved.
- (2) Commission Staff's investigation shall determine:

- (a) whether the institution followed its policies as represented to the student and
  - (b) whether the institution failed to disclose a fact or made a verbal or written inaccurate representation to the student that affected the student's ability to make an appropriate decision concerning the student's investment of time and money.
- (3) When determining whether a finding is appropriate, Commission Staff shall take into consideration any reasonable offers the institution made to resolve the student's complaint at the institutional level.
- (4) The investigation will proceed as follow:
- (a) Complaints shall be signed and submitted through hand delivery, mail, or electronic mail has provided for in Rule .08 of these rules.
  - (b) Any named institution will receive a copy of the complaint and be provided an opportunity to respond to all allegations contained in the complaint.
  - (c) Any named institution shall provide all information requested by Commission Staff as part of the investigation.
  - (d) As part of the investigation process, Commission Staff may work with the complainant and the named institution to effectuate a settlement.
  - (e) If there are no findings, the complaint will be closed and the written determination shall include a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b). Such date shall not be earlier than ten (10) business days after the date of the written determinations. If no request for review is received, the complaint will be closed.
  - (f) If there are findings and proposed recommendations, the following process will be used:
    - 1. Commission Staff shall provide in the written determinations and proposed recommendations a date by which either party may respond to the findings or recommendations. Such date shall not be earlier than ten (10) business days after the date of the written determinations.
    - 2. Following review of the responses, if any, Commission Staff may:
      - (i) determine that the complaint is closed by providing written notice to the parties. The written notice shall include a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b). Such date shall not be earlier than ten (10) business days after the date of the written determinations or
      - (ii) recommend that the Executive Director take some action that is within the scope of the proposed recommendations. Any decision of the Executive Director to take action will be provided to the parties by letter and shall include a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b).

Such date shall not be earlier than ten (10) business days after the date of the written determinations.

- (g) Any request for review shall be in writing, signed, list each instance where Commission Staff erred, and provide a detailed explanation of each alleged error with references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in subparagraph (f).

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.08 FILING METHODS AND REQUIREMENTS.

- (1) Application due dates and deferrals:
  - (a) For each quarterly meeting of the Committee, Commission Staff shall establish a due date that is no more than ninety (90) days before the date of the meeting. Unless stated by Commission Staff, the established due date shall apply to Optional Expedited Authorization Applications. Applications shall be received at DPSA on or before the due date. Applications received after that date will be deemed late and may be deferred to the next due date.
  - (b) An application submitted without the appropriate fee will be considered incomplete and will not be reviewed until all applicable fees are received. In any event, Commission Staff may defer the application to the next due date.
  - (c) Further, an incomplete application is an application that is missing any information or contains noncompliant information. Commission Staff may defer consideration of the application to the next due date.
  - (d) If an application is deferred, the institution shall have until the next established due date to complete the application.
  - (e) An application can be deferred either by the institution or Commission Staff a total of two (2) times. After the second deferral, the application will be deemed withdrawn if the institution does not submit a completed application by the next due date.
- (2) Unless otherwise provided, all filings must be received via hand delivery, mail, electronic mail, or facsimile. Current addresses and fax numbers will be posted on the THEC webpage.
- (3) Filings shall be received on the due date. Items postmarked on the due date but not received at DPSA will be deemed late.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.09 FEES.

- (1) An institution shall pay a fee of \$9,000 to the Commission with the Optional Expedited Authorization Application.

Authority: 2016 Public Acts Ch. 868.

RULES OF THE TENNESSEE HIGHER EDUCATION COMMISSION  
CHAPTER 1540-01-02  
AUTHORIZATION AND REGULATION OF [REGULARLY AUTHORIZED](#) POSTSECONDARY  
EDUCATIONAL [AL](#) INSTITUTIONS ~~AND THEIR AGENTS~~

[Table of Contents](#)

[1540-01-02-.01 Preface](#)  
[1540-01-02-.02 Role of the Commission, Executive Director, Committee, and Commission Staff](#)  
[1540-01-02-.03 Definitions](#)  
[1540-01-02-.04 Determination for Required Authorization](#)  
[1540-01-02-.05 Exemptions](#)  
[1540-01-02-.06 Minimum Standards and Requirements](#)  
[1540-01-02-.07 Institutional Applications](#)  
[1540-01-02-.08 Regulations for Specific Institutions and Programs](#)  
[1540-01-02-.09 Bonds](#)  
[1540-01-02-.10 Audits](#)  
[1540-01-02-.11 Institutional Catalog](#)  
[1540-01-02-.12 Admissions Standards](#)  
[1540-01-02-.13 Enrollment Checklists, Agreements, and Disclosures](#)  
[1540-01-02-.14 Financial Standards](#)  
[1540-01-02-.15 Institution and Student Records](#)  
[1540-01-02-.16 Personnel and Instructor Qualifications](#)  
[1540-01-02-.17 Cancellation and Refund Policy](#)  
[1540-01-02-.18 Statistical Data Collection](#)  
[1540-01-02-.19 Fair Consumer Practices and Complaints](#)  
[1540-01-02-.20 Representations, Advertising, and Solicitations](#)  
[1540-01-02-.21 Authorization Status](#)  
[1540-01-02-.22 Causes for Adverse Action](#)  
[1540-01-02-.23 Institution Closure](#)  
[1540-01-02-.24 Filing Methods and Requirements](#)  
[1540-01-02-.25 Fees](#)  
[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. 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 ~~Postsecondary Education Authorization Act~~ [Higher Education Authorization Act of 2016 at Title 49, Chapter 7, Part 20. Institutions and agents must comply with the current language of the Act and these rules](#) ~~Many sections of the Act are so specific that the need for related rules is diminished or negated. Institutions or agents must comply with the current language of the Act and these rules as the total administrative reference.~~
- ~~(3) — Unless otherwise noted, general statements shall be in reference to institutions, —~~

~~businesses, services or any entity seeking, holding or required to hold a certificate of authorization under the Act and these regulations.~~

Authority: T.C.A. § 49-7-2014.

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

- (1) Role of the Tennessee Higher Education Commission (THEC or Commission):
- (a) The ~~Tennessee Higher Education Commission~~ at each quarterly meeting shall consider recommendations from ~~the Commission staff and/or Postsecondary Education Institution Committee~~ the Committee on Postsecondary Educational Institutions regarding all and the Division of Postsecondary State Authorization regarding authorizations, program approvals, ~~awarding educational credentials (including authority to grant degrees)~~ and any other matter at the request of the Commission's Executive Director.
- ~~(a) No institution may solicit, recruit, award credentials or operate as a postsecondary educational institution until such authorization is granted by affirmative vote of the Commission.~~
- (2) Role of the Tennessee Higher Education Commission Executive Director:
- (a) The Executive Director is empowered to take any urgent action in furtherance of the Act, ~~based on these rules and Act, necessary to conduct this consumer protection regulatory function~~, during the periods between ~~authorization action meetings of the Commission~~ meetings, ~~subject to ratification by the Commission~~ provided that:
1. the Executive Director ~~shall give~~ gives written notice of such action to the affected party;
  2. the Executive Director ~~shall instruct~~ notifies the affected party that they may notify the Commission within ten (10) business days ~~ten (10) 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 ~~shall give~~ gives written notice of the action to members of the Commission.
- (b) Whenever ~~the Commission~~ ~~authorization~~ staff cannot resolve a complaint or dispute involving the Act or ~~to the administration of~~ these rules, the Executive Director upon a written request from an aggrieved party ~~which that~~ in the view of the Executive Director is justifiable, will provide a review and/or hearing for parties involved prior to presentation of the unresolved complaint or dispute to the Commission.
- (c) On ~~the~~ ~~the~~ advice of Commission Staff ~~of the Committee on Postsecondary Education Institutions,~~ the Executive Director, in consultation with the Commission, ~~in consultation with the Commission,~~ is authorized to ~~recommend the waiving of deadlines or these rules~~ regulations developed pursuant to this Chapter, upon well- documented extraordinary cause, ~~where~~ necessary to protect ~~carry out the provisions of this part in~~ the public interest.

and where consistent with ~~T.C.A. §§ 49-7-2001 et seq.~~ the Act.

- (d) The Executive Director may exempt a program or activity from authorization or from compliance with a specific ~~regulation-rule~~ if such an exemption can be demonstrated to be in the public good-or-interest. Such exemptions should be temporary and narrow in scope and be subject to annual review.
- (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. § 49-7-2010(b):
  - 1. ~~Assess~~ Assess fines under ~~this Part~~ the Act and these rules;
  - 2. ~~Intervene~~ Intervene to alter, place conditions on, suspend, or revoke, in full or in part, an institution's or agent's authorization to operate; ~~and~~;
  - 3. ~~Issue~~ Issue temporary ~~or~~ or conditional, ~~limited, or probationary~~ authorization.
- ~~(f) Advise the Tennessee Student Assistance Corporation to notify the appropriate lending and guarantee agencies of the institution's closure.~~
- (3) Role of the ~~Postsecondary Education Institution Committee~~ Committee on Postsecondary Educational Institutions (Committee):
  - (a) The ~~Postsecondary Education Institution Committee~~ Committee shall meet quarterly ~~or y or at other times on~~ at the call of the Chairman of ~~said the~~ Committee, at the call of a majority of the Committee or pursuant to the call of the majority of Committee members, ~~or at the call of the Chairman of the Commission~~ to serve as an advisory committee to the Commission, and make recommendations on:
    - (b) At meetings, the Committee may take any action delegated to it by the Commission pursuant to T.C.A. § 49-7-207, including, but not limited to, making recommendations on:
      - 1. ~~all initial~~ applications for ~~temporary~~ authorization;
      - 2. all applications for regular authorization;
      - ~~3. all applications for reauthorization;~~
      - ~~4. the awarding of educational credentials~~ applications for program approvals;
      - 35. proposed rules; and
      - 4. consideration of such other matters relating to the ~~Postsecondary Education~~ Act at the request of the ~~Commission's~~ Executive Director;
  - (c) The Committee, and, as needed, other experts appointed by the Executive Director, ~~shall~~ may participate in institutional site visits for purposes of evaluating compliance with ~~legislation and rules~~ the Act and these rules;
  - (d) The Committee shall exercise such other powers and undertake such other

obligations as are delegated to it by the Commission under the provisions of the Act Part 20 of this chapter. ~~Such delegations shall include the authority to initiate and conduct on-site institutional reviews and investigations and the formulation of rules of procedure and performance standards for authorization and institutional performance, which actions shall be subject to review, approval and/or disapproval by the Commission.~~

- (e) The Chairman of the Committee may appoint sub-committees as needed.
- (4) Role of the Commission Staff:
- ~~(a) Designated Commission staff members shall oversee and administer for purposes of compliance TCA §§ 49-7-2001 et seq. and the related Postsecondary Regulations chapter 1540-01-02.~~
  - (ab) Beginning ~~July 1, 1997~~October 1, 2016, the office and Commission Staff responsible for oversight of ~~the Act TCA §§ 49-7-2001 et seq.~~ and Rule Chapters 1540-01-02 and 1540-01-10 ~~the related Postsecondary Regulations chapter 1540-01-02~~ shall be officially referred to as the Tennessee Higher Education Commission, ~~Office of Postsecondary School Authorization (Professional, Business, Vocational and Career)~~Division of Postsecondary State Authorization (DPSA).
  - (eb) Commission Staff shall Pperform site visits and/or audits to review, inspect, and investigate locations as necessary to ensure compliance with the Act and these rules, ~~institutions seeking, holding or required to hold a certificate of authorization for verification of compliance. This includes but is not limited to~~Site visits or audits may be conducted at the discretion of Commission Staff for reasons including, but not limited to, to initial authorization determinations for new institutions, program approvals, new program reviews, authorization inspections for nonexempt Tennessee institutions, follow up to written and signed complaints, investigations, or adverse publicity compliance checks, or any situation that may adversely affect students or ~~consumers~~people at the institution.
  - (ec) Commission Staff shall Iinvestigate as necessary any activity believed to create a physical presence ~~all non-authorized postsecondary educational activities operating~~ in Tennessee to verify adherence to the Act and these rules ~~by all institutions or to determine whether an exemption is appropriate~~ ~~not exempted by the Act~~.
  - (ed) Commission Staff shall Eestablish a deadline due dates for submission of all fees, applications, initial authorization packages, new program applications and any other materials to be included on the agenda for each quarterly meetings of the ~~Postsecondary~~ Committee. ~~(Institutional Applications (1540-01-02-.07))~~.
  - (ef) Commission Staff may Sshare with state or federal agencies information ~~for on~~ institutions seeking, holding, or required to ~~hold a certificate of authorization~~ be authorized by the Commission as well as any and unauthorized educational operations. Commission Staff may P~~rovide state or federal agencies information pertaining to school closures under any condition.~~ Share with appropriate accrediting bodies any adverse action recommended or taken by Commission Staff, taken by the Executive Director, Committee, or Commission.

(f) Commission Staff may recommend that the Executive Director take adverse action as described in Rule .22 of these rules.

Authority: T.C.A. § 49-7-~~2004~~ and 49-7-2014.

1540-01-02-.03 DEFINITIONS.

~~(1) The following definitions are complementary to definitions in T.C.A. § 49-7-2003 and have the following meanings, unless the context clearly indicates otherwise:~~

~~(a1) "Ability-to-benefit" or "ATB" as used in these regulations, in contrast to the use of that term for federal financial aid or other purposes, means an adjective describes:~~

~~(a) a students, regardless of financial condition, who do not possesshas not provided proof of receiving a a high school diploma diploma or GED or equivalency, but who have~~s~~ demonstrated by successfully passing an ability-to-benefit test that the studenty can possesses the cognitive or physical skills needed to benefit profit materially or personally from a course or certain course of studycertificate or diploma program or~~

~~(b) a test given by an authorized institution to determine whether a student possesses the cognitive or physical skills to benefit from a certificate or diploma program.-~~

~~(b2) "Academic" as an adjective describing a degreein description of a program or institution means a degree that which is organized primarily for academic 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 Science, Master of Fine Arts, Master of Business Administration, Doctor of Philosophy, Doctor of Psychology, and Doctor of Education.~~

~~(3) "Accreditation" is a non-governmental, peer evaluation of educational institutions and programs. Private educational associations of regional and national scope that have adopted criteria for educational programs and have developed procedures for evaluating institutions or programs. 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.~~

~~(e4) "Act" means the Tennessee Postsecondary Education Authorization Act of 1974Higher Education Authorization Act of 2016, Tennessee Code AnnotatedT.C.A. §§ 49-7-2001, et seq., as amended.~~

~~(e5) "Adverse action" means action taken by the Executive Director or Commission to penalizefine, limit, change, suspend, or cause to cease activity that is in non-not compliance with the Act and these rules.- Such adverse action may include but not be limited toincludes fines of five hundred dollars (\$500) per violation per day, suspension of activity, conditional authorization, or revocation of authorization or approval.~~

~~(e6) "Agent" means a person employed full- or part-time by the institution, whether the institution is located within or without the state of Tennessee, to act as representative, solicitor, broker, or independent contractor to directly procure or induce people to become students or enrollees for the institution at an off-campus location 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 this part.

- (7) "Agent's permit" means a nontransferable written authorization issued to a natural person by Commission Staff that allows that person to solicit, recruit, or enroll students for education in an authorized postsecondary educational institution.
- (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 institution will meet the admission education requirement for a program leading to a higher credential at a second institution.
- (f9) "Associate's 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, ~~or ninety (90) quarter credit hours of instruction~~, or the equivalent.
- (10g) "Authorization to operate" means approval of the Commission to operate or to contract to operate a postsecondary educational institution in this state as described in T.C.A. § 49-7-2007(1) – (3) or (5). Authorization to operate is ~~permission or licensure to operate~~ for a specified time at a specified ~~place(s)~~ location. Institutions shall not use ~~An authorization to operate~~ institution or agent awarded a letter or certificate of authorization in Tennessee shall not use terms to interpret the letter or certificate which specify or to connote greater approval than simple permission to operate. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."
- (11h) "Authorization site visit" means an institutional site visit conducted by ~~Commission staff~~ Commission Staff or ~~Postsecondary a~~ Committee members to verify a location or program is compliance~~t~~ with ~~Postsecondary Education Authorization~~the Act and these rules of 1974, Tennessee Code Annotated §§ 49-7-2001, et seq. as amended and the chapter 1540-01-02 of the Postsecondary Regulations. The authorization visit is commonly called a 'site visit'.
- (12i) "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, ~~or one hundred and eighty (180)~~180 quarter hours, or the equivalent.
- (13j) "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 500 ~~contact~~ contact hours normally with a single skill objective.
- ~~(k) "Certified" when used to modify audit refers to an audit in accordance with Generally Accepted Auditing Standards (GAAS) and in accordance with the auditing standards set forth in the book, "Government Auditing Standards" issued by the Comptroller of the United States (often referred to as the "yellow book" standards). If, However, the entity is required for other reasons to have conducted a certified audit in accordance with O.M.B., Circular A-133, such an audit shall be an acceptable substitute for the audit required pursuant to these regulations.~~
- (14) "Clock Hour" has the same meaning as contact hour.

- (~~f~~15) "Closed enrollment" means instruction provided ~~between an educator or educational service to a group or business on a private contractual bases~~ by a postsecondary educational institution, whereby public solicitation does not occur and the ~~instructional provider~~ institution is given a list of enrollees to train at no cost to the students.
- (~~m~~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. ~~Some examples of traditional degrees are: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, and Bachelor of Fine Arts.~~
- (~~a~~17) "Commission" means the Tennessee Higher Education Commission.
- (18) "Committee" means the Committee on Postsecondary Educational Institutions.
- (19) "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, Completion Rate = Number of Completions/(Number Not Currently Enrolled - Special Circumstance Withdrawals) x 100.
- (~~e~~20) "Contact ~~h~~Hour" ~~means a sixty (60) minute period of time that contains at least fifty (50) minutes of actual directed or supervised instructional time. (clock hour) refers to actual directed or supervised instructional time, not to be less than 50 minutes for every 60 minutes of time.~~
- (~~p~~) ~~"Credential" refers to educational credentials which include but are not limited to: certificates, diplomas, letters of designation, degrees, transcripts or any other papers generally taken to signify progress or completion of education / training at a postsecondary educational institution.~~
- (~~e~~21) "Degree" means ~~letters of designation or an educational credential or a title~~ from a postsecondary educational institution with level program acceptable to and so authorized by the Commission and/or an accrediting body recognized by the U.S. Department of Education. Typically used in some form is the term 'associate', 'bachelor', 'masters', 'specialist', or 'doctor' in the credential designation.
- (22) "Degree-granting postsecondary educational institution" includes institutions offering education or training above the high school level and where the institution awards degrees, such as associate, bachelors, masters, specialist, or doctoral degrees.
- (~~f~~23) "Diploma program" means a program of instruction offering technical and some basic course work. ~~Some g~~General education or peripheral courses may be included. ~~The p~~Program requirements shall generally range ~~ferrom~~ more than five hundred (500) contact contact hours ~~but to~~ less than the contact requirements for ~~the an~~ Associates degree.
- (24) "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.
- (25) "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-

- (~~s~~26) "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, ~~or one hundred and thirty-five (135) quarter hours of graduate credit,~~ or the equivalent.
- (~~t~~27) "Enrollment" refers to those students who ~~have completed the institution's application forms, submitted a financial deposit where required, and have actually~~ attended one (1) or more sessions of class, ~~es, or, turned in one (1) assignment, or received one (1) distance learning lesson in the case of home study programs, received one or more lessons.~~
- (28) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers or words 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.
- (~~u~~29) "Educational service" ~~means an individual or business established to provide services such as, but not limited to, a testing service, test preparation or a business that assists people in gaining academic credit for life experience, non-accredited courses or non-college training~~means any class, course or program of training, instruction or study.
- (30) "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.
- (~~v~~31) "General education courses" ~~means~~are general education core or academic subjects intended to broaden communication/language skills, contribute to the intellectual growth of the student and give balance to the total program beyond the area of vocational or professional concentration.;
- (~~w~~32) "Independent certified public accountant" means a CPA-certified public accountant not associated with the institution, ~~or its owners, or its affiliated businesses, especially in such a way that a conflict of interest or appearance of conflict arises.~~
- (33) "In-field placement rate" means the Number Placed In-Field as a percentage of number placeable, that is, In-Field Placement Rate = Number Placed In-Field/Number Placeable x 100.
- (~~x~~) ~~"Institute" means a postsecondary institution offering courses of study and training not usually associated with traditional liberal arts degrees. Appropriate credentials awarded would include applied science degrees, certificates, and diplomas such as the Associate of Applied Science (A.A.S.)~~
- (~~y~~34) "Institutional director" means the ~~institutional executive~~individual designated by the institution to assume responsibility for ensuring that the conduct of the institution and its agents are within ~~these rules and the Act~~the Act and these rules. ~~Further, the institutional director will serve as the official contact for all business conducted between the institution and the Commission and maintain complete authorization files.~~
- (35) "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.

(36) "Location" means an address that is zoned for commercial purposes for use as a postsecondary educational institution.

~~(z) "Long 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.~~

~~(aa37)~~ "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, ~~or forty-five (45)~~ quarter credit hours, or the equivalent.

(38) "Non-degree-granting postsecondary educational institution" includes all postsecondary educational institutions that do not meet the definition of a degree-granting postsecondary educational institution. Non-degree granting postsecondary institutions are frequently referred to as "career," "vocational," or "technical" schools. Non-degree granting postsecondary educational institutions are institutions offering programs designed primarily for job entry or upgrading of skills and usually measured in contact hours. These programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to affect outcomes.

(39) "Other fees" means fees, other than tuition, 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, graduation fees, or fees paid for housing, meals, or transportation.

~~(bb) "Non-exempt institution" means all postsecondary institutions not specifically exempted under provisions of T.C.A. §49-7-2004 of the Act or Section 1540-01-02-.05 of these rules and means all instructional sites which must have separate authorization unless, in the view of the Commission, the instructional locations are in sufficient proximity for facilitation of support services and administration.~~

~~(cc40)~~ "Out-of-state institution", ~~as applied to describe~~ means an authorized postsecondary educational institution, ~~means an institution~~ that maintains its primary campus in another state, but has a physical presence in Tennessee.

(41) "Ownership" means ownership of a controlling interest in the institution or in the event the institution is owned or controlled by a corporation or other legal entity other than a natural person or persons, ownership of a controlling interest in the legal entity owning or controlling the institution.

~~(dd42)~~ "Physical presence" means ~~actual~~ 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; an educational service; dissemination of educational credentials; enrollment; solicitation or advertising. Physical presence as further outlined for purposes of authorization shall include ~~but not be limited to:~~

~~1.~~ (a) operating Aan instructional site within the state;~~;~~

~~2.~~ (b) offering Iinstruction within or originating from Tennessee designed to impart

knowledge with response utilizing teachers, trainers, counselors ~~etc.~~, or computer resources, ~~or~~ computer linking ~~(e.g. internet)~~, or any form of electronic ~~telecommunications~~ means;

- ~~3.(c)~~ Dissemination of granting an educational credential from a location within the state;
- ~~4.(d)~~ using A an agent, recruiter, institution, or business that solicits for enrollment or credits or for the award of an educational credential; or
- ~~5.(e)~~ A 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 ~~hold a certificate of authorization~~ be authorized by the Commission.

(43) "Placement rate" means the number placed as a percentage of the number placeable, that is, Placement Rate = Number Placed/Number Placeable x 100.

~~(ee44)~~ "Postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives. ~~means an entity which maintains a place of business within Tennessee, or solicits business in Tennessee, and which offers or maintains a course or courses of instruction or study, or at which place of business such a course or courses of instruction or study are available through field instruction, classroom instruction or by long distance learning or both to a person or persons for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, service or industrial occupation, for a vocation, or for the award of an educational credential, except as excluded by the provisions of these rules and the Act.~~

~~(#45)~~ "Quarter" is a period of instruction into which the academic year ~~may be~~ is divided. A quarter must consist of at least ten (10) weeks.

~~(gg46)~~ "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 ~~for one quarter,~~ or two (2) hours of laboratory experience per week ~~for one quarter,~~ or three (3) hours of intern/externship experience per week, or the equivalent number of hours.

(47) "Refundable fees" means any fees paid by or on behalf of the student to the institution but excluding fees paid for (1) tangible goods retained by the student or (2) services provided in full to the student.

~~(hh48)~~ "~~Residence-Residential~~ course" means a course in which the student comes to an institution's ~~sal campus or instructional site~~ authorized location as opposed to a course where the student ~~stays at home (i.e. Long Distance Learning)~~ and the instructor are in different locations.

~~(ii)~~ "~~SACS Commission on Colleges~~" means ~~the Commission of the Southern Association of Colleges and Schools which accredits degree-granting postsecondary institutions.~~

~~(jj)~~ "School" means ~~(1) A unit within a college or university that offers specialized instruction (i.e., a school of engineering). (2) An institution that offers specialized instruction in areas~~

~~(i.e., driving, modeling, basic travel training) not usually associated with college or university education. Appropriate credentials awarded would include certificates and/or diplomas. Institutions using the name of "school" do not usually offer degrees.~~

- (~~kk~~49) "Semester" is a period of instruction into which the academic year ~~may be~~ divided. A semester must consist of at least fifteen (15) weeks.
- (~~H~~50) "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 ~~for one semester or~~, two (2) hours of laboratory experience per week ~~for a semester~~, or three (3) hours of intern/externship experience per week or the equivalent number of hours.
- (~~mm~~51) "Solicitation" means contact, written or verbal, on behalf of an institution for the purpose of supplying information in an attempt to enroll Tennessee residents. ~~inducing or attempting to induce a resident of Tennessee to sign, at any off-campus location, an enrollment agreement to attend a postsecondary educational institution.~~
- (52) "Specialist Degree" means an advanced master's degree or post-master's degree with requirements less than those required for a doctoral degree.
- (53) "These rules" means all rules contained in Rule Chapter 1540-01-02.
- (54) "Time to completion" means the total number of days from a student's start date until the completion date.
- (~~nn~~55) "Tuition" ~~shall mean~~ but not be limited to, any ~~money or~~ fee involving the student, actually charged or tracked as a bookkeeping item for instruction ~~/training~~ 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."
- (56) "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.
- (~~oo~~57) "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 ~~means at any given time, the total of refunds due former students, all tuition and fees that have or will be collected from students prior to graduation and which would be refundable pursuant to 1540-01-02, 17- of these rules, and any tuition and fees collected in advance from prospective students.~~
- (~~pp~~58) "University" means a postsecondary educational institution that provides facilities for teaching and research, offers ~~traditional~~ 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. ~~Some examples of traditional degrees are: Bachelor of Arts, Bachelor of Science, Bachelor of Fine Arts, Master of Arts, Master of Science, Master of Fine Arts, Master of Business Administration, Doctor of Philosophy, and Doctor of Education.~~
- (~~qq~~59) "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.

(60) "Withdrawal rate" means the number of withdrawals minus the number of withdrawals due to special circumstances as a percentage of program enrollment, that is,  $Withdrawal\ Rate = (Number\ of\ Withdrawals - Special\ Circumstance\ Withdrawals) / Program\ Enrollment \times 100.$

Authority: T.C.A. § 49-7-2003 and 49-7-2005

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

- (1) No location of a postsecondary educational institution ~~entity~~ may create a physical presence ~~advertise, solicit, recruit, enroll or operate a postsecondary educational institution as given in the Act and these regulations until so authorized for operation in the state unless the location is authorized by an affirmative vote of the Tennessee Higher Education Commission during a ~~scheduled~~ public meeting or is exempt. Authorization includes regular, temporary, and conditional authorization referred to in this Rule Chapter as well as optional expedited authorization referred to in Rule Chapter 1540-01-10.~~
- ~~(2) Depending upon the individual circumstance in reference to exemption categories, any of the following determining factors along with physical presence may qualify an operation for required authorization:
  - ~~(a) Operating under the definition of postsecondary educational institution as given in the Act and these regulations.~~
  - ~~(b) Issuance or award of any educational credential as given in TCA § 49-7-2003(7).~~
  - ~~(c) Fees and/or tuition charged, tracked or maintained on the books for instruction or training in a postsecondary educational institution or business operating as such.~~~~
- ~~(3) Businesses with vocational training programs that solicit or recruit students as 'employees' with phrases such as, but not limited to, "inexperience - will train" or "experience not required" must provide all training related to that job at no cost to the individual. Payroll deductions, minimum employment periods as a result of a company's 'investment' in the employee, or fees levied if an individual leaves that employment, or similar practices, shall constitute a fee and/or tuition for training which requires authorization for the operation as a postsecondary educational institution.~~
- ~~(4) Institutions with a physical presence in Tennessee providing postsecondary training / education, that forward student records to another school or any other source whether in this state or elsewhere for the award of an degree or any other educational credential shall be required to be authorized for operation.~~
- (52) Commission Staff may recommend that the Executive Director take adverse action against any unauthorized individuals, businesses, or institutions requiring authorization as a postsecondary educational institution determined by Commission staff to be currently operating as a postsecondary educational institution pursuant to the Act and these regulations and not expressly exempted by complete conformance to TCA § 49-7-2004 and/or Postsecondary Regulation 1540-01-02-.05 shall be subject to review by Commission staff for recommendation to the Executive Director for action or referral.
  - ~~(a) U. Such entities~~ authorized schools determined to be operating as a postsecondary educational institution must make an immediate good faith efforts toward compliance

by submitting an ~~an complete~~ Initial Authorization Application or Optional Expedited Authorization Application, as provided in Rule Chapter 1540-01-10, and the applicable fee by the due date provided by Commission Staff. ~~package with appropriate fees. Failure to comply may result in adverse action and/or referral to other state or federal agencies for review.~~

~~(6) Institutions seeking authorization should refer to Minimum Authorization Standards and Requirements 1540-01-02-06.~~

Authority: T.C.A. §§ 49-7-2002, 49-7-2003, 49-7-2005, 49-7-2006, ~~and~~ 49-7-2011, and 2016 Public Acts Ch. 868.

1540-01-02-.05 ~~Exemption~~ 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. ~~In addition to institutions exempt by Tennessee Code Annotated, Chapter § 49-7-2004, the following institutions are exempt from the annual reporting and the provisions of these regulations:~~

(a) ~~any entities offering e~~ Subject to subparagraph (b) of this rule, education, instruction or training that are:

1. maintained or given by an employer or group of employers, for employees or for persons they anticipate employing at no cost to the individual ~~without charge, which shall include taking a payroll deduction or requiring a minimum length of employment; or~~
2. maintained or given by a U.-S. Department of Labor or state recognized labor organization, ~~without charge, (1) to its membership or apprentices or (2) at no cost to the individual; or;~~
3. financed and/or subsidized by public funds, at no cost to the individual ~~without charge to the students, and~~ having a closed enrollment; or
4. given under a contract agreement, having a closed enrollment, ~~at no cost to the student~~ at no cost to the individual, and does not offer ~~degrees or educational credentials such as but not limited to diplomas or special certifications~~ that in the opinion of ~~the Commission~~ Commission Staff are specifically directed toward new or additional vocational, professional, or academic goals.

(b) For purposes of subparagraph (a) of this rule, 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 cost 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 authorization 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 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 authorization 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 designed solely to prepare students for graduate or professional school entrance exams and professional licensure exams shall be considered exempt from authorization 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 authorization 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) — To operate within exemption status, the following guidelines shall be used:-~~

- ~~(a2) Any institutions or program that clearly qualify/qualifies as exemption under the Act and/or these regulations/these rules after Commission staff review shall be considered is exempt from authorization without a determination of the vote of the Commission. However, institutions can request that Commission Staff issue a written determination of exemption 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~~
- ~~(b) — Institutional exemption is subject to annual staff review and/or revocation any time the activity deviates from the original determination factors for exemption.-~~
- ~~(c) — Exemptions secured under this section of the rules are effective for each authorization year beginning on July 1, except as individuals or groups of institutions are notified prior~~

~~to June 15 preceding any authorization year by a letter from the Executive Director of the Commission which shall state the bases for removal of any exemption.~~

- (d) ~~Exemptions can be revoked or amended by the Commission as they pertain to individual institutions whenever it is determined by the Commission that an institution exempted by the Act or these regulations has not acted in accordance to the purpose of T.C.A. § 49-7-2002, 'Legislative intent'.~~
- (3) Except as provided in paragraph (4) of this rule, to request a determination of exemption, institutions shall submit an Exemption Application along with a descriptive narrative explaining how the institution or program qualifies for an exemption. The application shall require a citation to the exemption provision relied on in the Act and these rules and documentation supporting the requested exemption such as: Institutions or educational providers seeking an exemption status (or not wanting to pursue authorization) that in the opinion of Commission staff do not clearly qualify under the exemption categories given in the Act and these rules will be required to complete an Exemption Request Form. The form shall include but not be limited to: copies of all institutional materials; brochures; advertising; state charter or business license; or organizational ties and/or contracts with other educational providers and a descriptive narrative of how the organization qualifies for exemption specifically citing the Act and/or rules. Upon receipt of an Exemption Application, Commission Staff shall make a written determination and, if denied, provide a date by which an aggrieved institution may submit a request for further review by the Executive Director. Such date shall not be earlier than ten (10) business days after the date of the written determination.
- (4) Institutions that are exempt pursuant to T.C.A. § 49-7-2004(a)(6) shall submit the Information Request Form in order to obtain a determination of exemption.
- (a) ~~Based upon the submitted material Commission staff shall make a written determination of institutional status. If the institution is aggrieved by that determination, the party may appeal in the manner provided by Rule 1540-01-02-.02(2)(b) and T.C.A. § 49-7-2010(b).~~
- (5) If the institution is aggrieved by a determination concerning exemption status, the institution may seek review as provided for in Rule .02(2)(b) of these rules. Any request for review shall be in writing, signed, list each instance where Commission Staff erred, and provide a detailed explanation of each alleged error with references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in paragraph (3) of this rule.

Authority: T.C.A. § 49-7-2002, 49-7-2003, 49-7-2004, 49-7-2005, 49-7-2006 and 49-7-2008.

1540-01-02-.06 MINIMUM ~~AUTHORIZATION~~ STANDARDS FOR AUTHORIZATION AND ~~REQUIREMENTS.~~

- (1) ~~(1)~~ (1) Institutions authorized to operate or seeking authorization to operate in Tennessee must meet the minimum requirements standards for authorization stated in the Act and these rules Tennessee Code Annotated § 49-7-2006 and as further defined in these regulations. Commission Staff shall verify that an institution meets minimum standards for authorization through review of applications, including, but not limited to, Initial Authorization Applications, New Program Applications, Program Revision Notification, School Personnel Applications, and Reauthorization Applications.
- (2) ~~Meet the definition of a postsecondary educational institution as given in the Act and/or~~

~~these postsecondary regulations.~~

- ~~(3) Have physical presence in the state as given in these regulations.~~
  - ~~(4) Establish a charter or business license in the state of Tennessee for the proposed institution.~~
  - ~~(5) Financial stability to start up and initially operate a postsecondary educational institution demonstrated through a certified audit or statement acceptable to the Commission of the resources to be utilized in the school.~~
  - ~~(6) Ability to secure an institutional surety bond or like security described in rule 1540-01-02-.07(7).~~
  - ~~(7) Have an educational program(s) consistent with standards in Tennessee for length, content and quality for the educational credential offered in compliance with the Act and these regulations.~~
  - ~~(8) All programs must include training and substantive content to attain outcomes stated as the program purpose and mission of the institution.~~
  - ~~(9) No principal party, owner or administrator involved with the proposed institution has ever been associated with a postsecondary educational institution that ceased operation with resulting loss of time or money for enrollees or had institutional authorization to operate in a state revoked or had a felony conviction involving moral turpitude, fraud or a capital crime.~~
  - ~~(10) Before an institution is granted temporary authorization, the following requirements and standards required of an approved school must be met in preauthorization and maintained operationally.~~
    - ~~(a) Complete all required initial authorization materials in package provided by the Commission staff with payment of all corresponding fees.~~
    - ~~(b) Verification of a stable physical presence and/or a physical site acceptable to the Commission and these rules.~~
    - ~~(c) Establish and maintain all Operational and Administration Standards, such as educational, financial, admissions, enrollment, instructor, etc., as given in these rules.~~
    - ~~(d) New or revised programs must conform with all requirements given in these rules under New Program or Change in Program.~~
    - ~~(e) Compliance for each of the educational credential(s) offered by the applicant institution, with requirements as given under Non-Degree Granting Institutions or Degree Granting Institutions.~~
  - ~~(f) Demonstrate compliance for branch sites or expansion of programs by prior approval or prior notification with the institution's accrediting body wherever necessary to be consistent with the requirements of the accrediting body and the federal regulations.~~
- (11) No out-of-state institution will be considered for authorization if it is not authorized in the state where it is primarily located.

- ~~(12) Any institution based primarily outside of Tennessee which proposes to set up a branch in Tennessee and is not accredited by an agency recognized by the Commission must forward reasons why resources would not best be spent on accreditation at current site.~~
- (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 breakdown 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, or multiple findings in several different areas.
- ~~(13) An exception to any part of the Minimum Authorization Standards must be reviewed on an individual basis by the Commission.~~
- (45) School 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) ~~No postsecondary educational institution under the Act and these rules may not use the word "university" in their name unless the school institution meets the definition of university in these rules and has been so approved by a regional accrediting body so recognized by the U.S. Department of Education.~~
- (bc) ~~No postsecondary educational institution under the Act and these rules may use the word "college" in its name without a qualifier if the institution:~~
1. meets the definition of college as set forth in 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 name contains name unless the school has been so approved by a regional accrediting body recognized by the U. S. Department of Education, or uses an appropriate qualifier along with the word "college", such as "career", "vocational", or Bible. For institutions authorized after October 1, 2016 "business", "technical", "art" etc., the qualifier shall precede the word college. or in the case of a religious institution, "Bible" or a denominational term.
- ~~(c) All institutions authorized after July 1, 1997 using "college" in accordance with item 14(b) above, must achieve regional or national accreditation from an accrediting body recognized by the U. S. Department of Education in a~~

~~timely manner while demonstrating consistent good faith efforts toward achieving that goal.~~

- ~~1. — New institutions authorized after July 1, 1997 that demonstrate in the application process, that the school is capable by program length, content, adequate physical site and administrative capability of achieving accreditation, may initially use “college” in the institutional title as outlined in 1540-01-02-.06(14)(b) above.~~
- ~~2. — Institutions may use “Junior College” as a qualifier in the name of the institution provided that the institution has a current articulation agreement with a regionally accredited college or university. Loss of the articulation agreement will require removal of “Junior” as a qualifier, to be replaced on a schedule agreeable to the Commission with an institutional name in compliance with these rules.~~
- ~~3. — Institutions that fail to make good faith efforts toward accreditation or achieve accreditation in a timely manner shall be required to remove “college” from the institutional title.~~
- ~~4. — The Executive Director may consider an exception to 1540-01-02-.06(14)(a), (b) given above for special or unique circumstances. Institutional waivers will be null and void with a change in ownership.~~

Authority: T.C.A. §§ 49-7-2002, 49-7-2004, 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008.

#### 1540-01-02-.07 INSTITUTIONAL APPLICATIONS.

- (1) Application ~~deadline~~due dates and deferrals:
  - (a) For each quarterly meeting of the Committee, Commission Staff shall establish a due date that is no more than ninety (90) days before the date of the meeting. Unless stated by Commission Staff, the established due date shall apply to Initial Authorization Applications, New Program Applications, and Reauthorization Applications. Applications shall be received at the Commission on the due date. Applications received after that date will be deemed late and may be deferred to the next due date.
  - (b) An application submitted without the appropriate fee will be considered incomplete and will not be reviewed until all applicable fees are received. In any event, Commission Staff may defer the application to the next due date.
  - (c) Further, an ~~incomplete submissions~~ application is an application that is missing any information or contains noncompliant information. Commission Staff ~~as given below in Authorization – What Constitutes a Complete Application, or applications submitted after the established deadline~~ may ~~be~~ defer consideration of the application ~~red~~ to the next ~~quarterly meeting~~due date at the discretion of staff.
  - (d) If an application is deferred, the institution shall have until the next established due date to complete the application.
  - (~~b~~e) An application can be deferred either by the ~~in~~stitution or Commission Staff a total of two (2) times. After the second deferral, the application will be deemed withdrawn if the institution does not submit a completed application by the next

~~due date.s that voluntarily or involuntarily defer an application before the Committee will have two additional Committee/Commission meetings to complete, correct and/or submit the application by that established deadline date. Failure to complete the application process in the established time extension will require a new application and loss of all previously paid fees.~~

~~1. Exceptions must be requested in writing and granted by the Executive Director.~~

(2) Initial Authorization Application: Authorization – What Constitutes a Complete 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. ~~Prior to operation, which includes advertising, recruitment and solicitation, institutions seeking or required to hold an authorization must submit on forms provided by the Commission, a completed~~ The application which shall include ~~require~~ at least the following ~~a minimum:~~

1. ~~a title or~~ name of the institution ~~that complies in compliance~~ with the Act and these rules;
2. documentation demonstrating the institution is operating lawfully in the state. Institutions registered by the Tennessee Secretary of State shall submit a Certificate of Existence issued no more than two (2) months prior to the date of the application. Institutions that are not registered with the Secretary of State shall submit a local business license ~~a copy of the Tennessee state charter as filed with the Secretary of State (incorporated) or local business license (sole proprietorship);~~
3. evidence of a business account with a financial institution that is federally insured in said institution's name;
- ~~3~~4. 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 showing the institution's position in relationship to all affiliated corporate entities ~~ownership and/or controlling officers;~~
- ~~4~~5. 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 of good quality;
6. evidence demonstrating that the location is commercially zoned 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;
- ~~5.~~ ~~list of instructional equipment for each program (owned or leased);~~
- ~~6~~7. qualifications for instructional staff and supervisors;
- ~~7~~8. designation of ~~and contact information for~~ an institutional director for each location and an affirmation from the director that he or she will conduct the institution in accordance with the Act and rules ~~site-responsible for authorization contracts and maintenance of records and~~

~~all other duties as described under Personnel and Instructor Qualifications (1540-01-02-.16);~~

89. ~~a description~~ definition 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 check or money order payable to the State Treasurer for Tennessee for such fees as prescribed under these rules;~~
- ~~1010. a continuous~~ institutional surety bond ~~as described by rule 1540-01-02-.07 or as prescribed by T.C.A. §49-7-2013;~~
- ~~1111. a copy of the enrollment~~ ~~contract or agreement described in these regulations~~ the institution will use following receipt of authorization;
- ~~1212. a copy of the pre-enrollment checklist~~ the institution will use following receipt of authorization ~~Enrollment Disclosure Standards (1540-01-02-.13) checklist if not incorporated within the enrollment agreement (contract);~~
- ~~13. information pertaining to institutional facilities ownership, length of any lease and time in present quarters. Information must include total square feet, available floor space for conducting programs, and subtotals for classrooms, offices, and library space (with number of volumes held). Instructional equipment (specify owned or leased) must be listed and described. Current verification of fire and sanitation inspections of educational facilities (and student housing owned by institution) must be filed as described in 1540-01-02-.07 of these rules;~~
- ~~1413. a draft or~~ copy of the institutional catalog the institution will use following receipt of authorization ~~(see 1540-01-02-.11);~~
14. a copy of the student transfer of credit disclosure statement required by T.C.A. § 49-7-144;
- ~~15. a complete description of the proposed educational programs in compliance with the Act and these rules;~~
- ~~16. a complete syllabus for each course proposed that demonstrates sufficient content and depth for the proposed level of the program and credential offered;~~
- ~~1715. any specific requirements as outlined under degree granting and/or non-degree granting sections of these regulations~~ Rule .08 of these rules;
16. 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;
- ~~1817. if participating in Title IV federal student financial aid programs,~~

- (i) the institution's Office of Postsecondary Education Identification (OPEID) number;
- (ii) the most recently calculated three-year official cohort default rate from the Office of Federal Student Aid of the U.S. Department of Education; and
- (iii) documentation demonstrating that the institution is currently maintaining financial standards and institutional stability deemed acceptable for eligibility in Title IV federal student financial aid programs. Documentation shall include at a minimum:
  - (I) the most recent independent audit completed, in part, for purposes of calculating the institution's federal financial composite score as described in 34 C.F.R. § 668.172 and
  - (II) 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, financial ratios, a letter of credit alternative, or a provisional certification alternative as well as any related correspondence from the institution;~~a copy of the most recent audits or program reviews of such programs by any applicable non-profit, state or federal agencies, including, but not limited to, any student guarantee agency and the United States Department of Education;~~

~~49~~18. institutions must provide current or pro forma financial statements evidencing ~~the~~ institutional financial ~~stability as follows:~~ resources adequate to fund and maintain the following:

- (i) facility maintenance and overhead;
- (ii) staff and faculty payroll;
- (iii) books, supplies or equipment utilized by students; and
- (iv) general operating costs;

19. provide financial statements as follows:

- (i) as to institutions that are not currently operating a location in Tennessee or out-of-state, pro forma financial statements 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(6)(d) of these rules and financial statements of all owners or
- (ii) as to institutions that are operating a location in Tennessee or out-of-state, pro forma financial statements 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(6)(d) of these rules and the most recent financial statements of the existing entity; and

20. such other information or clarification deemed necessary by Commission Staff.

- ~~(i) sufficient finances to establish and conduct proposed operation;~~
- ~~(ii) audited financial statements consistent with generally accepted accounting principles and signed by a certified public accountant not associated with the institution or its owners;~~

~~20. the balance sheet in the financial statement must reflect owner's (proprietorship, partnership, corporation, other, etc.) assets and liabilities.~~

~~(3) Each application for a certificate of authorization or change of ownership must be signed by the applicant and signature(s) must correspond with required names on surety bonds. If the applicant is a partnership, all partners must sign. If the applicant is a corporation, it must be signed and certified by the president and secretary; all officers of the corporation must be listed.~~

~~(4b) A separate application for authorization, which is site specific, must be made for each location located outside of reasonable walking distance from a previously authorized location from the main site. The Commission staff Commission Staff may make reasonable exceptions for narrow purpose, highly structured programs at multiple locations where, in view of the Commission, administrative requirements are limited and precise.~~

~~(5) The applicant institutional director must sign and date, on forms provided by the Commission, the director's intention to:~~

- ~~(a) conduct the institution in accordance with the Act and rules established by the Commission;~~
- ~~(b) advertise or solicit using institutional employees familiar with these rules;~~
- ~~(c) advise the Commission within a reasonable time in advance if the controlling officers change or the school ceases operation;~~
- ~~(d) notify the Commission of staff changes by forwarding staff information forms for new staff and informational letter for staff terminations;~~
- ~~(e) advise the Commission of any application to operate in another state (Tennessee institutions only);~~
- ~~(f) sign significant operational documents (such as those vouching for accuracy of staff information, moral character, program revisions, etc.); and~~
- ~~(g) forward, if participating in federal financial aid programs, a copy of each audit of such programs by applicable state and federal agencies, applicable non-profit, state or federal agencies, including, but not limited to, the Tennessee Student Assistance Corporation and the United States Department of Education.~~

~~(6) Bond Requirements for Institutions:~~

- ~~(a) — Institutions not exempted from surety bond provisions, must on forms provided by the Commission, secure for student indemnification purposes, from an insurance company licensed in Tennessee, a surety bond for the penal sum of \$10,000 for in-state institution and \$20,000 for out-of-state education institution, including branch campuses as specified in T.C.A. 49-7-2013, except as follows:
  - ~~1. — In-state institutions with substantially less unearned tuition or student exposure than \$10,000 may post a surety bond equal to 125% of the maximum unearned tuition or student exposure rounded upward to the nearest thousand dollars (prior written administrative agreement by the Commission staff is required).~~~~
- ~~(7) — Out of state institutions must, on forms provided by the Commission, secure a surety bond for agents in the penal sum of \$5,000 per agent from a surety company authorized to do business in Tennessee with the applicant institution as principal. Such applications must be accompanied by verification by the issuing agency that the individual seeking a permit is covered by a \$5,000 surety bond.~~
- ~~(8) — Bonds provided by institutions under Section 1540-01-02-.07(7) must be accompanied by the name, office address, and phone number of the issuing insurance company representative and the bond must be site specific.~~
- ~~(9) — Bonds provided by institutions under Section 1540-01-02-.07(7) must be identified on the top half of the first page by the name and the address of the institution. Bonds and verification of bonds should be forwarded to the Commission by institutional directors, and not directly from issuing companies.~~
- ~~(10) — Certificates of deposit or a cash deposit with a bank may be accepted in lieu of the bond with approval of the Commission staff. Such deposits are subject to the same terms and conditions provided for in the surety bond requirement under this regulation.~~
- ~~(11) — Fire and Sanitation Inspections:
  - ~~(a) — Applicant institutions must secure, from appropriate local agencies, documentation that fire and sanitation codes are met by the proposed instructional facilities. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.~~
  - ~~(b) — Tennessee institutions seeking initial authorization and renewal must maintain documentation in their authorization records that a fire and sanitation inspection has been successfully passed during the past twelve months and, further, the institution must notify the Commission of the most recent inspection dates as part of the renewal application. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.~~
  - ~~(c) — Out-of-state institutions must forward to the Commission a copy of fire and sanitation inspection reports and these reports must be made at least every twelve months.~~
  - ~~(d) — Commission staff may seek supplemental fire and/or sanitation reports from appropriate local or state agencies.~~~~

(3) Reauthorization Application:

(a) Effective January 1, 2018, institutions with regular, temporary, or conditional authorization shall file a reauthorization application by the due date for the Committee meeting that is approximately one year from the institution's initial authorization date. In order to efficiently transition to this process in 2017, Commission Staff will post on its website by October 3, 2016, a schedule for institutions to follow in 2017 to obtain reauthorization prior to the current authorization expiration date of June 30, 2017. If necessary to effectuate the transition, the Executive Director may extend an institution's authorization.

(b) Institutions must demonstrate through the Reauthorization Application that the institution continues to meet the minimum standards for authorization as provided for in the Act and these rules. The application shall 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 for the most recent institutional fiscal year as given under Rule .14 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. statistical data as described in Rule .27 of these rules; and
8. such other information or clarification deemed necessary by Commission Staff.

(124) ~~New Ownership~~ / Change in Ownership Application:

(a) Authorization to operate cannot be transferred.

(b) The sale or transfer of an ownership interest after the death of an owner of an institution to either an approved partner or current stockholder of the corporation is not considered a change in ownership. The Executive Director may determine that other similar transfers should also be excluded from these requirements.

(c) In the event of a change of ownership, as defined in Rule .03(41) of these rules, the new owner or governing body must submit to Commission Staff within ten (10) 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 or governing body conditional authorization to operate until the new owner or governing body obtains temporary authorization.

~~The following constitutes new ownership:~~

- ~~1. in the case of ownership by an individual, when more than 50% of the institution has been sold or transferred;~~
- ~~2. in the case of ownership by a partnership or a corporation, when more than 50% of the institution or of the owning partnership or corporation has been sold or transferred;~~
- ~~3. when the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the institution.~~

~~(b)~~ A person or persons purchasing~~The new owner or governing body shall submit an Initial Authorization Application by the first quarterly filing due date after filing the Change of Ownership Application. an institution authorized to operate shall comply with all the requirements for securing an initial, new authorization including new program applications for each program.~~

~~(e)~~ The Change of Ownership Application shall~~In addition, a copy of the~~require that the new owner or governing body provide the sales contract(s), bill(s) of sale, deed(s), and all other instruments documents necessary to transfer ownership of the institution~~shall be submitted to the Commission.~~

~~(c)~~ ~~In the event of a change of ownership, a new owner or governing body must notify the Commission within 10 days after the change in ownership and request from the Executive Director conditional authorization to operate until temporary authorization can be acquired under standard established procedure by recommendation of the Committee for Postsecondary Educational Institutions and affirmative vote of the Commission.~~

~~(d)~~ ~~The sale or transfer of ownership interest after the death of an owner of an institution to either a family member or a current stockholder of the corporation is not considered a change in ownership, and the executive director may determine that other transfers should also be excluded from these requirements.~~

~~(135)~~ New Program or Change in Program~~Application and Program Revision Notification:~~

~~(a)~~ ~~Vocational program names and objectives must generally coincide with or be equated with the Dictionary of Occupational Titles published by the U.S. Department of Labor and/or the Classification of Instructional Programs published by the U.S. Office of Education, National Center for Education Statistics.~~

~~(b)~~ ~~New institutions proposing to offer programs similar to those conducted by Tennessee institutions under the Tennessee desegregation plan must submit a description of the anticipated effect of the proposal on the racial composition of higher education institutions in Tennessee.~~

~~(ea)~~ In order to offer a program, an institution must submit a New Program Application either along with an Initial Authorization Application or, for previously authorized

institutions, as a stand-alone application. Program approval by the Commission is required prior to offering the program, which includes enrolling, advertising, recruiting or soliciting. Applications must be received by the quarterly due date established by Commission Staff.

~~New institutions must submit a rationale with supporting data to justify initiation of programs proposed.~~

(b) The New Program Application shall 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. When program lengths exceed standard times or program periods established by these rules, the institution must justify expansion of training in terms of exceptional student benefits;
2. designation of the credential awarded which conforms to the requirement that no institution may offer instruction leading to an academic degree unless the institution is approved by a regional accrediting body recognized by the U.S. Department of Education. An exception may be approved by the Executive Director upon recommendation of Commission Staff. Any request for exception shall be made in writing and include proof of the following:
  - (i) The institution is accredited by an U.S. Department of Education approved accreditor for the specific degree type; the program is accredited by the appropriate accrediting agency if such accreditation is necessary for employment in or licensure by the state; and the institution has articulation and transfer of credit agreements with two (2) regionally accredited institutions both having a physical location in the Southeast region or
  - (ii) special or unique circumstances.
3. if applicable, evidence of approval from any subject matter expert state agency, board, or commission;
4. a program overview;
5. syllabi for courses or, for short programs, an outline and description of the training;
6. a job title and the associated Classification of Institutional Programs (CIP) code applicable to the job title;
7. the most currently available entry level salary or wage data for those CIP codes from a Tennessee or federal website;
8. admission criteria;
9. instructor qualifications and, when applicable, School Personnel Applications;
10. library holdings and in-house resources available to students related to the program;

11. a list of training equipment, indicating whether the equipment is owned or leased;
12. a description of how this program is consistent with the institution's mission;
13. a description of how the institution is structured (administration, staff and resources) to ensure educational quality;
14. if applicable, a list of all clinical or externships sites with a copy of an affiliation agreement with each site;
15. The maximum pupil to teacher ratio for each course. Acceptable ratios, without special permission from the Commission, are as follows:
  - (i) lecture: 40-1;
  - (ii) allied health and nursing labs: 20-1;
  - (iii) class A truck cab: 4:1; and
  - (iv) class B truck cab: 2:1.
16. 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;
  - (ii) an explanation as to how educational goals and overall program goals are achievable through distance learning; and
  - (iii) an explanation as to how graduates of the program will exhibit skills and knowledge equivalent to similar residential programs; and
17. such other information or clarification deemed necessary by Commission Staff.

~~(d) — Authorized institutions must submit to the Commission a supplementary application if additional programs are proposed during any authorization year and the program must be authorized prior to operation, which includes advertising or solicitation. Applications must be received by the quarterly deadline established by Commission staff to be included on the ensuing Committee and Commission agenda.~~

~~(e<sub>c</sub>)~~ When an Ongoing institutions that make changes revises to an existing program(s) an previously approved program by the Commission must file a , 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 New Program Application if the program changes revision amounts to change of more than exceed twenty-five percent (25%) in one calendar year the last twelve (12) months, or if in the opinion of staff Commission Staff determines a significant change revision has occurred, then the institution must submit a New Program Application prior to implementing the revision. Changes of less

~~than 25% should be reported by letter as a file item to the Commission detailing changes made. All changes must be reflected in the institutional catalog.~~

- ~~(f)~~ Institutions shall not arbitrarily add a course ~~or courses~~ to an existing program in which a student would incur additional time ~~and/or~~ expense beyond the catalog requirements at the time of enrollment, unless the addition is in response to: ~~demonstrated-~~

1. demonstrated educational necessity;
2. a reasonable program completion period ~~had~~ elapsed;
3. state approval agencies requirements;-
4. U.S. Department of Education recognized accrediting accreditor agencies requirements; or ~~for~~
5. requirements of professional licensure requirements ~~certifications or licenses.~~

~~Under approval conditions~~ In any event, the institution shall provide written notification to ~~the Commission~~ Commission Staff and give adequate notice to all students affected prior to any change.

~~(446)~~ New Location / Change of Address Location Application:

- (a) Absent extraordinary circumstances, an authorized institution shall submit a Change of Location Application thirty (30) days prior to moving. An example of an extraordinary circumstance is the unexpected loss of a lease.

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

- (i) 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 of good quality;
- (ii) evidence demonstrating that the location is commercially zoned 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;
- (iii) 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; and
- (iv) such other information or clarification deemed necessary by Commission Staff.

~~An application from an authorized institution to reflect a new location shall be filed and include all documents designated by the Executive Director as being necessary with the appropriate fee. Documents shall include but not necessarily limited to: (1) evidence of satisfactory health inspection, (2) evidence of satisfactory fire inspection, (3) all physical material and building requirements given under Initial Authorization.~~

(c) Commission Staff shall approve the application after it determines that the application is complete and conducts a successful site visit.~~Approval may be issued after the new facilities have been inspected and the application is complete.~~

(d) If a move is beyond ten (10) miles and a student is prevented from completing the training at the new location~~as determined by the Executive Director~~, 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 provide and maintain qualified faculty and staff in order to fulfill the mission of the institution and all obligations to the students. Qualifications must be submitted to Commission Staff on a School Personnel Application no later than ten (10) business days after the hire date.

1. Unaccredited institutions must submit to Commission Staff School Personnel Applications for all instructors and administrative personnel as that term is defined in subparagraph (6)(b) of this rule.

2. Institutions accredited by an accrediting body recognized by the U.S. Department of Education must submit to Commission Staff School Personnel Applications for all administrative personnel as that term is defined in subparagraph (6)(b) of this rule. For each instructor, an accredited institution shall maintain on-site documentation that demonstrates the minimum qualifications and must submit such documentation and a School Personnel Application at any time upon request from Commission Staff.

(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.

(8) Agent Permit Application:

(a) Agents must submit an Agent Permit Application, as provided by Commission Staff, and must receive approval and an agent permit from Commission Staff prior to any solicitation. The application shall include at a minimum:

1. general contact information for the agent;

2. recommendations by two (2) reputable persons certifying that the applicant is of good character and reputation;

3. a surety bond as specified in Rule .09 of these rules; and

4. certification by the institution director that the applicant will be directed to act in accordance with the Act and these rules.

(b) Agent permits must be renewed every year. The expiration date of a permit is one (1) year from the date of issue or immediately upon termination of

employment whichever occurs first.

(c) Agents must have separate permits to represent separate institutions unless the institutions have common ownership such that the institutions present a common name to the public and have the same mission. Mutual agreement by institutions is required.

(d) All agents must verify by signature that they have read and are familiar with rules on advertising and solicitation and must verify intent to follow rules as set forth in Fair Consumer Practices.

(9) Institution Name Change Application:

(a) An authorized institution shall submit an Institution Name Change Application thirty (30) 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 compliance with these rules;

3. updated surety bond information;

4. an updated copy of the pre-enrollment checklist, enrollment agreement, and catalog; and

5. such other information or clarification deemed necessary by Commission Staff.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008 and 49-7-2013.

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

~~(1)~~ General:

~~(a) Institutions offering programs of legal interest to other state agencies must, if directed by the Commission, provide information necessary for the dual review of the program. (For example, any institution proposing a teacher education program for the purpose of teacher licensure must also be reviewed by the State Board of Education).~~

~~(b) Authorized institutions that promote, advertise or use prepared materials of any entity that offers vocational / professional certifications (that are not part of the school's authorized educational credential) or certification exams, (e.g. national certifying exam for Phlebotomy) must demonstrate to the Commission clear benefit to the students prior to usage. The Commission upon review may rule to:~~

~~1. allow promotion and usage because of benefits to the student;~~

- ~~2. allow promotion and usage but with clear disclosure to the students with language such as, 'this certification is voluntary and is not required for employment in the state of Tennessee' or 'this certification is voluntary and is not necessarily used as a standard of recognition for employment within the industry;~~
  - ~~3. deny usage. (see Prohibitive Acts 1540-01-02-18).~~
- ~~(c) Unauthorized institutions that promote, advertise or use prepared materials of any entity that offers vocational/professional certifications may be required to become authorized for such activity.~~
- ~~(d) Institutions must adhere to all copyright laws and observe intellectual property rights in conducting the school.~~
- ~~1. Using video tapes or other forms of telecommunication as a large portion of the contact hours in a program or on a per class basis for the purpose of granting educational credit, must have implied consent by purchase or the written consent of that instructor and/or the institution that produced the educational material, prior to incorporating them into the curriculum.~~
- ~~(2) Non-Degree Granting Institutions:~~
- ~~(a) Non-degree programs which are designed primarily for job entry or upgrading of skills must be described in clock (contact) hours.~~
  - ~~(b) Non-degree programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to effect outcomes.~~
    - ~~1. Institutions must provide a minimum program length that adequately prepares students for entry level employment.~~
    - ~~2. Program lengths that exceed standard or currently acceptable times or program periods established by regulations and/or statues must justify expansion of training in terms of exceptional student benefits. Such programs may also be required to review curriculum to evaluate consolidation of classes and course material.~~
- ~~(3) Degree Granting Institutions:~~
- ~~(a) New institutions seeking authorization to offer degrees in the state of Tennessee or new program applications for a degree program must submit the application by the deadline date established by Commission staff, which shall be 45 to 60 days prior to the quarterly meeting of the Committee on Postsecondary Educational Institutions.~~
  - ~~(b) All degrees offered must be approved by name and designation by the Commission. No institution may offer traditional liberal arts degrees or professional degree designations such as those given in the definitions under "college" and "university" unless previously approved by a recognized regional accrediting body.~~
    - ~~1. An exception may be approved by the Executive Director upon recommendation of Commission staff.~~

- (ea) Authorization to offer any degree in the state will require either institutional accreditation by a U.S. Department of Education recognized accreditor ~~as defined in these regulations~~ or authority to grant degrees by affirmative vote of the Commission. ~~Accredited institutions shall be deemed during initial authorization to have met the minimum requirements to offer degrees.~~
- (eb) ~~Non-~~Unaccredited institutions seeking authority to grant degrees ~~in the state~~ must meet, in addition to the requirements in the Act and these regulations ~~these rules~~ for ~~temporary or regular~~initial authorization, at a minimum ~~the additional fee as given in these regulations and demonstrate compliance with, but not limited to the following standards:~~
1. the ~~operation~~institution shall incorporate instructional procedures, texts, and materials appropriate to the purpose, curriculum and standards of other postsecondary ~~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. a syllabus for each course offered;~~
  43. library resources and holdings ~~that~~ shall contain up-to-date titles, be available and accessible to all enrolled students and commensurate with the proposed degree level;
  54. demonstration that the degree and the program has merit and value academically, professionally, or vocationally in Tennessee; and
  65. master 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.
- (ec) Undergraduate degree programs must include at least twenty-five percent (25%) of the program in general education courses unless the institution can demonstrate program accreditation requirements which are lesser or for a ~~non-~~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.
- ~~All general education courses must be taught by holders of baccalaureate degrees with at least twenty-five percent of the general education staff with earned master's degrees or equivalent.~~
- (fd) 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.

~~(g) Degree program admission policies must be at least the following:~~

- ~~1. undergraduate degrees must require a high school diploma or equivalency, and~~
- ~~2. graduate degrees must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.~~

~~(4) Long Distance Learning:~~

~~(a) Required authorization of long distance learning institutions shall be reviewed based upon Commission staff evaluation of physical presence. Computer networks or other electronic delivery systems or other forms of long distance learning that might have institutional components in multiple locations outside of this state will be reviewed based upon origination of but not limited to any of the following from Tennessee: instruction, institutional administration or issuance of an educational credential.~~

- ~~1. No ruling by the Commission regarding authorization or exemption of a long distance learning provider will be interpreted to limit review by any other state agency concerning issues of consumer protection and disclosure.~~

~~(b) All authorized long distance learning institutions must provide a printed catalog, enrollment disclosure statement and a contract as required in these regulations. Institutions that enroll students by means such as computer network or telecommunications must provide evidence that the student has acknowledged receipt of the required information.~~

~~(c) Home study or long distance learning institutions must meet directly and indirectly all requirements of the Act and these regulations and must seek authorization for a specific location, assign specific administrative responsibilities at each separately authorized site to a director for adequate and appropriate staffing to serve the stated purpose and to make reports as directed by these rules, and as requested by the Commission staff.~~

~~(d) Long distance learning courses or programs must consist of at least the following:~~

- ~~1. a preliminary lesson or set of instructions on how to study by the home study method, or adequate study instructions per assignment;~~
- ~~2. current and accurate text or lesson materials; and~~
- ~~3. instructional service or individualized feedback on each unit assignment which must be based on examination questions or problem assignments which thoroughly stress the important phases of the subject presented.~~
- ~~4. demonstration that instruction in each course including general education courses is presented by a qualified instructor(s), and that required student evaluation or feedback for each course or lesson is also by a instructor qualified in that specific course or subject matter area.~~

- ~~5. evidence that adequate library or research resources are available to all students that may enroll appropriate to the type and level of the educational program and credential offered.~~
- ~~6. educational goals and overall program goals are achievable through long distance learning and that graduates of distance education exhibit skills and knowledge equivalent to resident programs of a similar nature.~~

(52) 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~~Schools:~~

- (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.

~~(6) Truck Driving (CDL) Schools:~~

- ~~(a) Authorized truck driving schools may advertise in the 'help wanted' section of the newspaper classifieds provided that the advertisement adheres to all other regulations given in 1540-01-02-.20 and within the advertisement it clearly indicates with specific language that this is a "school advertisement", "advertisement for training" or a "training opportunity with [school's name]".~~

~~(b) Advertisements may refer to truck lines or carriers by name with the written permission of that company and use language such as "training agreement with", "training contract with" or "exclusive training for [carrier's name] in Tennessee". If a school mentions or alludes to multiple training agreements with carriers, the advertisement must give a specific number and have prior approval from Commission staff. All claims related to carriers must be documented and on file at the school.~~(4) Programs leading to licensure, certification, registration or similar recognition:

(a) Successful completion of an examination given by a private or public third-party cannot be part of an institution's program or be a completion requirement. 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:

(i) whether the student sat for the examination and

(ii) whether the student passed the examination.

(c) Institutions may request a waiver from Commission Staff of subparagraph (3)(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.

~~(7) Modeling Schools:~~

- ~~(a) Modeling schools that also operate a placement or talent agency must maintain clear separation in function and advertising the agency from the school.~~
- ~~(b) Talent seminars, interviews or 'talent searches' may not be used to enroll individuals in modeling schools or training.~~
- ~~(c) Schools that operate as a 'finishing school', exclusively for personal deportment or for enrichment may not advertise or conduct courses that implies or suggests vocational modeling or related goals.~~

~~(6)~~ **(8)** Computer Training:

- ~~(a) Businesses offering limited computer training in hardware, software, delivery systems or any related technology for clients or customers (closed enrollment) directly related to a sale of equipment or services are exempt from the provisions of authorization.~~
- ~~(b) Businesses offering short term computer training 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 the Commission courses using various software are offered concurrently toward a vocational goal. (e.g. word processing software offered toward secretarial goals).~~
- (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.

~~(9) Teacher Training (K-12) or Licensing or Recertification:~~

- ~~(a) The Tennessee State Board of Education or the Commission may request a dual review of any institution or business with physical presence in Tennessee offering courses related to but not limited to teacher (K-12) licensing, recertification or career ladder. For accredited institutions with teacher education programs using long distance learning (but using targeted direct mail advertising), the Commission may grant a waiver for authorization if State Board of Education or a local public school district has accepted, endorsed or approved for graduate credit transfer any portion of the program. Such a waiver shall not be granted for any institution outside of the provisions stated above and may be individually retracted if in the opinion of the Commission the advertising is misleading regarding outcomes or credits earned.~~

~~(10) Seminars / Workshops:~~

- ~~(a) Seminars or workshops of short duration that are motivational, enrichment, recreational, avocational or solely for professional enhancement as determined by Commission staff shall be considered exempt from authorization requirements.~~
- ~~(b) Upon review by Commission staff a seminar/workshop provider regardless of length that presented the instruction in such a way to suggest a vocational end~~

~~may be required to become authorized in the state, or clarify through public advertising that the seminar/workshop is in fact enrichment or recreational.~~

Authority: T.C.A. §§ 49-7-2003, 49-7-2005, and 49-7-2008.

1540-01-02-.09 BONDS

- (1) Institutions must, on forms provided by the Commission, secure for student indemnification purposes, from a surety company qualified and authorized to do business in Tennessee, a continuous surety bond in the amount of:
  - (a) ten thousand dollars (\$10,000) for in-state institutions, out-of-state public institutions and all institutions providing primarily religious instruction, and
  - (b) twenty thousand dollars (\$20,000) for all other institutions, including out-of-state private institutions.
- (2) Out-of-state institutions must, on forms provided by the Commission, secure a surety bond for agents in the amount of five thousand dollars (\$5,000) per agent from a surety company qualified and authorized to do business in Tennessee with the institution as principal.
- (3) Institutions must provide a bond for each authorized location.
- (4) 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.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2013.

1540-01-02-.09-10 AUDITS ANNUAL RENEWAL FOR AUTHORIZATION.

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

- (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.
- ~~(1) All unaccredited authorized institutions and institutions under Temporary or Conditional Authorization must submit an annual report or renewal application on a form provided by Commission staff. The annual authorization year will be from July 1 through June 30 and annual application or reports submitted is due each October 15 and must be accompanied by an annual fee as prescribed by these rules.~~
- ~~(2) Accredited institutions under Regular Authorization will be granted upon affirmative vote of the Commission an authorization certificate for each site for a period of up to six years. The Commission, when possible will tie the authorization period to the accrediting body's granting of accreditation / reaffirmation cycle and require each October 15 (in lieu of the Commission's annual renewal package) the most recent annual reporting documents submitted to the accrediting agency along with any minimum forms required by the Commission.~~
- ~~(3) Annual reports or renewal applications postmarked after October 15 or other due date will be assessed a late renewal fee as described in Rule 1540-01-02-.25 FEES.~~
- ~~(4) For unaccredited institutions and institutions under Temporary or Conditional Authorization, the annual report or renewal application must be accompanied by the following:~~
- ~~(a) any changes or additions to information previously submitted as part of the basis for authorization;~~
  - ~~(b) copy of current catalog with major changes cited;~~
  - ~~(c) the latest financial statement for the most recent institutional fiscal year as given under Financial Standards, 1540-01-02-.14 and shall include:
    - ~~1. a balance sheet (statement of financial position);~~
    - ~~2. statement of the results of institutional operation including gross amount of tuition and fees earned and total refunds during the fiscal year;~~~~
  - ~~(d) a renewal fee (check or money order) made payable to the State of Tennessee for such fees as stated under these regulations.~~
  - ~~(e) an enrollment report for the first enrollment period on or after July 1 of previous year through and including the last enrollment on or before June 30 of the current year;~~
  - ~~(f) a list of all institutional personnel including staff, instructors and agents;~~
  - ~~(g) summary data for the most recent institutional fiscal year on students participating in state or federal aid programs;~~
  - ~~(h) such other information or clarification deemed necessary by Commission staff for determination of authorization recommendations and study of institutional and/or enrollees or former enrollees.~~

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, and 49-7-2014.

~~1540-01-02-.10~~ ~~REQUIRED MINIMUM STANDARDS.~~

~~(1) — The institutional purpose and objectives must be stated in measurable potential outcomes in a catalog, bulletin, or brochure of the institution.~~

~~(2) — In relation to the size and scope of the institutions, it shall furnish adequate student services to fulfill the mission of the school and provide counseling and / or resources necessary to support programs and claims of the institution. Such services must have staff available to students with the knowledge and skills to effect counseling, guidance and coordination in areas such as; academic standing and satisfactory progress; admissions; employment opportunities or placement; intern/externships; library; financial aid.~~

~~(3) — Administrative capability must be demonstrated in the daily operational standards at the institution. Administrative capability is the ongoing effective coordination of federal, state and accreditation (where applicable) requirements in a positive and educationally enriching environment to the benefit of students. Indicators of the break down of administrative capability may include but not be limited to: 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; multiple findings in several different areas during a institutional site visit.~~

~~(4) — Institutions must annually report program completion rates and placement rates in a format approved by the Commission which may include accreditation standards or an average of comparable rates from Tennessee public institutions. If program completion rates are less than 66%, or if average program withdrawal rates are in excess of 33%, or if average placement rates are less than 75%, those rates shall be monitored, reported on, compared with those of similar institutions, and explained to the extent that it can be determined whether or not the low rate is an indicator of poor educational quality.~~

~~(5) — Liberal arts schools or professional schools that typically do not report vocational placement data may be required to report to the Commission either by testimonial, survey or by some other means that program completers have benefited from the instruction.~~

~~(6) — The maximum pupil teacher ratios acceptable, without special permission from the Commission, are:~~

~~(a) — lecture: 40-1;~~

~~(b) — business laboratory: 50-1 (such as accounting, typing, shorthand);~~

~~(c) — technical and vocational theory: 40-1;~~

~~(d) — technical lab: 40-1 (such as computer programming, data processing) and;~~

~~(e) — vocational lab: 40-1 (such as auto mechanics, drafting, air conditioning).~~

~~Authority: T.C.A. §§ 49-7-2005 and 49-7-2006.~~

~~1540-01-02-.11~~ 11 Institutional Catalog INSTITUTION CATALOG

- (1) Each institution must publish a catalog or brochure (a draft copy may be provided for original application) which must that includes at a minimum least the following information;

- (a) the 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, including any governing boards, and faculty with credentials for position;
- (e) the institutional calendar, including holidays, enrollment periods and the beginning and ending dates of terms, courses, or programs;
- (f) the institutional enrollment procedures and entrance requirements, including late enrollment, if permitted;
- (g) the institutional attendance policy, including minimum attendance requirements, how attendance will be determined, ~~and~~ the circumstances under which a 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 ~~with~~ an explanation of any grading system used, ~~and~~ 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 or course requirements, or in the case of correspondence instruction, the number of lessons;
- (k) a description of the placement assistance available and, if none, so state;
- (l) a description of the facilities and equipment used for educational programs ~~and the address of training site~~;
- (m) the policy concerning credit granted for previous education, training, and experience and, if none, so state;
- (n) the refund and cancellation policy, including ~~which must describe~~ the procedure for determining the official date of termination, the time within which a refund will be provided, and how a refund must be requested;
- (o) ~~in catalogs (except for out-of-state degree-granting institutions which choose to make no reference to the Commission) which describe educational programs conducted in Tennessee and with enrollment contracts used by programs outside of Tennessee, a statement provided within the first four pages of the catalog and on the signature page of enrollment contracts, which must read~~ reads as follows: "

The (name of institution) is authorized by the Tennessee Higher Education Commission. This authorization must be renewed each year and is based on an evaluation ~~by~~ of minimum standards concerning quality of education, ethical business practices, ~~health and safety~~, and fiscal responsibility";

- (p) a description of the student grievance procedure, including a listing of
1. the title, address, and telephone number of the institutional employee(s) designated to receive student complaints;
  2. if applicable, the process for escalating or appealing a complaint;
  3. if the institution ~~used a~~allows for nonbinding mediation or voluntary arbitration clause in its enrollment agreement, the catalog must describe the process in its entirety steps required of the student and/or the institution to initiate the mediation process; and
  4. The 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 1520-01-02 may file a complaint with the Tennessee Higher Education Commission, Division of Postsecondary State Authorization." the licensure staff of the Commission must be in the catalog for grievances not settled at the institutional level;
- (q) a disclosure regarding the specific information pertaining to ability to transfer transferability of 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:
- "(name of institution) is a special purpose institution. That purpose is (~~fill in~~ institution's mission statement). This purpose does not include preparing students for further college study. 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; and
- (s) the ATB testing policies, if any, along with the admissions policies.
- (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;
- (34) Catalogs should be written in a way and at a level that allows which enables prospective enrollees to comprehend the information and make informed decisions; and
- ~~(4) Lesser information requirements may be included in the institutional catalog or brochure when the applicant can satisfactorily demonstrate to the Commission that some of the above are not applicable.~~
- ~~(5) Full time students should have a reasonable expectation to complete programs as printed~~

~~in the institutional catalog at the time of enrollment.~~

Authority: T.C.A. §§ 49-7-2002, 49-7-2005, 49-7-2006 and 49-7-2008.

1540-01-02-.122 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 admit-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, would be will be ineligible to obtain licensure in the occupation for which they are the student is being trained. For example, an institution should not admit a student if the institution knows the student has a (ex., certain prior legal convictions that will prevent the student from obtaining licensure render one ineligible to hold certain licenses). 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 such a the student after the student submits a signed, written, in writing for retention by the institution and review by Commission staff, a 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. such ineligibility. This provision, 1540-01-02-.12(1) is not intended to speak contrary to institutions' options to enroll students as non-credit students, auditing students or continuing education students.~~

(3) Basis of admission shall be at a minimum:

~~(a2) Students enrolling in a certificate or diploma program must possess a high school diploma, a high school diploma equivalency, 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 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 Students without high school diploma or GED may be admitted as an Ability to Benefit student into non-degree programs that are customarily not accepted for college credit if the student has terminated secondary enrollment and is beyond the age of compulsory attendance, subject to the following conditions:~~

~~(a) Applicants without a high school diploma or GED shall be tested.~~

~~(b) An exception to these testing provisions, However, may be created for:~~

~~1. individual applicants to non-degree programs where the following four conditions-~~

are met:

- ~~(i) The student does not receive federal or state financial aid.~~
- ~~(ii) The student's high school transcript is unavailable.~~
- ~~(iii) The program is short term and the costs are low.~~
- ~~(iv) institutions or programs at an institution composed exclusively of subject matter that does not lend itself to an objective test, upon request, if approved by the Commission.~~
- ~~(c) institution may use either~~ Any test administered for purposes of determining admission shall be a standardized test ~~formerly or currently~~ recognized nationally or by the U.S. Department of Education ~~or, if with minimally acceptable scores as referenced in the test material or by the U.S. Department of Education or only in cases where a standardized~~ such a test is not applicable to the particular subject matter of the program available, a non-standardized test developed by ~~the institution, institutional officials~~ In either case, the institution shall request approval from Commission Staff before using the test and shall state the ~~and approved by the Commission staff with~~ minimally acceptable scores ~~approved by the Commission staff.~~ The following applies to all ability-to-benefit tests:
  - ~~1.(d)~~ Tests shall be administered in a secure environment, for example, ~~(e.g.,~~ monitors present).
  - ~~2.~~ Tests shall not be administered in a manner that is inconsistent with the recommendations of the ~~manner (e.g., frequency) recommended by~~ standardized test developers. ~~Testing policies shall be stated along with the admissions policy published in the institutional catalog.~~
  - ~~3.(e)~~ An agent is not allowed to administer the test, nor is anyone allowed to assist the applicant in answering the questions.
- ~~(f) If the admission test reveals the student to be ineligible as an ability-to-benefit student, the student may be enrolled as a remedial student and may be charged for the remedial program on an hourly pro-rata basis. The student is not obligated for the tuition and fees of the non-remedial regular program until the admission requirements are met.  
—The minimum admission requirement for postsecondary education remain a high school diploma, GED, or a passing score on the admission exam.~~
- ~~(g) Tests administered for purposes other than the determination of admissibility are not governed by 1540-01-02-.12(2).~~
- ~~(3) Institutions which admit enrollees on an ability-to-benefit basis, must submit all documents related to such admission policies to the Commission.~~
- ~~(4) Degree program admission policies must be at least the following:~~
  - ~~(a) undergraduate degrees must require a high school diploma or equivalency, and~~
  - ~~(b) graduate degrees must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.~~
- (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. § 49-7-2008.

1540-01-02-.133 ENROLLMENT CHECKLISTS, ENROLLMENT AGREEMENTS, AND DISCLOSURES- AND DISCLOSURE STANDARDS.

- ~~(1) Accredited institutions that provide and administer a Title IV financial assistance program and grants will follow federal disclosure guidelines. Such institutions will not be required to duplicate any state disclosure item if that disclosure is part of federal or accreditation standards.~~
- (2) Pre-Enrollment Checklist: ~~Institutions p~~Prior to signing an enrollment agreement~~enrolling an individual,~~ institutions shall require an institution representative and the prospective student to sign and date a pre-enrollment checklist~~form to be placed in the student file, which is either part of the enrollment contract or a pre-enrollment check list verifying that the student.~~ The document must clearly indicate that it is the pre-enrollment checklist, and, if multiple pages, the pages of the pre-enrollment checklist shall be paginated using the format "\_\_ of \_\_ pages." The checklist shall include, at a minimum affirmations that the student:-
- (a) toured the institution (not applicable to institutions that deliver all instruction through distance learning);
  - (b) received an institutional catalog and if provided electronically understands that the student may request a hard-copy of the catalog 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-cost of the program;
  - (f) has been informed of the estimated cost of books and any required equipment purchases such as a stenography machine, computer, specialized tools, or art supplies-etc.;
  - (g) has been given a copy of the institutional cancellation and-refund policy;
  - (h) ~~understands what 'transferability of credits' means~~has executed a Transfer of Credit Disclosure Statement in compliance with T.C.A. § 49-7-144 and understands the specific limitations ~~(if any)~~ should the institution have articulation agreements;-
  - (i) ~~knows of their rights in a grievance situation including contacting the Tennessee Higher Education Commission by including on the form a statement in the following format~~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 is a violation of the Title 49, Chapter 7, Part 20 or Rule Chapter 1520-01-02 may file a complaint with the Tennessee Higher Education Commission, Division of Postsecondary State Authorization."; and-

- ~~1. A statement: "I realize that any grievances not resolved on the institutional level may be forwarded to the Tennessee Higher Education Commission, Nashville, TN 37243-0830, (615) 741-5293."~~
- ~~(3)~~ (j) has received the most recent withdrawal, completion, and placement data as calculated by the Commission by including in the checklist:
  1. 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://state.tn.us/thec/> and clicking on the Authorized Institution Data button.";
  2. a chart listing all approved program names and the related percentage rates for withdrawal, completion, and in-field placement, identifying the July/June reporting period, and stating that "detailed statistical data for all approved programs may be viewed by going to <http://state.tn.us/thec/> and clicking on the Authorized Institution Data button"; or
  3. a copy of the institution's most recent Annual Performance Report created by Commission Staff and posted on the Commission's website.  
~~Also included, shall be documentation that the student received graduation-placement data exactly as presented to the Commission during the last reauthorization cycle in the following format:-~~
- ~~(a) A statement: "For the program entitled \_\_\_\_\_, I have been informed that the current withdrawal rate is \_\_%, or in the past 12 months \_\_\_ students enrolled in this program and \_\_\_ completed this program."~~
- ~~(b) A statement: "For the program entitled \_\_\_\_\_, I have been informed that for the students who graduated, the job placement rate is \_\_%, or in the past 12 months \_\_\_ were placed in their field of study out of \_\_\_ students who graduated from this program."~~
- ~~(k) \_\_\_\_\_ has received and understands the institution's cash discount policy (applicable only to those institutions that have a cash discount policy).~~
- ~~(4) Liberal arts schools or professional schools that typically do not report vocational placement data may request a waiver of 1540-01-02-.13(3) above.~~
- (52) Enrollment Agreement: An Institutions enrolling an individual in a course or program shall require an institution representative and the prospective student to sign and date an enrollment ~~contract~~ 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, 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:  
  
shall include but not be limited to:-

- ~~1.(a)~~ the full and correct name and ~~address of the location~~ authorized location of the institution;
  - ~~2.(b)~~ the name, address, and social security number ~~or unique student identification number~~ of the student;
  - ~~3.(c)~~ the date training is to begin and program length;
  - ~~(d)4.~~ if students have the option to attend part-time, full-time or part-time status of the student;
  - ~~(e)5.~~ the projected date of ~~graduation/completion-as-a full-time or part-time student~~;
  - ~~(f)6.~~ the program ~~title~~ name as approved by the Commission;
  - ~~(g)7.~~ the total cost of the program, including itemized ~~separate~~ costs for tuition and ~~fees~~ the approximate costs for other fees, ~~books and any required equipment purchases~~;
  - ~~(h)8.~~ cancellation and refund policy;
  - ~~(i)9.~~ ~~verification-verification that that the student has received an exact signed copy of the agreement~~ 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;
  - ~~(6)11.~~ ~~a~~ institutions shall contractually guarantee of total cost of tuition cost for twelve hundred (1200) ~~contact~~ contact hours or ~~one calendar year~~ 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 each year and is based on an evaluation of minimum standards concerning quality of education, ethical business practices, and fiscal responsibility." ~~for full and part time student.~~
- (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), exempt that institutions 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.

~~(7) Programs less than 1200 clock (contact) hours must have a an enrollment contract with a set total tuition.~~

~~(8) Programs longer than 1200 clock (contact) hours that increase tuition cost after the initial 1200 hours or one year period, must provide counseling related to the tuition increase.~~

~~(9) Tuition increases that in the opinion of the Commission are excessive, unreasonable and exceeds initial disclosure to the student may result in an in-depth audit of the institution at the school's expense to assure the Commission of financial stability.~~

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2008, ~~and~~ 49-7-2019 and 49-7-144.

1540-01-02-.144 FINANCIAL STANDARDS.

~~(1) Institutions administering Title IV financial assistance programs will maintain all required guidelines and standards.~~

(21) The Commission and its staff may share information with the Tennessee Student Assistance Corporation and other state and federal agencies as appropriate.

(3) The institution shall maintain financial and business practices in line with common business procedures utilizing standard accounting practices.

(4) The institution shall maintain and be prepared to demonstrate at any time financial resources adequate to ~~meet fund and maintain~~ the following:

(a) facility maintenance and overhead;

(b) staff and faculty payroll;

(c) books, supplies ~~and~~ or equipment utilized by students; and

(d) general operating costs, ~~including printing and advertising;~~

~~(5) Institutions shall be able to demonstrate annual financial planning through a budget. New degree granting program schools must establish financial planning that reflects at least a three year plan which includes anticipated income and expenses.~~

(65) As part of reauthorization, All au authorized institutions must file ~~each year the most recent audited~~ financial statements for the most recently completed fiscal year, certified by an independent certified public accountant as follows:

(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 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 (\$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 (\$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 an independent certified public accountant or a bookkeeper certified by the National Association of Certified Public Bookkeepers.
- (da) ~~For multi-campus institutions, or for~~ As an alternative to subparagraphs (5)(a) through (c) of this rule, institutions owned by one the same parent company may submit; an audited consolidated corporate financial statement ~~shall be routinely required.~~ The audited consolidated statement shall be prepared in accordance with the Generally Accepted Accounting Principles by an independent certified public accountant. The staff Commission Staff, the Committee, or the Commission, however, 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. ~~The audited income statement must be compiled for each institution, or group of institutions owned by the same company, authorized to operate under the Act;~~
- (6) 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. ~~In the preparation of these statements, it should be noted that goodwill is not generally considered a current asset unless it is being amortized;~~
- (c) Related parties must be disclosed; ~~including~~ 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. ~~Current financial statements on each site separately authorized under the Act must be filed annually.~~
- (ee) Within five three (3) years from initial temporary initially receiving authorization, neither the ratio of current fund total revenues to current fund total expenditures nor the ratio of current assets to current liabilities, both site specific and corporate of either the authorized location or the parent company, where applicable, shall be less than 1:1, without econvincing explanation.
- (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.
- ~~(f) Institutions that have annual gross tuition revenue of \$100,000 or less may request a waiver of the audit contemplated by this section and provide the most~~

~~recent financial information on forms provided by the Commission.~~

- ~~(7) The institution must submit an operating statement and balance sheet to the Commission within four months of the end of the institutional fiscal year. In addition, if a regular or certified audit is available, it should be submitted within four months of the end of the institutional fiscal year as well.~~
- ~~(87) When there are questions about the institution's financial stability, At any time, the Commission 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, a certified audit of the institution when there are questions about the institution's financial stability.~~
- (8) 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.

1540-01-02-.155 ~~INSTITUTIONAL~~ AND STUDENT RECORDS.

- ~~(1) Records of enrollees, completers, and placements must be sufficient to provide annual auditable reports to the Commission from the master student registration list.~~
- (21) 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, financial reports, and agent permit documentation.
- (2) Institutions shall retain for three (3) years a record of written student complaints that follow the institution grievance process, must be maintained, including a copy of the complaint, any investigatory documents, subsequent documents, and a statement of the matter's disposition.
- (33) Student financial records of the institution must be maintained and open for inspection and copying by DPSA Commission Staff in accordance with applicable confidentiality laws.
- (44) For each student, the institution must maintain an up-to-date reconciled account statement as a separate document. The statement must:
- (a) clearly reflect 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 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."
- ~~Institutions administering financial aid programs must maintain a ledger and a~~

~~record of financial aid administered which includes a chronological record of debits and credits which is understandable to the enrollee.~~

~~(5) Each institution must maintain a master student registration list consisting of at least the following information for any person who signs an enrollment agreement financially obligating that person or makes a down payment to attend, or both:~~

~~(a) registration date;~~

~~(b) name of student;~~

~~(c) address of student;~~

~~(d) telephone number;~~

~~(e) social security number;~~

~~(f) name of course or program; and~~

~~(g) current student status or date of dropout or completion, date of employment, employment status (i.e., employed, unemployed, disabled, or deceased), where employed, including the name, address, and telephone number of the employer.~~

~~(65) Institutions must maintain a file for each 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:~~  
~~the following documentation in each enrolled student file or folder and shall include but not be limited to:~~

~~(a) the executed transferability of credit disclosure statement required by T.C.A. § 49-7-144 and Rule .13(3) of these rules an admissions form that provides basic information such as student name, social security number, address, telephone number, program or area of application, projected entrance date, etc., and information relevant for determination that the student meets the minimum entrance requirements of the institution, (see 1540-01-02-.12). This information may be incorporated into the enrollment contract;~~

~~(b) documentation evidencing the student's basis for admission as provided for in paragraph (6) of this rule (e.g., name and address of high school); if a high school diploma or the equivalent is required, for high school graduates or those with high school equivalency, the institution shall have on file an official copy of the high school transcript, or the equivalency certificate with scores which meet the state's minimum for passing; if an ability to benefit basis, the institution shall have on file official records of such; or if on an exception basis, documentation of such;~~

~~(c) the executed pre-enrollment checklist disclosure statement or checklist as given in these regulations (unless incorporated in the enrollment agreement);~~

~~(d) the executed a complete enrollment agreement as given in these regulations;~~

~~(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; and~~

~~(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.

- (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 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 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.
  - (d) 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.
  - (e) 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.
- (e7) 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 shall maintain for the life of the institution ~~an up-to-date educational a~~ transcript or a certificate for each student previously or currently enrolled in a program offered by the institution. Institutions ~~may only use certificates with well-defined short term programs, such as bartending and truck driving, where there is no separation of courses by subject content. Institutions offering programs where a subject matter expert agency requires that the institution maintain a transcript must do so.~~
- (a) Transcripts shall be in a ~~enrollee in a~~ form that permits easy and accurate review by the student, transfer ~~school~~ institutions, potential employers, and other ~~authorized~~ state or federal agencies. The transcript shall ~~be a permanent record of the student's progress and academic performance, which shall~~ include at a minimum the, ~~but not be limited to:~~

1. ~~full and~~ complete ~~name~~ name and address of the authorized location of the institution;
2. full name of student;
3. last four digits of the student's social security number;
4. program ~~or department of enrollment~~ name as approved by the Commission;
5. status of student, ~~(e.g. for example,~~ active; ~~withdrawal;~~ probation; ~~leave of absence;~~ or graduate ~~etc.);~~
6. ~~an~~ official date recorded for all student withdrawals and graduations;
7. beginning date or academic term with the year for each course attempted, ~~with an grade posted at the completion of the term or discrete contact hours for that course~~;
8. as applicable to the type of ~~school~~ institution, credit ~~hours earned or contact~~ contact hours ~~completed~~ attempted and earned;
9. ~~actual~~ name of each course ~~and, if (subject) with any, the code~~ course numbers as given listed in the institutional 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.

(b) 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. full name of student;
3. program or department of enrollment;
4. a certificate award date; and
5. the signature of an institution official.

~~(f) 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.~~

- (7) In lieu of hard copies of ~~educational transcripts~~ transcripts and certificates, ~~an~~ the institution may maintain ~~the above information~~ 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~~ there is at least one complete updated 'backup' copy in a separate system or ~~at a different location~~ location. ~~Commission Staff must have complete, Commission staff and other authorized groups have complete~~ and easy access to review student transcripts and certificates during site visits and audits such that the institution can print any requested records ~~and the institution can print out any or all transcripts~~ upon request.
- ~~(8) For institutions with well defined short term programs such as bartending and truck driving, with no separation of courses by subject content, an exact copy of the certificate of completion may be placed in the student file in lieu of an academic transcript.~~
- ~~(9) Institutions must maintain a written record 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.~~

Authority: T.C.A. §§ 49-7-2006, 49-7-2016.

1540-01-02-.166 PERSONNEL AND INSTRUCTOR QUALIFICATIONS.

- ~~(1) Institutions must provide and maintain qualified faculty and staff in order to fulfill the mission of the institution and all obligations to the students.~~ (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 must be maintained on-site at the authorized location. Institutions must submit a copy of 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.
- ~~(3) Administrative personnel generally encompasses 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, but shall be included for reporting purposes on re-authorization forms annually.~~
- (4) Administrative personnel at an authorized institutions ~~s~~ must be graduates of an accredited college or university or have sufficient background and training in the administrator's his/her area of responsibility. If the institution employs a director of education, that director shall possess a post-baccalaureate degree or the highest educational credential offered by the institution, whichever is higher.
- (5) Institutional Directors:
- (a) Each institution must designate one 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, the Committee, or Commission Staff. ~~Each institution must designate one person as the institutional~~

~~director, who is responsible for the institution's program, the organization of classes, maintenance of the institutional facilities, maintenance of proper administrative records, signing documents pertaining to authorization and all other administrative matters related to authorization.~~

(6b) Institutional owners or the controlling board must ensure that each authorized ~~location~~ site has an institutional director ~~on~~ at the ~~at location~~ 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 ~~the~~ Commission staff Commission Staff.

(7c) The institutional director implicitly accepts knowledge of and responsibility for compliance with the Act and ~~these regulations~~ these rules including, but not limited to, advertising, records, contracts, required benchmarks, annual ~~deadline~~ due dates, and fee payments.

(8d) The institutional director at an authorized institutions ~~s~~ must

1.        be a graduate of an accredited college or university 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 ~~/higher~~ education shall equal at least five years.

~~(9) — Directors of authorized institutions must maintain on site a separate current copy file of materials filed with the Commission as part of their current authorization which includes the application, documentation of appropriate bonding, financial reports, agent permit documentation, and fire and safety reports.~~

~~(10) — If the institution employs a director of education, that director shall meet the same requirements as an instructor as specified in these rules and shall also have either one-year supervisory experience or a relevant post-bachelor's degree.~~

(445) Instructors:

(a) Instructional staff for all institutions must be selected at a minimum on the basis of ~~credentials demonstrably higher, on the basis of experience and training, than the level to be taught~~ these rules.

(b) Instructors in a trades ~~s~~ related or specific skill areas ~~s~~ must have documented proficiency and practical applied experience in that trade or skill.

(c) An instructor must hold the appropriate ~~certificate, license, or rating~~ license if the subject is a ~~trade vocation~~ requiring ~~certificate, license, or rating~~ licensure.

(d) An instructor must be qualified by education and experience/background ~~demonstrably higher than the level to be taught~~ and must meet at a minimum the following qualifications ~~as minimum requirements~~:

1. ~~Minimum for d~~ 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 year of practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours of doctoral level courses in the subject.
- 2. ~~Minimum for masters level~~ [courses](#):
  - (i) Hold a masters or higher degree from a college or university judged to be appropriate by the Commission and either:
    - (I) a masters or higher degree with a major or concentration in the subject area to be taught; or
    - (II) a masters or higher degree not in the subject area but with a minimum of one year of demonstrated practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours in graduate level courses in the subject.
- 3. ~~Minimum for a b~~ [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 year of demonstrated practical experience within the last five years in the subject area to be taught and completion of nine semester hours or 12 quarter hours in the subject. Additional years of documented experience in the subject area may be substituted for semester ~~-/~~ quarter hour requirements.
- 4. ~~Minimum for an a~~ [Associate level courses](#):
  - (i) [Meet the minimum requirements for doctorate, masters 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 [\(1\)](#) one 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. ~~Minimum for d~~ Diploma and certificate level courses or programs:

(i) Meet the minimum requirements for doctorate, masters or baccalaureate or associate level; or

(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 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 earned master's degrees or equivalent.

~~(12) Evidence of qualifiable education, experience, or training (including official transcripts) for each instructor must be maintained on-site at the location.~~

~~(136)~~ The Executive Director may approve a variance from these 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 with the ~~personnel form~~ School Personnel Application submission. 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 ~~the Commission staff~~ Commission Staff upon request.

~~(147)~~ Instructors shall be evaluated at least annually by students, as well as the director or chief academic/instructional officer, and the institution shall have on file at the campus evidence of such evaluations.

~~(158)~~ Agents ~~and Recruiters~~:

~~(a) Institutional agents as defined by the Act and these regulations must submit an application, on forms provided by the Commission have authorization and an agent permit and secure the appropriate bond prior to any solicitation. The applicant must be accompanied by the following:~~

- ~~1. new applicants must forward recommendations by two reputable persons certifying that the applicant is of good character and reputation;~~
- ~~2. a check payable to the State Treasurer of Tennessee as required under these regulations;~~

- ~~3. a surety bond of \$5,000 per agent of an out-of-state institution or as specified in 1540-01-02-.07 of these rules; and~~
- ~~4. certification by the institutional director that the applicant will be directed to act in accordance with these regulations.~~
- ~~(b) Agent permits must be renewed every year. The expiration date of a permit is one year from the date of issue or termination of employment whichever occurs first.~~
- ~~(c) Agents must have separate permits to represent separate institutions unless they are commonly held. Mutual agreement by institutions is required.~~
- ~~(d) All agents must verify by signature that they have read and are familiar with rules on advertising and solicitation and must verify intent to follow rules as set forth in Fair Consumer Practices.~~
- ~~(e) Institutional directors, not marketing offices, are responsible for actions of agents.~~
- (fa) ~~The agent shall be under the control of the institution, and the~~An institution is responsible for any representations or misrepresentations, expressed~~ed~~ or implied, made by the agent.
- (gb) Any student solicited or enrolled by a non-~~licensed~~permitted agent is entitled to a refund of all moneys paid and a release of all obligations by the institution. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent ~~shall be~~ may 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 would not be entitled to a refund solely because he or she was solicited by a non-~~licensed~~permitted agent.
- (hc) An agent is prohibited from inappropriate activities in procuring enrollees ~~including~~including, but not limited to, ~~, -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; or
  5. soliciting enrollments in a program which has not been approved by the Commission.
- (id) An agent must display the current permit to all prospective students and other interested parties.

1540-01-02-.177 ~~CANCELLATION AND REFUND POLICY~~ CANCELLATION AND REFUND POLICY

(1) All authorized institutions must comply with the ~~laws and regulations~~ laws of the local, state, and federal government concerning cancellations and refunds and must revise all policies and practices if laws ~~and regulations~~ are revised.

~~(2) For purposes of this section, the period of enrollment is defined not to exceed one year.~~

~~(3)(2)~~ (2) Each authorized institution ~~institution authorized by the Commission to operate or to solicit students in Tennessee~~ shall have a fair and equitable refund policy which governs ~~credits or the~~ repayments of unearned tuition, fees, and other of institutional charges assessed a student when:

(a) The student does not ~~register or fails to~~ begin classes for the period of enrollment for which he or she was charged; or

(b) The student withdraws, drops out, is expelled from the institution, or otherwise fails to complete the ~~program on or after his or her first day of class of the~~ period of enrollment for which he or she was charged.

~~(4)(3)~~ (3) An authorized institution may use the following refund policies:

(a) the default refund policy contained in paragraph (4) of this rule;

(b) an institution policy, as long as the refund due a student pursuant to that policy is equal to or greater than the refund due according to the default refund policy; or

(c) a refund policy mandated as a condition for students of the institution to participate in a governmental student assistance program, such as Veterans Benefits. ~~The institution's refund policy shall be deemed by the Commission to be fair and equitable if:~~

(4) The default refund policy is as follows:

~~(a) All or a portion of the tuition, fees, and other institutional charges assessed the student were paid or to be paid by student assistance programs sponsored by one or more governmental or private agencies or organization, including employer provided financial assistance, and the institution, as a condition of establishing eligibility for its students to participate in such programs, is required to adhere to a refund policy prescribed by the sponsor of the student assistance; or~~

~~(b) For students not affected by subparagraph (4a), the institution's refund policy produces a refund which equals or exceeds the amount which would be calculated by application of the following procedures:~~

1.(a) If a student withdraws from the institution on or before the first day of classes, or fails to begin classes, the refund shall equal the sum of all amounts refundable fees paid ~~or~~ and, if the student has institutional loans, forgiveness of the amounts owed by the student to be paid by or on behalf of the student for the period of enrollment for which the student was charged, less an administrative fee of one hundred dollars (\$100.00);

(b) A student who withdraws at any time 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;

- ~~2.~~(c) In addition to subparagraph (4)(b) of this rule, if after classes have commenced and before expiration of ten percent (10%) of the period of enrollment for which the student ~~he or she~~ was charged, a student withdraws, drops out, is expelled, or otherwise fails to attend classes, the refund shall equal seventy-five percent (75%) of all refundable fees~~amounts~~ paid ~~or~~ and, if the student has institutional loans, forgiveness of the loan amount in excess of the twenty-five percent (25%) the student owes the institution ~~to be paid by or on behalf of the student for the period,~~ less administrative fee of one hundred dollars (\$100.00);
- ~~3.~~(d) In addition to subparagraph (4)(b) of this rule, if after expiration of the of ten percent (10%) of the period of enrollment for which the student ~~he or she~~ was charged, and before expiration of twenty-five percent (25%) of the period, a student withdraws, drops out, is expelled, or otherwise fails to attend classes, the refund shall equal twenty-five percent (25%) of all refundable fees~~amounts~~ paid ~~and, if the student has institutional loans, forgiveness of the loan amount in excess of the twenty-five percent (75%) the student owes the institution~~ or to be paid by or on behalf of the student for the period, less administrative fee of one hundred dollars (\$100.00); or
- ~~4.~~(e) In addition to subparagraph (4)(b) of this rule, if after expiration of twenty-five ~~(25%)~~ (25%) of the period of enrollment for which the student ~~he or she~~ was charged, a student withdraws, drops out, is expelled, or otherwise fails to attend classes, the student may be deemed obligated for one hundred (100%) of the tuition and other ~~fees and other charges assessed~~ charged by the institution; ~~or~~
- ~~(c)~~ ~~For students not affected by subparagraph (4a), the institution may adopt and utilize the federal statutory pro-rata refund method for a student whose last day of attendance occurs prior to sixty percent (60%) of the period of enrollment, or such later point in time as the institution may select and be published in the institutional catalog. After completion of 60% of the period of enrollment the student may be deemed obligated for one hundred (100%) of the tuition, fees and other charges assessed by the institution; or~~
- ~~(d)~~ ~~For students not affected by subparagraph (4a), the institution may propose a refund policy for approval by the Executive Director, if the policy can be demonstrated as a whole more favorable than subparagraph (b); or~~
- ~~(e)~~(f) For a student who cannot complete one or more classes because the institution discontinued such a class ~~(es)~~ during a period of enrollment for which the student was charged, the institution shall refund~~s~~ the sum of all refundable fees~~amounts~~ paid and, if the student has institutional loans, forgive the amounts owed by the student ~~or to be paid by or on behalf of the student for such class(es).~~
- (5) When computing refunds pursuant to the ~~policies contained in subparagraph 2-~~ (b)(c)(d) default refund policy, the last day of attendance for a student shall be one of the following:
- (a) The ~~The~~ date on the expulsion notice if a student is expelled from the institution; ~~or~~
- (b) The ~~The~~ date the institution receives a written notice ~~(including a signed drop-~~

~~form)~~ of withdrawal from a student; ~~or~~

- (c) ~~w~~When no written notice of withdrawal is given, the institution shall use the last day of attendance as the date of withdrawal; or
- (d) the date the student ~~F~~fails to return from an approved ~~Leave of Absence (LOA)~~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.

Authority: T.C.A. §49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013.

~~1540-01-02-.18 PROHIBITED ACTS:~~

- ~~(1) Grant or offer to grant or infer through advertising, promotions or other representations that educational credentials or credits may be obtained through any postsecondary institution, business, person or educational service unless so authorized in the state.~~
- ~~(2) No school seeking, holding or required to hold authorization under the Act may call itself a university or use university in its name, unless prior to authorization in Tennessee such an institution has been so approved by a regional accrediting body recognized by the U. S. Secretary of Education and the U. S. Department of Education.~~
- ~~(3) No entity may publicize, promote or imply an accreditation that is not recognized by the U. S. Department of Education.~~
- ~~(4) No school seeking, holding or required to hold authorization under the Act or these regulations may publicize, promote or imply an academic, vocational, professional or educational certification from any entity without the approval of the Commission.~~
- ~~(a) Certifications held out to students that imply a special status, licensing or credential beyond the authorized award by the institution whether offered within the school or by an independent entity, where such certifications are not recognized or required by the state and its laws or for employment purposes within the industry / profession, will require the approval of the Commission.~~
- ~~(5) For consumer disclosure and truth in advertising to all Tennessee citizens, an educational service, business or person must clearly identify the nature of the educational service offered and may not use broad language or phrases to imply that the service is a school, can award credits, degrees or other educational credentials.~~

~~Authority: T.C.A. §§ 49-7-2006, 49-7-2007, 49-7-2008 and 49-7-2013.~~

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

- (1) All authorized institutions shall provide student-level statistical data on a Commission Staff data form that will allow Commission Staff to calculate the following statistical information by institution and program:

- (a) the enrollment count;
  - (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. Commission Staff assigned 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 25% or if

annual average institutional or individual program in-field placement rates are less than 70%, institutions shall explain the circumstances contributing to these rates, demonstrate how these rates are not an indicator of poor educational quality, 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 Commission that adverse action be taken against the institution.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006 and 2016 Public Chapter 868.

1540-01-02-.199 FAIR CONSUMER PRACTICES AND ~~STUDENT~~ COMPLAINTS.

- (1) All institutions ~~authorized by the Commission~~ and their representatives shall ~~be required to operate~~ act in accordance with fair consumer practices to ensure current and prospective students that nothing is hidden and verbal and written representations by the ~~school~~ institution are accurate, such that students can make ~~appropriate~~ informed decisions concerning their investment of time ~~and or~~ money.
- (2) Fair consumer practices means honesty, fairness, and disclosure to students in ~~the areas of: including, but not limited to,~~ recruitment, admissions, contractual agreements, student financial assistance, obligations to repay student loans, placement assistance, ~~and~~ 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 ~~schools~~ institutions, and ~~also includes misrepresentation concerning competitor~~ schools. Fair consumer practices require an institution to apply its policies as written.
- (3) Students should have a reasonable expectation to complete programs as printed in the institutional catalog at the time of enrollment.
- (4) Institutions may not use mandatory arbitration provisions.
  - ~~(a) Information regarding fair consumer practices shall be included in the institution's usual publications such as the catalog and school brochures and must always be provided by institutional recruiters and agents.~~
  - ~~(b) Accredited institutions may apply accreditation standards of fair consumer practices.~~
- (53) Findings by ~~Commission staff~~ Commission Staff and/or ongoing complaints by current or prospective students that show a pattern of misinformation, misrepresentation, lack of disclosure, or discrepancies 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, ~~or in the opinion of the Commission significant deviation from fair consumer practices may result in penal fines and/or conditional authorization or revocation of agent or institutional authorization.~~
- (64) An ~~institutions authorized under these rules~~ must report to ~~the Commission~~ Commission Staff in writing within thirty (30) working days any unresolved written complaints filed in a Tennessee court about ~~their operation~~ the institution of which ~~the institution is~~ they are knowledgeable ~~(including media accounts of complaints). Such complaints shall be resolved or determined to be irresolvable by the institution within 30 working days of the~~

~~receipt of the written complaint at the Commission offices. Complaints shall be considered as a factor in the decision when authorization to operate or continue in operation is sought.~~

- (7) 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.
- (8) 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.
- (9) The investigation and further review of written complaints will occur in accordance with the following provisions:
- (a) Complaints shall be signed and submitted through hand delivery, mail, or electronic mail as provided for in Rule .27 of these rules.
  - (b) Commission Staff shall investigate all written complaints.
  - (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 settlement.
  - (f) Following completion of the investigation, Commission Staff shall provide to all parties written determinations and proposed recommendations and provide a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule.02(2)(b) of these rules. Such date shall not be earlier than ten (10) business days after the date of the determinations and proposed recommendations.
  - (g) Any request for review shall be in writing, signed, list each instance where Commission Staff erred, 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 as set forth in subparagraph (8)(f) of this rule.
- (10) Notwithstanding the provisions of paragraph (8) of this rule, Commission Staff may take appropriate action to investigate any complaint in order to protect the public interest.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008 and 49-7-~~2013~~2011.

1540-01-02-~~2020~~ REPRESENTATIONS, ADVERTISING, AND SOLICITATIONS.

- (1) Institutions ~~authorized by the Tennessee Higher Education Commission~~ may use ~~the~~reference having authorization in advertising, promotional material, and on letterhead stationary using the following language: "(name of ~~school~~institution) is authorized for operation by the Tennessee Higher Education Commission." The entire statement must be used, ~~have with~~ the same size font, and ~~font~~ type of print.
- (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 ~~Tennessee Higher Education~~ Commission logo may not be used by an institution in any school advertising, brochures, telecommunications or institutional material without written approval.
- ~~(3)~~ (4) Institutions authorized by the Commission that have ~~presence~~a website on, advertise through, or offer instruction via the internet, ~~world-wide web or other electronic telecommunication means~~ must state on the institution's home page first 'page' (as registered with standard web/internet search engines) viewed by the consumer, or Tennessee specific webpage: "[name of ~~school~~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.
- ~~(a)~~ In the case of an internet site, within the required statement given above, The reference to the "Tennessee Higher Education Commission" must be an electronic link a hyperlink to [www.tn.gov/thec](http://www.tn.gov/thec). to the agency's web site at <[www.state.tn.us/thec](http://www.state.tn.us/thec)> or a picture/button link using a standardized approved Commission logo for school web sites.
- (45) No statement shall be made that the institution or its courses of instruction have been accredited unless the accreditation is identified and ~~that of an appropriate~~is an accreditor nationally recognized accrediting agency listed by the United States U.S. Department of Education.
- (56) No statement shall be made that the institution or its courses of instruction have been approved by a state or the federal government ~~approved~~ 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.
- (67) All advertisements ~~placed by the institution or its representatives~~ seeking ~~prospective~~ students must include and clearly indicate the full and correct name of the institution, ~~its address, and~~ the authorized location city, and, if out-of-state, the authorized location state ~~where the institution is located~~.
- ~~(7)~~ Institutions that advertise in formats that will be in the public domain for long periods (such as the telephone book directory), where such advertising, if in noncompliance, cannot be rewritten or retracted may be fined in accordance with the Act for each day, week or month the advertisement is in active circulation. Such fines shall not exceed \$10,000.

- ~~(8) Printed bulletins or other promotional information must emphasize training available rather than amount and kinds of aid available.~~
- (98) 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 ~~or educational credentials.~~
- (409) Other than entry level salary data available on a Tennessee or federal government website, No dollar amount ~~or amounts~~ will be quoted in any advertisement as representative or indicative of the earning potential of graduates without prior approval by ~~Commission staff~~ Commission Staff.
- ~~(11) Institutions authorized to offer specialized courses or subjects not available to other institutions shall not advertise such courses in such manner to diminish the value and scope of courses offered by other institutions.~~
- (120) Institutions ~~or representatives~~ shall not use images of any kind ~~a photograph, cut- engraving, or illustration in bulletins, sales literature, or otherwise,~~ in such a manner as to convey a false impression as to size, importance, or location of the institution, its equipment, or its ~~and facilities associated with that institution.~~
- ~~(13) Institutions or representatives shall not use endorsements, commendations, or recommendations by students in favor of an institution except with the consent of the writer and without any offer of financial compensation, and such material shall be kept on file and made a permanent record for the institution, and such endorsements shall bear the actual name or professional name of the student.~~
- (141) Institutions or representatives shall not make deceptive statements concerning other ~~institutional activities~~ institutions when ~~in~~ attempting to enroll students.
- ~~(15) Every display type newspaper advertisement, or other advertisement placed by the institution or its representatives, through direct mail, radio, television, or directories seeking prospective students, must clearly indicate that training is being offered, and shall not, either by actual statement, omission, or intimation, imply that prospective employees are being sought.~~
- ~~(16) Classified advertising seeking prospective students must appear under "instruction," "education," "training," or a similarly titled classification and shall not be published under any "help wanted" or "employment" classification. (See special school section 1540-01-02-.08(19) for truck driving)~~
- ~~(17) No advertisements of any type shall use the word "wanted," "help wanted," or the word "trainee," either in the headline or the body of the advertisement, nor shall any advertisement indicate in any manner that the institution has or knows of jobs or employment of any nature available to prospective students; only "placement assistance," if offered, may be advertised.~~
- ~~(18) No statement or representation shall be made that students will be guaranteed employment while enrolled in the institution or that employment will be guaranteed for students after graduation, nor shall any institution or representative thereof falsely represent opportunities for employment upon completion of any course of study.~~

- (19~~2~~) Other than referencing the most recent rates calculated by Commission Staff, No school/institution shall use job placement percentages or statistics in advertisements or recruitment materials except by written permission of the Commission/Commission Staff.
- ~~(20) — Should a placement service be advertised, adequate records shall be maintained by those institutions advertising such placement service which will reflect employment data. However, no institution shall advertise as an employment agency under the same or a confusingly similar name or at the same location of the school. No representative shall solicit students for an institution through an employment agency.~~
- ~~(21) — The 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 the Executive Director of the Commission cannot be furnished, a retraction of such advertising claims published in the same manner as the claims themselves, must be published by the institution and continuation of such advertising shall constitute cause for suspension or revocation of its certificate of authorization.~~
- (22~~13~~) If ~~student~~ tuition loans are available at the institution, the school may advertise them only with the language "student tuition loans available" in type no larger than that used for the name of the school. This does not preclude disclosure of the institution's eligibility under the various state and federal loan programs.
- (23~~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.
- (24~~15~~) No statement shall be made by an institution ~~or its representatives~~ that the programs ~~and/~~ or courses ~~or tests~~ are transferable to another institution without a current documentation by an authorized official of the receiving institution/articulation agreement or transfer of credit agreement.
- ~~(25) — Claims by institutions in advertisements must be substantiated in Commission files prior to such claim.~~
- (26~~16~~) Claims must not be vague. For example, "award winning" institution should include the full name of the award in ~~advertisement/advertisement;~~ and 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. §§ 49-7-2006, 49-7-2007, 49-7-2008 and 49-7-2013.

1540-01-02-.24~~1~~ AUTHORIZATION STATUS.

- (1) Temporary Authorization:
- (a) Commission Staff will recommend temporary authorization to the Committee

after determining that the institution has demonstrated through the Initial Authorization Application and a site visit that it is compliant with the Act and these rules. ~~At~~

(b) An institution will receive temporary authorization ~~may be issued following:~~

- ~~1. staff review of the completed application for authorization based on these rules;~~
- ~~2. site visitation of the proposed institutional facilities as deemed necessary and feasible by the Commission staff;~~
- ~~3. recommendation from the Committee on Postsecondary Education Institutions; and;~~
- ~~4. after~~ favorable Commission action.

(b) ~~Institutions satisfactorily, as deemed by the Commission, completing the pre-operation requirements will be notified by letter of temporary authorization. Temporary authorization must be maintained for at least twenty-four (24) months prior to eligibility for regular authorization, on the basis of public Commission action.~~

~~(c) Institutions accredited through an accrediting agency recognized by the United States Department of Education which have satisfactorily completed the specified time as an institution with temporary authorization will be considered for an authorization certificate for a period of six years. The Commission may select a shorter period, and in no case, is such school exempt from the annual reporting requirements given in these rules. (See Annual Renewal for Authorization).~~

~~(d) The temporary authorization allows ninety days for initiation of actual operation and enrollment of students and unless satisfactory reasons are forwarded by letter from the applicant for not beginning operation and enrolling students, the temporary authorization may be withdrawn. All new institutions must submit a status report ninety days after receipt of temporary authorization and submit annual reports on the annual reporting schedule which requires annual fees and reports due October 15 each year.~~

(2) Regular Authorization:

~~(a) Institutions that complete the mandatory period of temporary authorization may cancel all bonds required at initial authorization.~~

~~(b) Institutions accredited through an accrediting agency recognized by the United States Department of Education completing temporary authorization will be considered for an authorization certificate for each site for a period of up to six years. The Commission, when possible will tie the authorization period to the accrediting body's granting of accreditation / reaffirmation cycle.~~

- ~~1. Such accredited institutions eligible for regular authorization will be allowed to submit for annual reauthorization each October 15, the most recent annual reporting documents submitted to the accrediting agency along with the minimum forms required by the Commission.~~

((c)a) ~~Schools with no accreditation (or schools with an affiliation under an~~

~~accrediting~~ Commission Staff shall recommend for regular authorization any institution authorized for more than twenty-four (24) months that demonstrates all minimum standards for authorization through the Reauthorization Application-  
~~agency not recognized by the United States Department of Education) must be reauthorized annually on forms supplied by the Commission staff.~~

~~(d) Nothing in this section shall be construed to absolve institutions of annual fee requirements, response to complaints, site visits or any Commission request for additional information or materials.~~

(3) Conditional Authorization:

(a) ~~A~~ Conditional authorization ~~is~~ to authorization to operate ~~is the issuance of authorization to operate~~, but with additional conditions, ~~such as e.g.,~~ reporting requirements, ~~on the meeting of certain~~ performance standard requirements, securing new or additional bonds, ~~authorization to operate for~~ 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 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. ~~Such~~ Conditional authorization ~~may~~ be issued when deemed necessary to protect the public interest.

~~(b) As an alternative to revocation of authorization (c.f. TCA §49-7-2010 as amended), by making conditional its authorization to operate, the Executive Director may suspend or cause to cease any part of institutional activity such as enrolling additional students, advertising, or conducting specific classes or programs. Such cessation shall remain in effect until conditions precipitating the suspension of the activity are corrected with preventive measures in place and Commission staff have completed all related reviews and investigations.~~

~~(c) At the discretion of the Executive Director, the institution may be afforded the opportunity to "show cause" why a conditional authorization should not be imposed.~~

~~(d)~~ An institution may ~~voluntarily r~~request conditional authorization, ~~including~~ including, but not limited to, suspension of the operation, rather than expose the institution to adverse action ~~or loss of authorization~~, for situations such as unexpected loss of lease, ~~and training site~~; extended ~~travel~~ inactivity, or ~~reorganization~~ sabbatical. ~~Voluntary suspension and the time period involved must be approved by Commission staff.~~

~~(e)~~ Nothing in this section shall be construed to absolve institutions of their educational and financial obligations to currently enrolled students.

(4) Revocation of Authorization:

(a) Revocation of authorization is the immediate and complete withdrawal of the institution's authorization to enroll, advertise, or operate a postsecondary educational ~~school~~ institution in the state.

(b) Grounds for immediate revocation of authorization to operate shall include but not be limited to:

1. loss of right to use the authorized instructional site location without immediate notification to the Commission;
  2. a principal party, owner, or administrator involved with the institution who has ever been ~~the institution who has ever been~~ associated with a postsecondary educational institution ~~with a postsecondary educational institution~~ that ceased operation with resulting loss of time or money for enrollees or had institutional authorization to operate in a state revoked or had a felony conviction involving moral turpitude, fraud or a capital crime;
  3. a pattern of deceptive practices ~~which include: hiding of any institutional records or documents; manipulation, alteration or falsification of materials required under the Act and these regulations which impugns administrative capability, fair consumer practices or operational standards;~~
  4. failure to correct any situation that resulted in ~~a show cause or~~ conditional authorization within a reasonable time period to be determined by the Executive Director;
  5. disregard for any specific directive issued by the Commission, ~~or~~ the Executive Director, or Commission Staff;
  6. failure to pay assessed ~~required fees, penalties or~~ fines; and
  7. closing an institution without proper notification to the Commission.
  - ~~8. knowledgeable or demonstrated pattern of deceptive solicitation.~~
- (c) Revocation of authorization shall not relieve a school an institution of complete compliance with the requirements in ~~these regulations~~ these rules applicable to an institution school closing ~~or ceasing operation, including~~ including, but not limited to, ~~but not limited to~~ refunds to students, arranging instructional teach-outs, and securing the disposition of student records.

Authority: T.C.A. §§ 49-7-2004, 49-7-2005, 49-7-2008 and 49-7-2010.

1540-01-02-~~2222~~ 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 ~~under this Part~~ of \$500 per day per violation or, revoke or make conditional, ~~deny or change~~ the authorization of an institution or approval of an agent permit ~~status of any permit or certificate of authorization~~ under the process as given in subparagraph 1540-01-02.02(2)(e) of these rules for reasons including, but not limited to ~~for any one or combination of the following causes:~~
  - (a) disregard of provisions in of the Act and/or ~~these regulations~~ these rules;
  - (b) willful violation of any commitment made in an application for ~~a certificate of~~ authorization or reauthorization;

- (c) presenting to the general public or students or prospective students information that violates Fair Consumer Practices (~~1540-01-02-19~~) as outlined in ~~these regulations~~ these rules;
- (d) advertising, recruiting, or operating a group of classes or a program that has not been ~~authorized~~ approved by the Commission;
- (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 ~~or to retain a sufficient and qualified instructional and administrative staff~~;
- (h) ~~conducting instruction~~ operating a postsecondary educational institution at a ~~site~~ location that ~~which~~ has not been authorized by the Commission;
- (i) failure to correct findings resulting from a site visit or audit ~~an on-site inspection or review of institutional materials~~;
- (j) ~~demonstrable~~ 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 ~~sufficient to affecting~~ program quality, 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; and
- (l) activities described in Rule .21 of these rules.
- (2) Repeated and/or consistent violations of the Act or ~~these regulations~~ 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.

- (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 under this rule shall be in conformance with T.C.A. § 49-7-2010(c). All Commission actions are subject to due process provisions of the Tennessee Uniform Administrative Procedures Act ~~(T.C.A. §§ 4-5-101 – §§ 4-5-311).~~

Authority: T.C.A. §§ 49-7-2005 and 49-7-2010.

1540-01-02-~~233~~ -INSTITUTIONAL CLOSURE.

- (1) When an authorized postsecondary educational institution proposes to discontinue its operation, such institution shall notify ~~the Commission staff~~ Commission Staff within seventy-two (72) ~~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. ~~and shall submit to Commission staff within 10 days (or other deadline established by Commission staff) a plan to fulfill all obligations given below. Such plan shall.~~ The list may include but not be limited to:
- (a) aAnticipated date to terminate teaching activity;
  - (b) eEnding date of present term;
  - (c) aA listing by name of all students in all programs. Such list shall include student's social security number, unique student identification number, ~~ocial security number,~~ address, ~~and~~ phone number, ~~program of enrollment enrolled in,~~ and estimated graduationcompletion dates;
  - (d) tThe status of all current refunds due or the amount of rent refunds due (the amount of unearned tuition paid by each student and for which the school is obligated);
  - (e) Aa verified agreement with one or more local institutions able to provide sound education to all students in all programs;
  - (f) dDisposition and servicing of all student records as required by T.C.A. § 49-7-2016;
  - (g) aA request for conditional authorization to operate where required;~~;~~
  - (h) updated statistical data; ~~Completion of obligations as designated by Commission staff by established deadlines.~~
  - (i) official transcripts and certificates; and ~~Submission of any information or materials related to the closure requested by staff.~~

- (j) ~~d~~Demonstration that current educational obligations by the institution will be met on behalf of the presently enrolled students.
- (2) ~~The~~ An institution ~~which proposes to 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.
- (3) Should the institution fail to make arrangements satisfactory to the ~~e~~Executive ~~d~~Director 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 ~~as stipulated in T.C.A. 49-7-2017.~~
- (4) Institutions that close without proper notification to the Commission or that fail to comply with closure obligations given in this ~~rule section (1540-01-02-.23)~~ 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 individual(s) directly involved, including, but not limited to, the director, owner(s), and/or the board chair.
- (5) Student Completion of Education ("Teachouts"):
  - (a) The ~~e~~Executive ~~d~~Director may approve other authorized or exempt institutions ~~which are authorized under T.C.A. 49-7-2001 et seq. 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. ~~exist or be provided~~ 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 ~~his/her~~ the program at no ~~additional~~ cost in excess of that ~~than~~ 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 ~~graduate~~ complete.
  - (b) If the closed or closing institution fails to provide an acceptable plan to the executive director, ~~the Commission staff~~ 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.
  - ~~(d) — The teachout plan requirement is intended to supplement, not supplant, the provisions concerning the disposition of records when an institution closes, as indicated in T.C.A. 49-7-2016.~~

~~(6) — Disposition of Records:~~

- ~~(a) — Any institution ceasing operation must secure student educational transcripts by an arrangement with an authorized institution or make them available to the Commission.~~
- ~~(b) — When financial aid and academic transcripts from closed institutions are prepared for delivery to the Tennessee Student Assistance Corporation and the Tennessee Higher Education Commission, such academic and financial records, each, shall be sorted and separated by year, in alphabetical order, and physically contained in boxes 15 inches long, 12 inches wide, 10 inches high with tops and with handles, consistent with State of Tennessee Archives regulations.~~
- ~~(c) — Financial aid transcripts must be organized, marked and boxed separately from academic transcripts.~~

Authority: T.C.A. §§ 49-7-2002, 49-7-2005 and 49-7-2016.

1540-01-02-.244 -Filing Methods and Requirements.

- (1) Unless otherwise provided, all filings must be received via hand delivery, mail, electronic mail, or facsimile. Current addresses and fax numbers will be posted on the THEC webpage.
- (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)(b).
- (3) Filings shall be received at DPSA on the due date. Items postmarked on the due date but not received at DPSA will be deemed late-filed and, if applicable, may be deferred pursuant to Rule 07(1)(a).

~~TUITION GUARANTEE FUND (TGF).~~

- ~~(1) — Tuition guaranty fund' or 'TGF' or 'fund' means the tuition guaranty fund created by TCA 49-7-2018.~~
- ~~(2) — No institution organized as an in-state private postsecondary vocational education institution covered under the Act is exempt from the Tuition Guaranty Fund as described in TCA 49-7-2018.~~

Authority: T.C.A. §§ 49-7-2005 ~~and 49-7-2018.~~

1540-01-02-.255 —FEES.

- (1) All fees collected pursuant to the provisions of this part shall be deposited in the state treasury as a special agency account to administer the provisions of this part.
- ~~(2) — The Commission is authorized to adjust fees annually hereafter based on the intent to collect revenues sufficient to cover the cost of this regulatory function (e.g. travel, employee costs, legal costs, expert fees).~~
- (23) Annual reauthorization fees shall be paid with the Reauthorization Application as follows:
  - (a) Annual Reauthorization Fee:

1. a fee of \$500 if enrollment is 0 to 300 students;
2. a fee of \$1,500 if enrollment is 301 to 600 students; and
3. a fee of \$3,500 if enrollment is 601 or more students.

(b) Reauthorization Extension Fee ..... \$500

(c) Late Reauthorization Fee ..... \$500

(3) The following fees apply to the filing of ~~The fees to be collected by the Commission hereunder shall accompany an applications~~ for authorization to operate an institution or an application for an agent's permit, or other application required by these rules in accordance with the following ~~and other services~~ schedule:

~~(a) Late Renewal Fee (in addition to base renewal fee) ..... \$1,000~~

~~(b) Renewal Extension Fee (in addition to base renewal fee) ..... \$500~~

~~(ea) Initial New School Authorization Application ..... \$3,000~~

(b) New Programs Application ..... \$500

..... Each Proposed Program ..... \$500

~~(d) Associate Degree Granting Institutions (in addition to base initial ..... \$1000~~

~~..... application and program fee)~~

~~(e) Bachelor Degree Granting Institutions (in addition to base initial ..... \$2,000~~

~~..... application and program fee)~~

~~(f) Masters Degree Granting Institutions (in addition to base initial ..... \$3,000~~

~~..... application and program fee)~~

~~(g) Doctoral Degree Granting Institutions (in addition to base initial ..... \$4,000~~

~~..... application and program fee)~~

~~(ch) Authority for Unaccredited Institutions to Grant Degrees - Unaccredited Institutions (in addition to~~

~~..... \$1000~~

~~(paid in addition to base initial application, program and degree level the New Program Application fee fees)~~

~~(i) New Programs - Authorized Institutions ..... \$500~~

~~(dj) Degree Credential Level Elevation for - Authorized Institutions ..... \$24,000~~

~~(paid in addition to the New Program Application fee)~~

(ek) Agent Permit Application Fee In-State - Initial Application ..... \$500

(fl) Agent Permit Application Agent Fee In-State - Renewal Application ..... \$250

~~(m) Agent Fee Out-of-State - Initial Application ..... \$600~~

~~(n) Agent Fee Out-of-State - Renewal Application ..... \$300~~

(eg) Institution al-Name Change Application ..... \$500

(hp) Change of Address Location Application ..... \$500

~~(ej) Non-compliance Fines (assesses at a maximum of per day, per violation) ..... \$500~~

(j) Exemption Determination Application ..... \$100

- (k) Closed Institution Transcript Request..... \$10
- (l) Convenience Charge for Electronic Payments ..... amount charged by vendor
- ~~(4) Reauthorization fees for in-state institutions are based upon an institution's annual gross tuition revenue collected during the previous fiscal year (July 1 to June 30). Reauthorization fees for out-of-state institutions are based on an institution's annual gross tuition revenue collected from Tennessee students during the previous fiscal year (July 1 to June 30). In each instance the reauthorization fee shall equal point seventy five percent (.75%) of the annual gross tuition collected with a minimum fee of five hundred dollars (\$500) and maximum fee of twenty five thousand dollars (\$25,000).~~

Authority: T.C.A. §§ 49-7-2005, 49-7-2014 and 49-7-2017.

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 a pending application within three (3) working days from receipt or prior to the start of Commission Staff's review, then all fees assessed shall be refunded.
  - (b) If an institution withdraws a pending application more than three (3) working days from receipt and once Commission Staff review begins, the Commission may retain fifty percent (50%) of the assessed fees.
  - (c) Once Commission Staff's review of a pending application is complete or a site visit has been conducted, the Commission may retain one hundred percent (100%) of the assessed fees.
  - (d) Institutions that fail to complete the application process described in Rule 1540-01-02-.07(1)(b) shall forfeit all fees paid.
  - (e) Any other fee collected is nonrefundable once Commission Staff has performed the associated review or work related to that fee.

Authority: T.C.A. §§ 49-7-2005 and 49-7-2014.

RULES OF THE TENNESSEE HIGHER EDUCATION COMMISSION  
CHAPTER 1540-01-10  
REGULATION OF POSTSECONDARY EDUCATION INSTITUTIONS WITH OPTIONAL EXPEDITED  
AUTHORIZATION (OEA)

Table of Contents

1540-01-10-.01 Incorporation of Rules  
1540-01-10-.02 Definitions  
1540-01-10-.03 Eligibility and Application Requirements  
1540-01-10-.04 Required Notifications to Commission Staff  
1540-01-10-.05 Denial of OEA Status  
1540-01-10-.06 Revocation of OEA Status  
1540-01-10-.07 Complaints  
1540-01-10-.08 Filing Methods and Requirements  
1540-01-10-.09 Fees

1540-01-10-.01 INCORPORATION OF RULES.

- (1) Rules 1540-01-02-.01, .02, .04, .18 and .26 shall be incorporated into this Rule Chapter as if fully written herein.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.02 DEFINITIONS

- (1) "Accreditation" is a non-governmental, peer evaluation of educational institutions and programs. Private educational associations of regional and national scope that have adopted criteria for educational programs and have developed procedures for evaluating institutions or programs. 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.
- (2) "Act" means the Tennessee Higher Education Authorization Act of 2016, T.C.A. §§ 49-7-2001, et seq., as amended.
- (3) "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 institution will meet the admission education requirement for a program leading to a higher credential at a second institution.
- (4) "Authorization to operate" means approval of the Commission to operate or to contract to operate a postsecondary educational institution in this state as described in T.C.A. § 49-7-2007(1) – (3) or (5). Authorization to operate is for a specified time at a specified location. Institutions shall not use an authorization to operate to connote greater approval than simple permission to operate. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."
- (5) "Commission" means the Tennessee Higher Education Commission.

- (6) “Committee” means the Committee on Postsecondary Educational Institutions.
- (7) “Degree-granting postsecondary educational institution” includes institutions offering education or training above the high school level and where the institution awards degrees, such as associate, bachelors, masters, specialist, or doctoral degrees.
- (8) “Division of Postsecondary State Authorization” or “DPSA” means the division within the Tennessee Higher Education Commission tasked with overseeing the implementation and enforcement of the Act and these rules.
- (9) “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.
- (10) “Location” means an address that is zoned for commercial purposes for use as a postsecondary educational institution.
- (11) “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.
- (12) “Optional expedited authorization” or “OEA” means the optional expedited authorization available pursuant to 2016 Public Chapter 868 and these rules to certain accredited degree-granting institutions.
- (13) “Other fees” means fees, other than tuition, 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, graduation fees, or fees paid for housing, meals, or transportation.
- (14) “Postsecondary educational institution” includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives.
- (15) “These rules” means all rules contained in Rule Chapter 1540-01-\_\_\_\_\_.
- (16) “Tuition” means any fee involving the student, actually charged or tracked as a bookkeeping item for instruction provided.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.03 ELIGIBILITY AND APPLICATION REQUIREMENTS.

- (1) In order to receive OEA, a postsecondary educational institution must meet the following eligibility requirements:
  - (a) Meet the definition of degree-granting postsecondary educational institution;
  - (b) Be accredited by a regional or national institutional accrediting agency recognized by the U.S. Department of Education; and

(c) Provide the following information and documentation as part of a signed and notarized OEA Application created by Commission Staff:

1. evidence of good-standing and valid institutional accreditation from a regional or national institutional accrediting agency recognized by the U.S. Department of Education;
2. documentation evidencing an established, clearly articulated, and comprehensive process for the resolution of student complaints. In order to be a comprehensive process, the process must contain:
  - (i) a detailed explanation as to how a student escalates a grievance to the highest level at the authorized institution location;
  - (ii) an opportunity for all persons involved in the complaint to be heard at any final step at the institutional location level, including, but not limited to, an appeal;
  - (iii) an explanation as to how the institution will notify students that complaints not resolved at the institutional location level may be filed with the Commission; and
  - (iv) an explanation as to how students will be notified of the institution's comprehensive process;
3. documentation demonstrating the institution is operating lawfully in the state. Institutions registered by the Tennessee Secretary of State shall submit a Certificate of Existence issued no more than two (2) months prior to the date of the application. Institutions that are not registered with the Secretary of State shall submit a local business license;
4. documentation demonstrating that the institution is currently maintaining financial standards and institutional stability deemed acceptable for eligibility in Title IV federal student financial aid programs. Documentation shall include at a minimum:
  - (i) the most recent independent audit completed, in part, for purposes of calculating the institution's federal financial composite score as described in 34 C.F.R. § 668.172 and
  - (ii) 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, financial ratios, a letter of credit alternative, or a provisional certification alternative as well as any related correspondence from the institution;
5. a comprehensive list or verification of all programs offered at the institution along with, when applicable, documentation evidencing receipt of all requisite program approvals from subject matter expert state licensing agencies, boards, or commissions. Evidence shall be provided for any program designed to train a student for employment in a field where a license is required in order to be employed in that field. The evidence shall clearly demonstrate that the state agency, board, or

commission has determined that the program meets the educational requirements necessary to receive a license or sit for a required exam. The comprehensive list or verification shall include, at a minimum, the following information:

- (i) program name;
  - (ii) DPSA assigned program code;
  - (iii) credential awarded;
  - (iv) credit hours or contact hours to be awarded;
  - (v) length of time expected to complete the program;
  - (vi) cost of program tuition;
  - (vii) cost of other fees;
  - (viii) program status;
  - (ix) a Classification of Instructional Programs (CIP) code;
  - (x) whether programmatic accreditation is required for the program and the name of the accreditor that has reviewed and accredited the program; and
  - (xi) the website address to the gainful employment data for the program. The address should provide a reasonable person easy access to this information;
6. a report of any illegal or unethical conduct by employees, agents, contractors, or third-party service providers related to the delivery of educational programs and services to students with any corrective action and remedies taken by the institution;
7. a description of the ownership of the institution and when applicable, a corporate flowchart showing the institution's position in relationship to all affiliated corporate entities;
8. copies of all executed articulation and transfer of credit agreements with other institutions operating in Tennessee;
9. the most recently calculated three-year official cohort default rate from the Office of Federal Student Aid of the U.S. Department of Education. Institutions with official cohort default rates for the three most recent years equal to or greater than thirty percent (30%) or a current official cohort default rate greater than forty percent (40%) are not eligible for OEA; and
10. statistical data as described in Rule 1540-01-02-.18.
- (2) After receipt of an institution's application, Commission Staff shall conduct a detailed review and verification of the application. OEA applications will be processed as follows:

2016 Rulemaking Committee July 7, 2016 Version

- (a) Upon satisfactory examination of all submitted documentation, Commission Staff will recommend the application for recommendation of approval by the Committee to the Commission. Thereafter, the Committee's recommendation will be submitted to the Commission and upon approval by the Commission, Commission Staff shall issue notification of the OEA status noting that it is valid for one (1) year.
- (b) If the Commission upon review and consideration of the application determines the applicant is not eligible and fails to meet the OEA criteria established in this section, the Commission shall notify the applicant of its decision to deny the application and set forth the reasons for the denial in writing. Such denial can be reviewed as further described in Rule .05 of these rules.
- (c) In order to continue OEA for an additional year, an institution must complete an application as described in Rule .03(1)(c) of these rules and file it with Commission Staff by the due date immediately preceding the expiration date of the institution's current OEA. In the event that an application is timely filed but is not considered by the Commission prior to the current OEA expiration date, Commission Staff may continue an institution's OEA for not more than six (6) months.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.04 REQUIRED NOTIFICATIONS TO COMMISSION STAFF.

- (1) OEA institutions shall notify Commission Staff, within five (5) business days, of the following:
  - (a) action by an accrediting agency in regard to the institution's accreditation status, such as revocation, suspension, probation, warning, or similar action;
  - (b) notice of legal action involving the institution, or its parent entity if applicable, and Tennessee students, related to the delivery of educational programming or student consumer practices, including, but not limited to, class action lawsuits;
  - (c) utilization by the institution of a letter of credit or a cash management agreement with the U.S. Department of Education; or
  - (d) public announcement of investigation by any governmental agency. The institution shall notify Commission Staff whether the investigation is related to the institution's academic quality, financial stability, or student or consumer practices.
- (2) Institutions shall submit a New Program Notification Form on the Committee meeting due dates for any programs implemented since the last due date. Once processed, Commission Staff will issue the institution a program code for use when submitting statistical data.
- (3) At the request of Commission Staff, the Executive Director, the Committee, or the Commission, OEA institutions shall provide any information deemed necessary to monitor the institution's eligibility for OEA.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.05 DENIAL OF OEA STATUS.

- (1) A decision of the Commission to deny OEA status shall be provided to the institution in writing through the Executive Director, provide the basis for denial, and be effective as of the date of the decision.
- (2) Any person aggrieved by a decision of the Commission respecting denial of OEA status shall have the right to a hearing and review of the decision by the Commission as provided in 2016 Public Chapter 868 and these rules. An aggrieved party for purposes of this rule is any postsecondary educational institution denied OEA status.
- (3) If an aggrieved party desires a hearing and review, the party shall file a written notice within ten (10) business days after the date of the Commission's written notice of denial. If written notice is not provided by an aggrieved party, then the action shall be deemed final.
- (4) Upon receiving notice from an aggrieved party, the Commission shall fix the time and place for a hearing and shall notify the aggrieved party of the time and place of the hearing. The Commission may vote to have an administrative law judge from the Administrative Procedures Division of the Tennessee Secretary of State's Office conduct a contested case proceeding and issue an initial order pursuant to the Uniform Administrative Procedures Act.
- (5) At the hearing, the aggrieved party may employ counsel, shall have the right to hear the evidence upon which the action is based, and present evidence in opposition or in extenuation. If an administrative judge is not appointed, then any member of the Commission may preside except when a clear conflict of interest may be demonstrated.
- (6) Any decision by the Commission or an initial order by an administrative law judge shall include a statement of findings and conclusions upon all material issues of fact, law or discretion presented at the hearing and the appropriate rule, order, sanction, relief, or denial thereof.
- (7) Any final decision of the Commission shall be subject to the right of judicial review provided in T.C.A. § 49-7-2012.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.06 REVOCATION OF OEA STATUS.

- (1) OEA may be revoked for just cause. Revocation can occur as a result of:
  - (a) a vote of the of Commission on its own motion or at the recommendation of the Committee or Commission Staff or
  - (b) a determination of the Executive Director pursuant to Rule 1540-01-02-.02(e).
- (2) Just cause includes activities where the institution acted contrary to the public interest, exhibits questionable financial strength, or is not operating educational programs with acceptable outcomes and includes, but is not limited to:
  - (a) Loss or failure to meet any of the listed criteria for eligibility in Rule .03(1) of these rule;
  - (b) Failure to fulfill the requirements in Rule .03 of these rules;

- (c) A finding resulting from a signed student complaint that:
    - 1. the institution did not follow its policies as presented to the student or
    - 2. the institution hid a fact or made a verbal or written inaccurate representation to the student that affected the student's ability to make an appropriate decision concerning the student's investment of time and money; or
  - (d) Having an institution-level or program-level withdrawal, completion, placement, or in-field placement rate that is less than the state average rate for other OEA institutions or a program type for more than two (2) consecutive years;
  - (e) Providing false or misleading statistical data;
  - (f) Failure to comply with the requirements of the tuition guaranty fund under § 49-7-2018 and the related rules;
  - (g) A three-year federal financial aid cohort default rate as calculated by the U.S. Department of Education of thirty percent (30%) or higher for three (3) consecutive years or over forty percent (40%) for any single year;
  - (h) Allowing OEA to expire without timely filing an OEA Application or Initial Authorization Application.
- (3) Upon revocation of any institution's OEA, the following shall occur:
- (a) The institution shall immediately be subject to all provisions of the Act and Rule Chapter 1540-01-02.
  - (b) The institution shall apply for Commission authorization under T.C.A. § 49-7-2008 and Rule Chapter 1540-01-02 by the next due date which is more than ten (10) business days from the date of revocation.
  - (c) The Executive Director may grant the institution conditional authorization to continue its operation as a non-OEA institution. Such conditional authorization shall not be for more than six (6) months. Failure to fulfill all conditions of authorization within six (6) months can lead to revocation of authorization.
  - (d) Any institution whose OEA is revoked by the Commission shall be ineligible to reapply for OEA for no less than twenty-four (24) months from the date of revocation.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.07 COMPLAINTS.

- (1) Commission Staff shall investigate any signed student complaint involving an OEA institution after verifying that the student has escalated the complaint to the institutional director and the institutional director has had an opportunity to investigate and resolve the complaint yet the complainant contends it remains unresolved.
- (2) Commission Staff's investigation shall determine:

- (a) whether the institution followed its policies as represented to the student and
  - (b) whether the institution failed to disclose a fact or made a verbal or written inaccurate representation to the student that affected the student's ability to make an appropriate decision concerning the student's investment of time and money.
- (3) When determining whether a finding is appropriate, Commission Staff shall take into consideration any reasonable offers the institution made to resolve the student's complaint at the institutional level.
- (4) The investigation will proceed as follow:
- (a) Complaints shall be signed and submitted through hand delivery, mail, or electronic mail has provided for in Rule .08 of these rules.
  - (b) Any named institution will receive a copy of the complaint and be provided an opportunity to respond to all allegations contained in the complaint.
  - (c) Any named institution shall provide all information requested by Commission Staff as part of the investigation.
  - (d) As part of the investigation process, Commission Staff may work with the complainant and the named institution to effectuate a settlement.
  - (e) If there are no findings, the complaint will be closed and the written determination shall include a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b). Such date shall not be earlier than ten (10) business days after the date of the written determinations. If no request for review is received, the complaint will be closed.
  - (f) If there are findings and proposed recommendations, the following process will be used:
    - 1. Commission Staff shall provide in the written determinations and proposed recommendations a date by which either party may respond to the findings or recommendations. Such date shall not be earlier than ten (10) business days after the date of the written determinations.
    - 2. Following review of the responses, if any, Commission Staff may:
      - (i) determine that the complaint is closed by providing written notice to the parties. The written notice shall include a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b). Such date shall not be earlier than ten (10) business days after the date of the written determinations or
      - (ii) recommend that the Executive Director take some action that is within the scope of the proposed recommendations. Any decision of the Executive Director to take action will be provided to the parties by letter and shall include a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b).

Such date shall not be earlier than ten (10) business days after the date of the written determinations.

- (g) Any request for review shall be in writing, signed, list each instance where Commission Staff erred, and provide a detailed explanation of each alleged error with references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in subparagraph (f).

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.08 FILING METHODS AND REQUIREMENTS.

- (1) Application due dates and deferrals:
- (a) For each quarterly meeting of the Committee, Commission Staff shall establish a due date that is no more than ninety (90) days before the date of the meeting. Unless stated by Commission Staff, the established due date shall apply to Optional Expedited Authorization Applications. Applications shall be received at DPSA on or before the due date. Applications received after that date will be deemed late and may be deferred to the next due date.
- (b) An application submitted without the appropriate fee will be considered incomplete and will not be reviewed until all applicable fees are received. In any event, Commission Staff may defer the application to the next due date.
- (c) Further, an incomplete application is an application that is missing any information or contains noncompliant information. Commission Staff may defer consideration of the application to the next due date.
- (d) If an application is deferred, the institution shall have until the next established due date to complete the application.
- (e) An application can be deferred either by the institution or Commission Staff a total of two (2) times. After the second deferral, the application will be deemed withdrawn if the institution does not submit a completed application by the next due date.
- (2) Unless otherwise provided, all filings must be received via hand delivery, mail, electronic mail, or facsimile. Current addresses and fax numbers will be posted on the THEC webpage.
- (3) Filings shall be received on the due date. Items postmarked on the due date but not received at DPSA will be deemed late.

Authority: 2016 Public Acts Ch. 868.

1540-01-10-.09 FEES.

- (1) An institution shall pay a fee of \$9,000 to the Commission with the Optional Expedited Authorization Application.

Authority: 2016 Public Acts Ch. 868.