

**RULES  
OF  
TENNESSEE HIGHER EDUCATION COMMISSION**

**CHAPTER 1540-01-02  
AUTHORIZATION AND REGULATION OF  
POSTSECONDARY EDUCATION INSTITUTIONS AND THEIR AGENTS**

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**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. 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. **Administrative History:** Original rule filed March 26, 1975; effective July 1, 1975. Amendment filed August 7, 1978; effective November 29, 1978. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998.

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

- (1) Role of the Commission:
  - (a) The Tennessee Higher Education Commission at each quarterly meeting shall consider recommendations from the Commission staff and/or Postsecondary Education Institution Committee regarding all authorizations, awarding educational credentials (including authority to grant degrees) and any other matter at the request of the Commission's Executive Director.

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

- (b) 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 Executive Director:
- (a) The Executive Director is empowered to take any urgent action, based on these rules and Act, necessary to conduct this consumer protection regulatory function, during the periods between authorization action meetings of the Commission, subject to ratification by the Commission provided that:
    - 1. the Executive Director shall give written notice of such action to the affected party;
    - 2. the Executive Director shall instruct the affected party that they may notify the Commission within ten (10) days if the aggrieved party desires a hearing and review by the Commission, and that otherwise the action shall be deemed final;
    - 3. at the same time the Executive Director shall give written notice of the action to members of the Commission.
  - (b) Whenever the Commission authorization staff cannot resolve a complaint or dispute to the administration of these rules, the Executive Director upon a written request from an aggrieved party which 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 the Committee on Postsecondary Education Institutions, the Executive Director, in consultation with the Commission, is authorized to recommend the waiving of deadlines or regulations developed pursuant to this Chapter, upon well-documented extraordinary cause, where necessary to carry out the provisions of this part in the public interest and where consistent with T.C.A. §§ 49-7-2001 et seq.
  - (d) The Executive Director may exempt a program or activity from authorization or from compliance with a specific regulation 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 fines under this Part.
    - 2. Intervene to alter, place conditions on, suspend or revoke, in full or in part, an institution's or agent's authorization to operate.
    - 3. Issue temporary, 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:

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

- (a) The Postsecondary Education Institution Committee shall meet quarterly or at other times on the call of the Chairman of said Committee or pursuant to the call of the majority of Committee members, to serve as an advisory committee to the Commission, and make 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;
    - 5. such other matters relating to the Postsecondary Education Act at the request of the Commission's Executive Director;
  - (b) The Committee, and, as needed, other experts appointed by the Executive Director, shall participate in institutional site visits for purposes of evaluating compliance with legislation and rules;
  - (c) The Committee shall exercise such powers and undertake such obligations as are delegated to it by the Commission under the provisions of 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.
  - (d) 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.
  - (b) Beginning July 1, 1997, the office and Commission staff responsible for oversight of TCA §§ 49-7-2001 et seq. and 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).
  - (c) Perform site visits to review, inspect and investigate as necessary, institutions seeking, holding or required to hold a certificate of authorization for verification of compliance. This includes but is not limited to initial authorization for new institutions, new program reviews, authorization inspections for nonexempt Tennessee institutions, follow up to written and signed complaints or adverse publicity or any situation that may adversely affect students or consumers.
  - (d) Investigate as necessary all non-authorized postsecondary educational activities operating in Tennessee to verify adherence to these rules by all institutions not exempted by the Act.
  - (e) Establish a deadline for submission of initial authorization packages, new program applications and any other materials to be included on the agenda for each quarterly meeting of the Postsecondary Committee. (Institutional Applications (1540-01-02-.07)).

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

- (f) Share with state or federal agencies information for institutions seeking, holding or required to hold a certificate of authorization and unauthorized educational operations. Provide state or federal agencies information pertaining to school closures under any condition. Share with appropriate accrediting bodies any adverse action taken by the Executive Director or Commission.

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

### 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:
  - (a) "Ability-to-benefit" as used in these regulations, in contrast to the use of that term for federal financial aid or other purposes, means students, regardless of financial condition, who do not possess a high school diploma or GED, but who have demonstrated that they can profit materially or personally from a certain course of study.
  - (b) "Academic" in description of a program or institution means that which is organized primarily for academic training or transfer.
  - (c) "Act" means the Postsecondary Education Authorization Act of 1974, Tennessee Code Annotated §§ 49-7-2001, et seq. as amended.
  - (d) "Adverse action" means action taken by the Executive Director or Commission to penalize, limit, change, suspend or cause to cease activity that is in non-compliance with the Act and these rules. Such adverse action may include but not be limited to fines of \$500 per violation per day; suspension of activity; conditional authorization or revocation.
  - (e) "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.
  - (f) "Associate degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least 60 semester credit hours or 90 quarter credit hours of instruction, or equivalent.
  - (g) "Authorization to operate" means permission or licensure to operate for a specified time in a specified place(s). An 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 connote greater approval than simple permission to operate. Terms which

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

may not be used include, but are not limited to, "*accredited*," "*supervised*," "*endorsed*," and "*recommended by the Commission*."

- (h) "*Authorization site visit*" means an institutional site visit conducted by Commission staff or Postsecondary Committee members to verify compliance with Postsecondary Education Authorization Act 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'.
- (i) "*Bachelor's degree*" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least 120 semester credit hours or 180 quarter hours, or equivalent.
- (j) "Certificate program" generally means one or more technical courses usually completed in one to twenty-six weeks, or up to and including 500 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.
- (l) "*Closed enrollment*" means instruction provided between an educator or educational service to a group or business on a private contractual bases, whereby public solicitation does not occur and the instructional provider is given a list of enrollees to train at no cost to the students.
- (m) "*College*" means (1) a unit of a university offering specialized degrees or (2) a postsecondary institution offering courses of study leading to traditional undergraduate college degrees Some examples of traditional degrees are: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, and Bachelor of Fine Arts.
- (n) "*Commission*" means the Tennessee Higher Education Commission.
- (o) "Contact Hour" (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.
- (q) "Degree" means letters of designation or credential or a title from a postsecondary 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' or 'doctor' in the credential designation.
- (r) "Diploma program" means a program of instruction offering technical and some basic course work. Some general or peripheral courses may be included. The program shall generally range for more than 500 contact hours but less than contact requirements for the Associates degree.

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

- (s) "*Doctoral degree*" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least 90 semester hours or 135 quarter hours of graduate credit or equivalent.
- (t) "*Enrollment*" refers to those students who have completed the institution's application forms, submitted a financial deposit where required, and have actually attended one or more sessions of classes, or, in the case of home study programs, received one or more lessons.
- (u) "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.
- (v) "General education courses" 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) "*Independent certified public accountant*" means a CPA not associated with the institution or its owners, especially in such a way that a conflict of interest or appearance of conflict arises.
- (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) "*Institutional director*" means the institutional executive designated by the institution to assume responsibility for the conduct of the institution and its agents within these rules and the Act. 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.
- (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.
- (aa) "*Master's degree*" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least 30 semester credit hours or 45 quarter credit hours, or equivalent.
- (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.
- (cc) "*Out-of-state*", as applied to describe an authorized postsecondary educational institution, means an institution that maintains its primary campus in another state, but has physical presence in Tennessee.
- (dd) "*Physical presence*" means actual presence within the state of Tennessee for the purpose of conducting activity related to: a postsecondary educational institution; an educational service; dissemination of educational credentials; enrollment; solicitation or

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

advertising. Physical presence as further outlined for purposes of authorization shall include but not be limited to:

1. An instructional site within the state.
  2. Instruction 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;
  3. Dissemination of an educational credential from a location within the state;
  4. An agent, recruiter, institution or business that solicits for enrollment or credits or for the award of an educational credential;
  5. Advertising, promotional material or 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.
- (ee) "*Postsecondary education institution*" 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.
- (ff) "*Quarter*" is a period of instruction into which the academic year may be divided. A quarter must consist of at least 10 weeks.
- (gg) "*Quarter credit hour*" means a measurement of scholastic attainment earned by receipt of instruction of one classroom lecture hour per week for one quarter or two hours of laboratory experience per week for one quarter, or three hours of intern/externship experience per week or the equivalent number of hours.
- (hh) "*Residence course*" means a course in which the student comes to an institutional campus or instructional site as opposed to a course where the student stays at home (i.e. Long Distance Learning).
- (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) "*Semester*" is a period of instruction into which the academic year may be divided. A semester must consist of at least 15 weeks.
- (ll) "*Semester credit hour*" means a measurement of scholastic attainment earned by receipt of instruction of one classroom lecture hour per week for one semester or two

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

hours of laboratory experience per week for a semester, or three hours of intern/externship experience per week or the equivalent number of hours.

- (mm) "*Solicitation*" means 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.
- (nn) "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.
- (oo) "*Unearned tuition*" 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) "*University*" means a postsecondary institution that provides facilities for teaching and research, offers traditional 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) "*Vocational*" in 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.

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

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

- (1) No entity may 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 by affirmative vote of the Tennessee Higher Education Commission during a scheduled public meeting.
- (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.

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

- (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.
- (5) Individuals, businesses or institutions 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) Unauthorized schools determined to be operating as a postsecondary educational institution must make immediate good faith efforts toward compliance by submitting a complete Initial Authorization 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. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1998. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998.

#### 1540-01-02-.05 EXEMPTION.

- (1) 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 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 without charge, payroll deduction or minimum length of employment; or
    - 2. maintained or given by a U. S. Department of Labor or state recognized labor organization, without charge, to its membership or apprentices; or

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

3. financed and/or subsidized by public funds, without charge to the students, having a closed enrollment; or
  4. given under a contract agreement, having a closed enrollment, at no cost to the student 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 are specifically directed toward new or additional vocational, professional or academic goals.
- (2) To operate within exemption status, the following guidelines shall be used:
- (a) Institutions that clearly qualify as exemption under the Act or these regulations after Commission staff review shall be considered exempt from authorization without a vote of the Commission.
  - (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) 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; 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.
- (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).

**Authority:** T.C.A. §§ 49-7-2002, 49-7-2004, 49-7-2005, 49-7-2006, 49-7-2008. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1998. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed February 3, 2000; effective June 28, 2000. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2001 order](#). See also [Attorney General Opinion 11-78](#). Repeal and new rule filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014.

**1540-01-02-.06 MINIMUM AUTHORIZATION STANDARDS AND REQUIREMENTS.**

- (1) Institutions authorized to operate or seeking authorization to operate in Tennessee must meet the minimum requirements stated in Tennessee Code Annotated § 49-7-2006 and as further defined in these regulations.
- (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.

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

- (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 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.
- (13) An exception to any part of the Minimum Authorization Standards must be reviewed on an individual basis by the Commission.
- (14) School Name:
  - (a) No postsecondary educational institution under the Act and these rules may use the word "university" in their name unless the school has been so approved by a regional accrediting body so recognized by the U. S. Department of Education.
  - (b) No postsecondary educational institution under the Act and these rules may use the word "college" in their 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", "business", "technical", "art" etc., 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, 49-7-2008. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1998. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31,

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

1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013.

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

- (1) Application deadline:
  - (a) Incomplete submissions as given below in Authorization - What Constitutes a Complete Application, or applications submitted after the established deadline may be deferred to the next quarterly meeting at the discretion of staff.
  - (b) Institutions 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) Authorization - What Constitutes a Complete Application:
  - (a) 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 application which includes at least the following:
    1. a title or name of the institution in compliance with these rules;
    2. a copy of the Tennessee state charter as filed with the Secretary of State (incorporated) or local business license (sole proprietorship);
    3. ownership and/or controlling officers;
    4. address and general description of facilities;
    5. list of instructional equipment for each program (owned or leased);
    6. qualifications for instructional staff and supervisors;
    7. designation of an institutional director for each site responsible for authorization contracts and maintenance of records and all other duties as described under Personnel and Instructor Qualifications (1540-01-02-.16);
    8. definition of any administrative structure above the 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;

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

10. institutional surety bond as described by rule 1540-01-02-.07 or as prescribed by T.C.A. §49-7-2013;
  11. a copy of the enrollment contract or agreement described in these regulations;
  12. a copy of the 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;
  14. a draft or copy of the institutional catalog (see 1540-01-02-.11);
  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;
  17. any specific requirements as outlined under degree granting and/or non degree granting sections of these regulations;
  18. if participating in federal student financial aid programs, 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;
  19. evidence of institutional financial stability as follows:
    - (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.
- (4) A separate application for authorization, which is site specific, must be made for each location located outside of reasonable walking distance from the main site. The 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.

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

- (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.

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

- (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.
- (12) New Ownership / Change in Ownership:
  - (a) 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 an institution authorized to operate shall comply with all the requirements for securing an initial, new authorization including new program applications for each program. In addition, a copy of the sales contract(s), bill(s) of sale, deed(s), and all other instruments 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

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

change in ownership, and the executive director may determine that other transfers should also be excluded from these requirements.

(13) New Program or Change in Program:

- (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.
- (c) New institutions must submit a rationale with supporting data to justify initiation of programs proposed.
- (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) Ongoing institutions that make changes to an existing program(s) previously approved by the Commission must file a New Program Application if program changes exceed 25% in one calendar year, or if in the opinion of staff a significant change has occurred. 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 expense beyond the catalog requirements at the time of enrollment, unless the addition is in response to: demonstrated educational necessity; a reasonable program completion period had elapsed; state approval agencies; recognized accrediting agencies or for requirements of professional certifications or licenses. Under approval conditions, the institution shall provide written notification to the Commission and give adequate notice to all students affected prior to any change.

(14) New Location / Change of Address:

- (a) 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. Approval may be issued after the new facilities have been inspected and the application is complete. If a move is beyond 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.

**Authority:** T.C.A. §§ 49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29,

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

1998. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Repeal and new rule filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014.

**1540-01-02-.08 REGULATIONS FOR SPECIFIC SCHOOL TYPES.**

(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.

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

- (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 statutes 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.
  - (c) Authorization to offer any degree in the state will require either institutional accreditation 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.
  - (d) Non accredited institutions seeking authority to grant degrees in the state must meet in addition to the requirements in these regulations for temporary or regular authorization, the additional fee as given in these regulations and demonstrate compliance with, but not limited to the following standards:
    - 1. the operation shall incorporate instructional procedures, texts and materials appropriate to the purpose, curriculum and standards of postsecondary degree granting institutions offering similar programs in the state;
    - 2. 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;
    - 4. 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;
    - 5. demonstration that the degree and the program has merit and value academically, professionally or vocationally in Tennessee;

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

6. 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.
- (e) Undergraduate degree programs must include at least twenty-five percent of the program in general education courses unless the institution can demonstrate program accreditation requirements which are lesser or for a non accredited 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 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.
  - (f) 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.

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

- (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.
  
- (5) Bartending Schools:
  - (a) Pursuant to TCA §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.
  
- (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.

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

- (c) Schools that operate as a 'finishing school', exclusively for personal department or for enrichment may not advertise or conduct courses that implies or suggests vocational modeling or related goals.
- (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).
  - (c) 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, 49-7-2008. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1998. Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Repeal and new rule filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However the Government Operations Committee filed a 30-day stay

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

*of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014.*

**1540-01-02-.09 ANNUAL RENEWAL FOR AUTHORIZATION.**

- (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, 49-7-2014. **Administrative History:** Original rule filed March 26, 1974; effective April 24, 1974. Amendment filed August 7, 1978; effective November 29, 1998.

(Rule 1540-01-02-.09, continued)

*Repeal and new rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013.*

**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).

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

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

**1540-01-02-.11 INSTITUTIONAL CATALOG.**

- (1) Each institution must publish a catalog or brochure (a draft copy may be provided for original application) which must include at 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, 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 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 which must describe the procedure for determining the official date of termination;

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

- (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 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 minimum standards concerning quality of education, ethical business practices, health and safety, and fiscal responsibility;*

- (p) a description of the student grievance procedure, a listing of the title, address, and telephone number of the institutional employee(s) designated to receive student complaints. If the institution used a mediation clause in its enrollment agreement, the catalog must describe the steps required of the student and/or the institution to initiate the mediation process. The address and telephone number of the licensure staff of the Commission must be in the catalog for grievances not settled at the institutional level;
- (q) specific information pertaining to transferability of credit earned to another institution, with language sufficient to describe limitations on 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 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."*

- (2) 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;
- (3) Catalogs should be written in a way and at a level which enables prospective enrollees to 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, 49-7-2006. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new

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

*effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014.*

**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. Institutions should not admit to programs leading to licensure students who the institution knows or, by the exercise of reasonable care should know, would be ineligible to obtain licensure in the occupation for which they are being trained (ex., certain prior legal convictions render one ineligible to hold certain licenses). If a student ineligible for licensure desires to enroll in such a program, regardless of license eligibility, the institution may admit such a student after the student submits, in writing for retention by the institution and review by Commission staff, a statement acknowledging 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.
- (2) 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) Any test administered for purposes of determining admission shall be a standardized test recognized nationally or by the U.S. Department of Education 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 test is not available, a non-standardized test developed by institutional officials and approved by the Commission staff with minimally acceptable scores approved by the Commission staff.
  - (d) Tests shall be administered in a secure environment (e.g., monitors present). Tests shall not be administered in a manner inconsistent with 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.
  - (e) An agent is not allowed to administer the test, nor is anyone allowed to assist the applicant in answering the questions.

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

- (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.

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

#### **1540-01-02-.13 ENROLLMENT AGREEMENTS 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) Institutions prior to enrolling an individual shall require the prospective student to sign and date a 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:
  - (a) toured the institution;
  - (b) received an institutional catalog;
  - (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 fee 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, art supplies etc.;

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

- (g) has been given a copy of the institutional cancellation and refund policy;
  - (h) understands what 'transferability of credits' means and 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:
    - 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) 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."
- (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.
- (5) An enrollment contract shall include but not be limited to:
- (a) full and correct name and location of the institution;
  - (b) name, address and social security number of the student;
  - (c) date training is to begin and program length;
  - (d) full-time or part-time status of the student;
  - (e) projected date of graduation/completion as a full-time or part-time student;
  - (f) program title;
  - (g) total cost of the program, including itemized separate costs for tuition, fees, books and any required equipment purchases;
  - (h) cancellation and refund policy;
  - (i) verification that the student has received an exact signed copy of the agreement.
- (6) Institutions shall contractually guarantee total cost of tuition for 1200 contact hours or one calendar year from the time of enrollment for full and part time student.

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

- (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. § 49-7-2006. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendments filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014.

#### **1540-01-02-.14 FINANCIAL STANDARDS.**

- (1) Institutions administering Title IV financial assistance programs will maintain all required guidelines and standards.
- (2) 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 financial resources adequate to meet the following:
  - (a) facility maintenance and overhead;
  - (b) staff and faculty payroll;
  - (c) books, supplies and / or equipment utilized by students;
  - (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.
- (6) All authorized institutions must file each year the most recent audited financial statement, certified by an independent certified public accountant. For multi-campus institutions, or for institutions owned by one parent company, an audited consolidated corporate financial statement shall be routinely required. The staff, Committee, or Commission, However, may request additional campus or institution specific-information where needed 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; the balance

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

sheet must reflect owner's (proprietorship, partnership, corporation, other) assets and liabilities. In the preparation of these statements, it should be noted that goodwill is not generally considered a current asset unless it is being amortized; related parties must be disclosed; related party footnotes, debt agreements with owners, and supplemental footnotes on separate campuses or branches are expected. 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. Within five years from initial temporary authorization, neither the ratio of current fund revenues to current fund expenditures nor the ratio of current assets to liabilities, both site specific and corporate, where applicable, shall be less than 1:1, without convincing explanation. 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.
- (8) At any time, the Commission may require a certified audit of the institution when there are questions about the institution's financial stability.

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

#### **1540-01-02-.15 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.
- (2) A record of written student complaints must be maintained, including a copy of the complaint, subsequent documents, and a statement of the matter's disposition.
- (3) Financial records of the institution must be maintained and open for inspection and copying by properly authorized officials of the Commission pursuant to compliance with confidentiality laws.
- (4) 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:

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

- (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.
- (6) Institutions must maintain the following documentation in each enrolled student file or folder and shall include but not be limited to:
- (a) 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) basis for admission (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) enrollment disclosure statement or checklist as given in these regulations (unless incorporated in the enrollment agreement);
  - (d) a complete enrollment agreement as given in these regulations;
  - (e) an up-to-date educational transcript for each enrollee in a form that permits easy and accurate review by the student, transfer schools, potential employers and authorized state or federal agencies. The transcript shall be a permanent record of the student's progress and academic performance, which shall include, but not be limited to:
    - 1. full and complete name of the institution;
    - 2. full name of student;
    - 3. social security number;
    - 4. program or department of enrollment;
    - 5. status of student (e.g. active; withdrawal; probation; leave of absence; graduate etc.);
    - 6. an official date recorded for all student withdrawals and graduations;

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

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, credit hours earned or contact hours completed;
  9. actual name of each course (subject) with code numbers as given in institutional catalog;
  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;
- (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 copy educational transcripts, the institution may maintain the above information by electronic storage provided that there is at least one complete updated 'backup' copy in a separate system or location, Commission staff and other authorized groups have complete and easy access to review student transcripts during site visits 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. **Administrative History:** Original rule filed May 15, 1985; effective July 1, 1985. Repeal and new rule filed January 24, 1990; effective May 1, 1990. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013.

#### **1540-01-02-.16 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.
- (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

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

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 authorized institutions must be graduates of an accredited college or university or have sufficient background and training in his/her area of responsibility.
- (5) 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.
- (6) Institutional owners or the controlling board must ensure that each authorized site has a institutional director on that location for at least 50% of the operational time each week the school has students present unless other provisions have been approved by the Commission staff.
- (7) The institutional director implicitly accepts knowledge of and responsibility for compliance with the Act and these regulations including but not limited to advertising, records, contracts, required benchmarks, annual deadlines and fee payments.
- (8) The institutional director at authorized institutions must be a graduate of an accredited college or university with at least one year experience in administration, institutional management, or the total years of administration/institutional management experience/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.
- (11) Instructors:
  - (a) Instructional staff for all institutions must be selected on the basis of credentials demonstrably higher, on the basis of experience and training, than the level to be taught.
  - (b) Instructors in a trades related or specific skill areas must have documented proficiency and practical applied experience in that trade or skill.
  - (c) An instructor must hold the appropriate certificate, license, or rating if the subject is a trade requiring certificate, license, or rating.
  - (d) An instructor must be qualified by education and experience/background demonstrably higher than the level to be taught and must meet the following qualifications as minimum requirements:
    1. Minimum for doctorate level:

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

- (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:
  - (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 baccalaureate level:
  - (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 associate level:
  - (i) Hold an associate degree from a postsecondary institution judged to be appropriate by the Commission and either:
    - (I) an associate degree with a concentration in the subject to be taught and one year of practical experience; or
    - (II) an associate degree not in the subject area but with a minimum of two years of practical experience within the last five years in the subject area to be taught and satisfactory completion in a postsecondary educational institution of nine semester hours or 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.

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

5. Minimum for diploma and certificate level:
  - (i) 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 years of practical experience within the last seven 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.
- (12) Evidence of qualifiable education, experience, or training (including official transcripts) for each instructor must be maintained on-site at the location.
- (13) The Executive Director may approve a variance from these specific qualifications 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 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.
- (14) 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.
- (15) 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.

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

- (f) The agent shall be under the control of the institution, and the institution is responsible for any representations or misrepresentations, expressed or implied, made by the agent.
- (g) Any student solicited or enrolled by a non-licensed agent is entitled to a refund of all moneys paid and a release of all obligations. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent may be null and void and unenforceable. 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 agent.
- (h) 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;
  - 5. soliciting enrollments in a program which has not been approved by the Commission.
- (i) An agent must display the current permit to all prospective students and other interested parties.

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

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

- (1) All authorized institutions must comply with the laws and regulations 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.

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

- (3) Each 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 repayments of unearned tuition, fees, and other 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) The institution's refund policy shall be deemed by the Commission to be fair and equitable if:
  - (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. 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 paid or to be paid by or on behalf of the student for the period of enrollment, less an administrative fee of one hundred dollars (\$100.00);
    2. If after classes have commenced and before expiration of ten percent (10%) of the period of enrollment for which 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 amounts paid or to be paid by or on behalf of the student for the period, less administrative fee of one hundred dollars (\$100.00);
    3. If after expiration of the of ten percent (10%) of the period of enrollment for which 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 amounts paid or to be paid by or on behalf of the student for the period, less administrative fee of one hundred dollars (\$100.00);
    4. If after expiration of twenty-five (25%) of the period of enrollment for which 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, fees and other charges assessed 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

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

- (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) For a student who cannot complete one or more classes because the institution discontinued such class(es) during a period of enrollment for which the student was charged, the institution refunds the sum of all amounts paid 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), 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; or
  - (b) The date the institution receives a written notice (including a signed drop form) of withdrawal from a student; or
  - (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) Fails to return from an approved Leave of Absence (LOA).

**Authority:** T.C.A. §49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013. **Administrative History:** Original rule filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998.

**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

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

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, 49-7-2013. **Administrative History:** Original rule filed June 15, 1992; effective September 28, 1992. Amendment filed December 15, 1992; effective March 31, 1993. Repeal and new rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013.

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

- (1) All institutions authorized by the Commission and their representatives shall be required to operate in accordance with fair consumer practices to ensure current and prospective students that nothing is hidden and verbal and written representations by the school are accurate, such that students can make appropriate decisions concerning their investment of time and money.
- (2) Fair consumer practices means honesty, fairness and disclosure to students in the areas of: 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 and also includes misrepresentation concerning competitor schools.
  - (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.
- (3) 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 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.
- (4) Institutions authorized under these rules must report to the Commission in writing within 30 working days any unresolved written complaints about their operation of which 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.

**Authority:** T.C.A. §§ 49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However the Government Operations Committee filed a 30-day stay of the

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

*amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014.*

**1540-01-02-.20 ADVERTISING AND SOLICITATION.**

- (1) Institutions authorized by the Tennessee Higher Education Commission may use the authorization in advertising, promotional material and on letterhead stationary using the following: "(name of school) is authorized for operation by the Tennessee Higher Education Commission." The entire statement must be used with the same size font and font type of print.
- (2) The Tennessee Higher Education Commission logo may not be used in any school advertising, brochures, telecommunications or institutional material without written approval.
- (3) Institutions authorized by the Commission that have presence, advertise or offer instruction via internet, world wide web or other electronic telecommunication means must state on the first 'page'(as registered with standard web/internet search engines) viewed by the consumer, "[name of school] is authorized for operation as a postsecondary educational institution by the Tennessee Higher Education Commission".
  - (a) In the case of an internet site, within the required statement given above, "Tennessee Higher Education Commission" must be an electronic link 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.
- (4) 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 nationally recognized accrediting agency listed by the United States Department of Education.
- (5) No statement shall be made that the institution or its courses of instruction have been 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.
- (6) 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 city 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.
- (9) Promotion of the institution must be based on education programs, not student aid promotion, number of jobs available or educational credentials.
- (10) 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.
- (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.

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

- (12) Institutions or representatives shall not use 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, equipment, 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.
- (14) Institutions or representatives shall not make deceptive statements concerning other institutional activities 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) No school shall use job placement percentages or statistics in advertisements or recruitment materials except by written permission of the Commission.
- (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) 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.

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

- (23) Promotional materials or agent solicitation practices must not state or infer that programs are available on a free tuition basis.
- (24) 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 current documentation by an authorized official of the receiving institution.
- (25) Claims by institutions in advertisements must be substantiated in Commission files prior to such claim.
- (26) Claims must not be vague. For example, "award winning" institution should include full name of award in advertisement and specify year of any such attainment and source of award.

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

#### 1540-01-02-.21 AUTHORIZATION STATUS.

- (1) Temporary Authorization:
  - (a) A 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. 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 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.

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

(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) Schools with no accreditation (or schools with an affiliation under an accrediting 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 to operate is the issuance of authorization to operate, but with additional conditions, e.g., reporting requirements, on the meeting of certain performance standards, securing new or additional bonds, authorization to operate for a limited period of time such as during change of ownership or for the purpose of teaching out existing students. 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 request conditional authorization including 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 or 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:

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

- (a) Revocation of authorization is the immediate and complete withdrawal of the institution's authorization to enroll, advertise or operate a postsecondary educational school in the state.
- (b) Grounds for immediate revocation of authorization to operate shall include but not be limited to:
  - 1. loss of authorized instructional site 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 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;
  - 6. failure to pay required fees, penalties or fines;
  - 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 of complete compliance with the requirements in these regulations applicable to a school closing or ceasing operation, including 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, 49-7-2010. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013.

#### **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 under this Part of \$500 per day per violation, revoke, deny or change the status of any permit or certificate of authorization under the process as given in 1540-01-02.02(2)(e) for any one or combination of the following causes:

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

- (a) disregard of provisions in the Act and/or these regulations;
  - (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;
  - (d) advertising, recruiting or operating a group of classes or program that has not been authorized 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 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 at a site which has not been authorized by the Commission;
  - (i) failure to correct findings resulting from an on-site inspection or review of institutional materials;
  - (j) demonstrable pattern of coercion, threats or intimidation by institutional personnel to students or other school personnel;
  - (k) failure to advise Commission about significant factors, such as:
    - 1. financial difficulties sufficient to affect program quality;
    - 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 basis for authorization;
    - 6. loss or lowering of accreditation status;
    - 7. legal action against the Tennessee authorized school.
- (2) Repeated and/or consistent violations of the Act or these regulations, 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) 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. **Administrative History:** Original rule filed. June 24, 1998; effective October 28, 1998. Amendment filed February 3, 2000; effective 28, 2000. Amendment

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

*filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#).*

**1540-01-02-.23 INSTITUTIONAL CLOSURE.**

- (1) When an authorized postsecondary educational institution proposes to discontinue its operation, such institution shall notify the Commission staff within 72 hours of that decision 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 include but not be limited to:
  - (a) Anticipated date to terminate teaching activity;
  - (b) Ending date of present term;
  - (c) A listing by name of all students in all programs. Such list shall include student's social security number, address, and phone number, program enrolled in, and estimated graduation dates;
  - (d) The status of all current refunds due (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) Completion of obligations as designated by Commission staff by established deadlines.
  - (i) Submission of any information or materials related to the closure requested by staff.
  - (j) Demonstration that current educational obligations by the institution will be met on behalf of the presently enrolled students.
- (2) The institution which proposes to cease 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 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 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 board chair.
- (5) Student Completion of Education ("Teachouts"):

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

- (a) The executive director may approve other 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 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 program at no additional cost than for which the student originally contracted at the closed institution;
    - 4. accept any and all credits earned at the closed institution;
    - 5. not reduce total course hours required for the student to graduate.
  - (b) If the closed or closing institution fails to provide an acceptable plan to the executive director, the Commission staff may work toward effecting teachout arrangements 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, 49-7-2016. **Administrative History:** Original rule filed. June 24, 1998; effective October 28, 1998. Amendment filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013.

**1540-01-02-.24 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. **Administrative History:** Original rule filed. June 24, 1998; effective October 28, 1998. Amendment filed February 3, 2000; effective June 28, 2000. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendments filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013

**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) 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).
- (3) The fees to be collected by the Commission hereunder shall accompany an application 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 schedule:

(a)	Late Renewal Fee (in addition to base renewal fee)	\$1,000
(b)	Renewal Extension Fee (in addition to base renewal fee)	\$500
(c)	Initial New School Application	\$3,000
	Each Proposed Program	\$500
(d)	Associate Degree Granting Institutions (in addition to base initial application and program fee)	\$1,000
(e)	Bachelor Degree Granting Institutions (in addition to base initial application and program fee)	\$2,000
(f)	Masters Degree Granting Institutions (in addition to base initial application and program fee)	\$3,000
(g)	Doctoral Degree Granting Institutions (in addition to base initial application and program fee)	\$4,000
(h)	Authority to Grant Degrees – Unaccredited Institutions (in addition to base initial application, program and degree level fees)	\$1,000
(i)	New Programs – Authorized Institutions	\$500
(j)	Degree Level Elevation – Authorized Institutions	\$1,000
(k)	Agent Fee In-State – Initial Application	\$500
(l)	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
(o)	Institutional Name Change	\$500
(p)	Change of Address	\$500
(q)	Non-compliance Fines (per day, per violation)	\$500

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

- (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, 49-7-2017. **Administrative History:** Original rule filed June 24, 1998; effective October 28, 1998. Repeal and new rule filed June 6, 2008; declared void and of no effect pursuant to [Davidson County Chancery Court's October 2011 order](#). See also [Attorney General's Opinion 11-78](#). Amendment filed May 14, 2009; effective July 28, 2009.

**1540-01-02-.26 RESERVED.**

**Authority:** TCA §§ 49-7-2005 and 49-7-2014. **Administrative History:** Original filed April 1, 2013; to have been effective September 28, 2013. However a petition for a rulemaking hearing was filed June 26, 2013. The Tennessee Higher Education Commission filed a withdrawal of the rule on July 26, 2013. Amendment filed September 2, 2014; effective December 1, 2014. However the Government Operations Committee filed a 30-day stay of the amendment on November 19, 2014; new effective date December 31, 2014. The Tennessee Higher Education Commission withdrew the rule on December 10, 2014.