



THEEC

**TENNESSEE HIGHER
EDUCATION COMMISSION**

**Rulemaking Training for
Optionally Expedited
Authorized Institutions**

July 8, 2022, at 1:00 p.m. CST

Legislation

How Did We Get Here?

- The Tennessee Higher Education Authorization Act of 2016, T.C.A. §49-7-2001 et seq., T.C.A. §49-7-144, and Rule Chapters 1540-01-02 and 1540-01-10 govern the regulation of postsecondary educational institutions.
- Governor Lee signed [2022 Tenn. Pub. Ch. No. 1044](#) on May 11, 2022. Referred to herein as the Tennessee Higher Education Authorization Act of 2016, as amended (THEAA, as amended).
- The legislation became effective on July 1, 2022, and refines how Tennessee regulates postsecondary educational institutions.
- The legislation streamlines the state authorization process and codifies current practices, while maintaining important consumer protections and institution accountability.

Highlights of the THEAA, as Amended

The THEAA, as amended is available [HERE](#).

- Dissolves the Committee on Postsecondary Educational Institutions.
- Empowers the Executive Director to award provisional authorization subject to review and ratification by the Commission.
- Allows for annual compliance certifications when multi-year authorization is awarded.

Highlights of the THEAA, as Amended

- Deletes the “degree-granting” limitation for Optional Expedited Authorization thereby allowing any accredited institution to take advantage of this authorization pathway created by the 2016 Act.
- Revises bonding requirements such that all institutions will submit a bond in the same amount and providing that an institution cannot operate beyond ninety (90) days without a bond.
- Provides that a successful tuition guarantee fund claim maybe paid directly to the student.

Emergency Rules

Emergency Rulemaking Activities To Date

- The Commission adopted the Emergency Rules at its regularly scheduled meeting on May 19, 2022.
- The Attorney General signed the Emergency Rules, and Commission Staff filed the Emergency Rules with the Secretary of State's Office.
- The Emergency Rules became **effective** on July 1, 2022.
- Links to the Emergency Rules are available:
 - THEC website - [Rule Chapter 1540-01-10.pdf \(tn.gov\)](#). This version includes the full text of the May 2017.
 - Secretary of State website - Emergency Rules Filing Form: [06-26-22.pdf \(tnsosfiles.com\)](#); Published July 2022 Rules: [1540-01-10.20220701.pdf \(tnsosfiles.com\)](#)
- The Emergency Rules will expire December 28, 2022.

Highlights of the Emergency Rules

- Removes references to the Committee on Postsecondary Educational Institutions. Rules 1540-01-02-.02 and 1540-01-10-.01
- Revises the roles of the Commission, Executive Director, and Commission Staff accordingly. Rules 1540-01-02-.02 and 1540-01-10-.01
- Adds and revises definitions. Rule 1540-01-10-.02
- Allows for submission of applications on a rolling basis. Rule 1540-01-10-.08(1)(c)

Highlights of the Emergency Rules


- Provides notice as to the Commission's application review process. Rule 1540-01-10-.08(1)(c) and (e).
- Deletes the degree-granting limitation on eligibility for Optional Expedited Authorization (OEA). Rule 1540-01-10-.03(1)
- Revises the requirements of the OEA application. Rule 1540-01-10-.03(1)
- Allows for authorization for up to four (4) years with the requirement that the institution submit a Certification of Compliance in years one (1), two (2), and three (3). Rule 1540-01-10-.01(1)(c)

Highlights of the Emergency Rules

- Creates minimum requirements for the Certification of Compliance. Rule 1540-01-10-.03(2)
- Details the Change of Ownership requirements resulting from previous legislation. Rule 1540-01-10-.03(3)
- Allows institutions that have had OEA revoked to reapply when the grounds for revocation have been resolved. Rule 1540-01-10-.06(3)

What is the Status of My Institution?

- On June 30, 2022, the Executive Director signed a memorandum extending authorization time periods and explaining future filing deadlines in order to effectuate the purposes of the THEAA, as amended.
- Emails were sent to all authorized institutions on June 30, 2022.
- The memorandum is available [HERE](#).
- A chart of future deadlines is available [HERE](#).




STATE OF TENNESSEE
HIGHER EDUCATION COMMISSION
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EMILY HOUSE
Executive Director

BILL LEE
Governor

Memorandum

To: Stephanie Bellard Chase, Assistant Executive Director
Division of Postsecondary School Authorization
Tennessee Higher Education Commission

From: Emily House, Executive Director 
Tennessee Higher Education Commission

Date: June 30, 2022

Re: Implementation of 2022 Tenn. Pub. Ch. 1044, effective July 1, 2022

Governor Lee signed [2022 Tenn. Pub. Ch. No. 1044](#) on May 11, 2022. The legislation is effective July 1, 2022, and refines how Tennessee regulates postsecondary educational institutions as defined in Title 49, Chapter 7, Part 20. The legislation streamlines the state authorization process and codifies current practices, while maintaining important consumer protections and institution accountability.

At the direction of the Tennessee Higher Education Commission, Commission Staff filed Emergency Rules with the Tennessee Secretary of State's office on June 29, 2022. Per Rule 1540-01-02-.02(2)(g), I am "empowered to extend authorization time periods of institutions authorized as of July 1, 2022, in order to effectuate the purposes of the Act and these rules." As a result of the foregoing, **effective July 1, 2022**, institution authorization end dates shall be amended as stated in the following attachments. This memorandum and the attachments thereto numbered one through four may be shared with any agency having any interest in the operation or authorization of an institution.

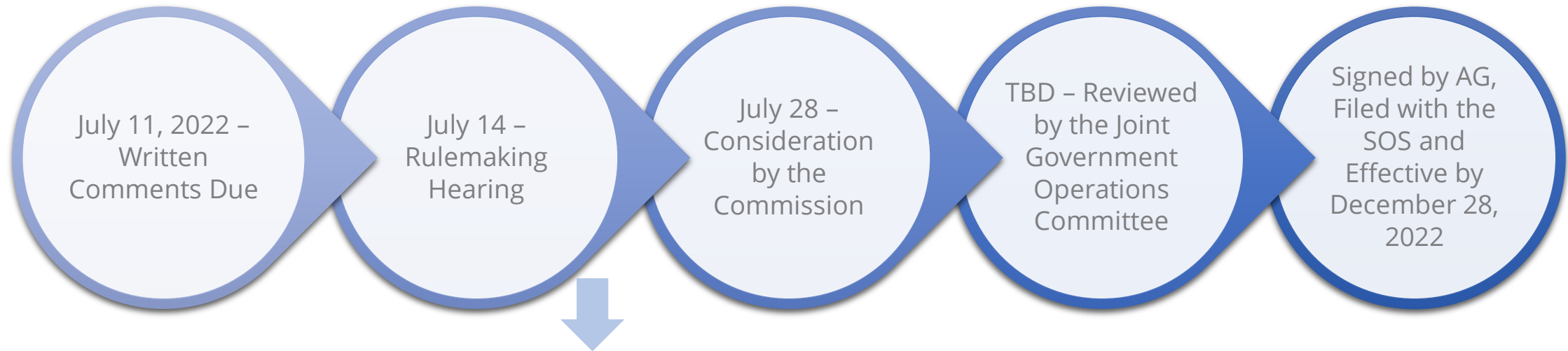
Commission staff shall post on the Commission's website notice of this memorandum and provide notification via email of the posting to all institutions authorized as of June 1, 2022, and thereafter. Questions concerning this memorandum shall be sent to Julie Woodruff at julie.woodruff@tn.gov or Marcie Mills at marcie.mills@tn.gov.

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Next Steps – Rulemaking Rules

What are the Next Rulemaking Steps

Because the Emergency Rules will expire December 28, 2022, rulemaking rules must be promulgated and in effect by then.



The rulemaking hearing will be held July 14, 2022, 10:00 A.M. CST / 11:00 A.M. EST at Tennessee Tower, 312 Rosa L. Parks Avenue, Nashville, TN 37243-1102 in Conference Room D. Note that public Wi-Fi is not available in this room. A map to Tennessee Tower and conference Room D is available [HERE](#). Contact Marcie Mills at marcie.mills@tn.gov if you plan to attend.

Highlights of the Rulemaking Rules

The Notice of Rulemaking Hearing is available [HERE](#).

- Adds definition of primarily located. Rule 1540-01-10-.02(16)
- Adds definition of prospective student. Rule 1540-01-10-.02(17)
- Elaborates on the safeguards that may be required along with an awarded of provisional authorization status. Rule 1540-01-10-.0 3(1)(d)
- Revises refund of fees. Rule 1540-01-10-.09

Disclosure and Summary

Disclosure and Summary

It is your responsibility to remain in compliance with all effective rules. THEC encourages you to review the entirety of the THEAA, as amended, the Emergency Rule Filing Form, and the Notice Rulemaking Hearing. The information presented today presented the highlights of these documents.

For future reference:

- THEAA, as amended is available at <https://publications.tnsosfiles.com/acts/112/pub/pc1044.pdf>.
- The Emergency Rule Filing Form is available at https://publications.tnsosfiles.com/rules_filings/06-26-22.pdf.
- The Notice of Rulemaking Hearing is available at https://publications.tnsosfiles.com/rules_filings/05-18-22.pdf.

Questions and Answers

