



THEEC

**TENNESSEE HIGHER
EDUCATION COMMISSION**

**Rulemaking Training for
Regularly Authorized
Institutions**

July 8, 2022, at 10:00 a.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.
- 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.

Highlights of the THEAA, as Amended

- Removes the requirement that THEC conduct annual site visits as part of the reauthorization process while retaining the authority to conduct site visits when warranted.
- Eliminates the requirements for agent permits and agent bonds.
- 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 be paid directly to the student.
- Changes program approval terminology to program registration.

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 1540-01-02 Bookmarked.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: [1540-01-02.20220701.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. Rule 1540-01-02-.02
- Revises the roles of the Commission, Executive Director, and Commission Staff accordingly. Rule 1540-01-02-.02
- Adds and revises definitions. Rule 1540-01-02-.03
- Allows for submission of certain applications on a rolling basis. Rule 1540-01-02-.07(1)(c)
- Provides notice as to the Commission's application review process. Rule 1540-01-02-.07

Highlights of the Emergency Rules


- . 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 1540-01-02-.07(2)(c)
- . Creates minimum requirements for the Certification of Compliance, and revises requirements for the Program Registration Request f/k/a New Program Application. Rule 1540-01-02-.07(5) and .07(9)

Highlights of the Emergency Rules

- Deletes references to agent permits and agent bonds, including the fees associated with applications for permits. Rule 1540-01-02-.07(8) and .16(8)
- Provides that a student who asserts a complaint against regularly authorized institutions must first exhaust the grievance process at the institution. Rule 1540-01-02-.19(9)
- Details the complaint determination process. Rule 1540-01-02-.19(9)(f)
- Deletes the degree-granting limitation on eligibility for Optional Expedited Authorization (OEA). Rule 1540-01-10-.03

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.

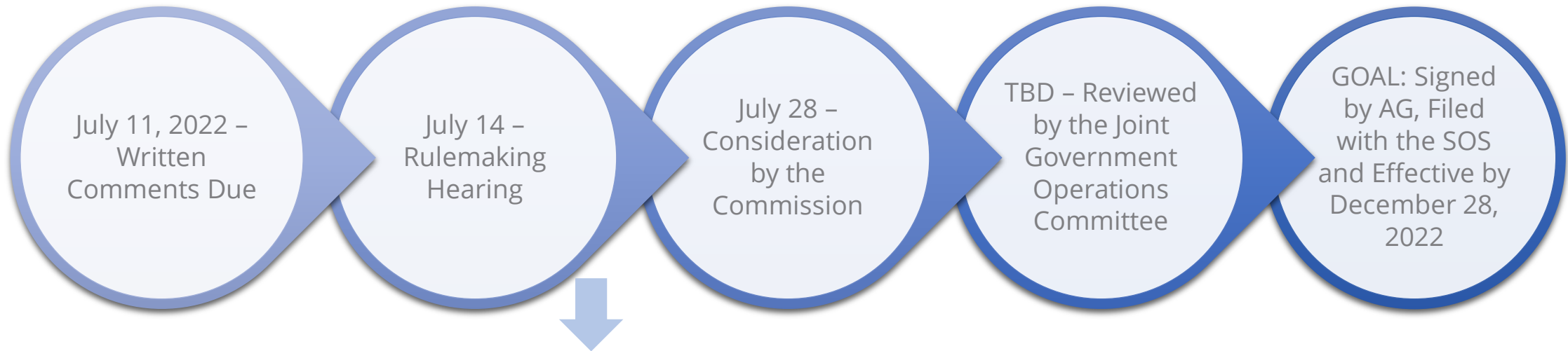
Commission staff shall post on the Commission's website notice of this memorandum and provide notification via email of the posting to all institutions authorized as of June 1, 2022, and thereafter. Questions concerning this memorandum shall be sent to Julie Woodruff at julie.woodruff@tn.gov or Marcie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

- Explains when an unaccredited institution may accept fees more than ten (10) days prior to a student's start date. **Rule 1540-01-02-.08(2)(c)**
- Provide guidance related to requirements for cleaning or similar tasks as part of a program of instruction. **Rule 1540-01-02-.08(7) & .11(1)(j)**

Highlights of the Rulemaking Rules

- Revises contents of the pre-enrollment checklist and enrollment agreement. Rule 1540-01-02-.13(1) and (2)
- Allows for annual financial statements to be completed for the fiscal year that ended prior to one hundred-twenty (120) calendar days of the application or certification due date. Rule 1540-01-02-.14(4)
- Clarifies the use of transcripts and certificates. Rule 1540-01-02-.15(8)
- Changes the cancellation and refund policy. Rule 1540-01-02-.17

Highlights of the Rulemaking Rules

- Elaborates on the safeguards that may be required along with an award of provisional authorization status. [Rule 1540-01-02-21](#)
- Clarifies the distinction between a refund and unearned tuition owed by a closing institution. [Rule 1540-01-02-.23\(4\)](#)
- Amends the refund of regulatory fees language. [Rule 1540-01-02-.26](#)

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

