

**Agenda Item:** I.A.5.

**DATE:** July 26, 2012

**SUBJECT:** Rulemaking Proceeding Regarding Rule Chapter 1540-01-02, Authorization and Regulation of Postsecondary Education Institutions and Their Agents

**ACTION RECOMMENDED:** Adopt the Rule Revisions

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**Background Information:** In August 2009, the Division of Postsecondary School Authorization (DPSA) held workshops to provide training to the staff of the non-exempt postsecondary educational institutions. During the training, there were a few comments made in regard to the implementation of Rule Chapter 1540-01-02, Authorization and Regulation of Postsecondary Education Institutions and Their Agents.

At that meeting, DPSA announced a willingness to revisit any rule or policy if it could be shown that the regulatory purpose of the rule or policy is no longer valid or could be accomplished through a means less stringent for the institutions. In 2010 and 2011, DPSA met with institutions and the Tennessee Association of Independent Colleges & Schools. Thereafter, DPSA drafted proposed rule revisions and allowed for further comment from interested parties. DPSA presented the rule revisions to the Commission at the July 2011 meeting. At that time, the Commission voted unanimously to adopt the rule revisions.

In October 2011, Chancellor Ellen Hobbs Lyle of the Davidson County Chancery Court issued a Memorandum and Order in which she determined that a rulemaking proceeding conducted in 2008 was inconsistent with the Uniform Administrative Procedures Act and declared the 2008 rules to be void and of no effect. As a result, the revisions sent to the Attorney General's office pursuant to your July 2011 vote amended rules that were no longer in effect. At the January 2012 meeting, the Commission voted unanimously to withdraw the revised rules from the Attorney General's Office and begin a new rulemaking process.

Following the Commission's vote, DPSA began a new rulemaking process by meeting with institutions and organizations. On March 5, 2012, DPSA distributed proposed revisions to all interested parties, and on or near March 19, 2012, DPSA received comments from the following institutions and organizations:

1. Aircraft Owners & Pilot Association (AOPA) – Southern Region
2. Anthem Career College (Nashville)
3. Bridgepoint Education (Ashford University and University of the Rockies)
4. Capella University

5. Daymar Colleges Group, LLC (Corporate Office-3 letters, Clarksville, Nashville, and Murfreesboro)
6. International Academy of Design & Technology
7. ITT Technical Institute (Cordova)
8. Larenda LLC (Larenda Emerging Technologies College – Recommended for Authorization Approval on 4/26 Commission Meeting Agenda)
9. Miller-Motte Technical College (Madison)
10. Nashville Auction School
11. National College of Business and Technology (Corporate Office, Bristol, Nashville, Memphis, Bartlett, Madison and Knoxville)
12. North Central Institute
13. Remington College (Memphis)
14. South College
15. Tennessee Association of Independent Colleges & Schools
16. Tennessee Proprietary Business School Association
17. Virginia College (Corporate Office)
18. Weston Distance Learning, Inc. (At-Home Professions)
19. Wings of Eagles School of Flight (Smyrna and Nashville)

DPSA summarized and responded to all comments in a document sent to you with the materials for this meeting.

On March 30, 2012, DPSA sent the Committee the proposed rule revisions, all comments, and the summary table of comments and DPSA's responses. At the April 2012 Committee meeting, the Committee voted to recommend the proposed rule revisions for your consideration.

The proposed rule revisions sent to you contain a revision to Rule 1540-01-02-.26 that was not before the Committee on April 5, 2012. This revision adds a second paragraph to Rule 1540-01-02-.26. Previously, the Committee voted to recommend this exact language to the Commission at the Committee's June 1997 meeting. Thereafter, the Commission voted to adopt the language at the July 1997 meeting. The language appeared, therefore, in the 1998 and 2000 versions of the rules. In November 2011, as a result of the Secretary of State's reading of the Chancery Court decision and related Attorney General Opinion No. 11-78, the Secretary of State published the rules without the language.

**Next Steps:** The proposed revisions are before you today to decide whether to adopt them. In the event that the revisions are adopted, they will be sent to the Attorney General pursuant to Tenn. Code Ann. § 4-5-211. At that time, the Attorney General will review the legality and constitutionality of the rules. Once approved by the Attorney General, the rules will be sent to the Secretary of State's office pursuant to Tenn. Code Ann. § 4-5-202(a)(2).

The process described above does not require a rulemaking hearing on the front end. However, persons or entities may file a petition for a public hearing after the rule revisions have been published by the Secretary of State. In the event that this happens, this matter may be brought back before the Commission.

**Materials Provided for Your Consideration:**

Redline Proposed Revisions ..... Attachment 1  
Revised Rules ..... Attachment 2  
Summary of Comments and Responses..... Attachment 3  
All Comments ..... Attachment 4

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 [\[NO PROPOSED AMENDMENTS\]](#)

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 [Committee on Postsecondary Educational Institutions](#) ~~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.
- (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 [the](#) 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) [business](#) 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 Educational 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~~ [the Act](#).
  - (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 [Committee on Postsecondary Educational Institutions](#) ~~Postsecondary Education Institution Committee~~:
    - (a) The [Committee on Postsecondary Educational Institutions](#) ~~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; [and](#)
      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~~ the Act. 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 the Act and these rules ~~TCA §49-7-2001 et seq. and the related Postsecondary Regulations chapter 1540-1-2.~~
  - (b) ~~Beginning July 1, 1997, the office and~~ The Commission staff responsible for oversight of the Act and these rules ~~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 Division of Postsecondary School Authorization ~~(Professional, Business, Vocational and Career)~~.
  - (c) Commission staff shall ~~P~~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. Site visits may be conducted for ~~This includes but is not limited to~~ initial authorization for new institutions, new program reviews, authorization inspections for non-exempt ~~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-un~~authorized postsecondary educational activities ~~operating in Tennessee~~ to verify adherence to the Act and these rules ~~by all institutions not exempted by the Act.~~
  - (e) Establish a deadline for submission of initial authorization ~~packages~~ applications, 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))~~.
  - (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. §§ 49-7-2005 and 49-7-2014.

#### 1540-01-02-.03 DEFINITIONS

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

- (a) "Ability-to-benefit student" 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" as used in the description of a program or institution means that which is organized primarily for academic training or transfer.
- (c) "Accreditation" is a non-governmental, peer evaluation of educational institutions and programs. Private educational associations of regional and national scope have adopted criteria reflecting the qualities of a sound educational program and have developed procedures for evaluating institutions or programs. These criteria determine whether or not institutions or programs are operating at basic levels of quality. The Commission only recognizes accrediting agencies that are recognized by the U.S. Department of Education.
- (ed) "Act" means the Postsecondary Education Authorization Act of 1974, Tennessee Code Annotated 49-7-2001, et seq. as amended.
- (ee) "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) "Agent" means any person owning any interest in, employed by or representing for remuneration a postsecondary educational institution, who, by solicitation in any form, outside of the institution, enrolls or seeks to enroll a student for education offered by an authorized institution, or offers to award educational credentials, for remuneration, on behalf of any such institution for any such purpose.
- (g) "Agent's permit" means a nontransferable written authorization issued to a natural person by the Commission which allows that person to act as an agent.
- (h) "Articulation agreement" means an arrangement between two higher education institutions approved and signed by authorized institutional representatives and constructed by faculty in the discipline that equates for transfer of a defined set or block of academic credits that will meet requirements of a specified academic degree program major at the degree-awarding institution.
- (fi) "Associate's 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.
- (gj) "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 may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."

- (hk) "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 the Act~~ and ~~these rules chapter 1540-1-2 of the Postsecondary Regulations~~. The authorization visit is commonly called a 'site visit'.
- (hl) "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.
- (hm) "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.
- (kn) "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.
- (lo) "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.
- (pd) "College" means (1) a unit of a university offering specialized degrees or (2) a postsecondary institution offering courses of study leading to a degree ~~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.~~
- (qg) "Commission" means the Tennessee Higher Education Commission.
- (r) "Committee" means the Committee on Postsecondary Educational Institutions.
- (es) "Contact Hour" or ~~"clock hour"~~ refers to actual directed or supervised instructional time, not to be less than 50 minutes for every 60 minutes of time.
- (tp) "Credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution. ~~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.~~

- (uq) "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.
- (yf) "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.
- (w) "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.
- (xs) "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.
- (yt) "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 class(es), or, in the case of ~~home study~~Distance Learning programs, received one or more lessons.
- (zu) "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-un~~unaccredited courses or non-college training.
- (aav) "General education courses" ~~means are general education core or~~ academic subjects intended to broaden communication/language skills, contribute to the intellectual growth of the student ~~and or~~ give balance to the total program beyond the area of vocational or professional concentration~~;~~.
- (bbw) "Independent certified public accountant (C.P.A.)" means a C.P.A. 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).~~
- (ccy) "Institutional director" means the institutional executive designated by the institution to assume responsibility for ensuring that the conduct of the institution and its agents is 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. Additional responsibilities and qualifications are listed in Rule 1540-01-02-.16.

(dd) "Instructional site" means a non-residential facility that is commercially zoned and utilized for the training of students.

~~(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.

(eeaa) "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.

(ffbb) "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.~~

(ggee) "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.

(hhdd) "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 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.~~

(ii) "Postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives.

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

(kk~~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.

(ll~~hh~~) "Residential~~lee~~ 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.~~

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

(nn~~kk~~) "Semester" is a period of instruction into which the academic year may be divided. A semester must consist of at least 15 weeks.

(oo~~ff~~) "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 hours of laboratory experience per week for a semester, or three hours of intern/externship experience per week or the equivalent number of hours.

(pp~~mm~~) "Solicitation" means contact, written or verbal, on behalf of an institution for the purpose of supplying information in an attempt to enroll Tennessee residents ~~inducing or attempting to induce a resident of Tennessee to sign, at any off-campus location, an enrollment agreement to attend a postsecondary educational institution.~~

(qq) "These rules" or "these regulations" means all rules contained in Rule Chapter 1540-01-02.

(rr) "Traditional degree" shall mean degrees including, but not limited to: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Business Administration, Bachelor of Science, Bachelor of Fine Arts, Master of Arts, Master of Science, Master of Fine Arts, Master of Business Administration,

Doctor of Philosophy, Doctor of Psychology, and Doctor of Education.

- (~~ssaa~~) "Tuition" shall mean, but not be limited to, any money or fee involving the student, actually charged by the institution and ~~or tracked as a bookkeeping item for directly related to the~~ instruction/-training provided (e.g., per credit hour cost and equipment fee). Tuition does not include student activity fees or fees paid to third parties for products or services related to the training. These fees may be referred to as "other fees."
- (~~ttee~~) "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.
- (~~uupp~~) "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.~~
- (~~vvqq~~) "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. §§ 49-7-2003 and 49-7-2005.

1540-01-02-.04 DETERMINATION FOR REQUIRED AUTHORIZATION [NO PROPOSED AMENDMENTS]

1540-01-02-.05 EXEMPTION

- (1) T.C.A. § 49-7-2009 includes general descriptions of institutions and programs that are exempt from the provisions of the Act and these rules. Institutions and programs meeting the specific provisions below shall be considered exempt pursuant to the general exemption descriptions of T.C.A. § 49-7-2009. ~~In addition to institutions exempt by Tennessee Code Annotated, Chapter 49-7-2004, the following institutions are exempt from the annual reporting and the provisions of these regulations:~~
- (a) ~~any entities offering e~~Education, instruction or training that isare:
1. maintained or given by an employer or group of employers, for employees or for persons they anticipate employing without charge, including payroll deduction or minimum length of employment, except that the employer/institution may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as determined by Commission staff; or
  2. maintained or given by a ~~U.-S.-U.S.~~ Department of Labor or state recognized labor ~~organization, without charge, to~~organization to its membership/~~or~~ apprentices or without charge, except that the institution may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as

determined by Commission staff; or

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.

(b) Programs, seminars or workshops that are recreational or avocational, including motivational or enrichment programs, as determined by Commission staff shall be considered exempt from authorization requirements. Upon review by Commission staff, a provider that presents the instruction in such a way as to suggest a vocational end may be required to become authorized, or clarify through public advertising that the program, seminar, or workshop is in fact recreational or avocational.

(c) Short-term programs, seminars or workshops that are solely for professional enhancement as determined by Commission staff shall be considered exempt from authorization requirements. Education, training or instruction resulting in specialized certifications clearly used to denote technical, professional or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation.

(d) Programs that operate under Part 61 of the Federal Aviation Regulations and that provide only avocational training are exempt. Aviation programs that operate entirely under Part 141 of the Federal Aviation Regulations and programs that operate under Part 61 of the Federal Aviation Regulations and that provide vocational training are non-exempt. Oversight of these aviation schools will in no way conflict with oversight provided by the Federal Aviation Administration. While the FAA oversight ensures adequate curricula and safety of the student, the Commission's oversight is focused on protection of the personal and financial interests of the student.

(e) Intensive review courses designed solely to prepare students for graduate or professional school entrance exams and professional licensure exams. The latter shall include, but not be limited to, intensive review courses for certified public accountancy tests, the examination for professional practice in psychology, and the bar examination.

(f) Training designed to prepare students for credit-by-examination tests may be considered exempt from authorization requirements. The exemption is contingent on the entity's agreement to indicate in all promotional materials that the training is for test preparation for credit-by-examination tests and refrains from any misleading representations. Such representations include:

1. suggesting that the training results in receipt of an educational credential, such as a degree;
2. listing anticipated salary amounts; and
3. suggesting that the entity is accredited.

- (g) Eleemosynary institutions, including bona fide religious institutions, that:
  - 1. offer instruction or training and do not offer degrees of any type;
  - 2. do not suggest that postsecondary credit may be awarded by another party or transfer in educational credentials from another source; and
  - 3. do not offer diplomas/certificates, including those that in the opinion of the Commission replicate letters of designation or degrees.
- (h) 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.
- (i) 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.

(2) To operate within exemption status, the following guidelines shall be used:

- (a) Institutions that clearly qualify as exemption under the Act ~~and~~ and these ~~regulations-rules~~ after Commission staff review shall be considered exempt from authorization without a vote of the Commission.
- (b) ~~Institutional-Any institution or program~~ Commission exemption is subject to annual Commission 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.~~

(~~c~~) Exemptions can be revoked or amended by the Commission staff as they pertain to individual institutions whenever it is determined by the Commission staff that an institution exempted by the Act or these ~~regulations-rules~~ has not acted in accordance ~~to~~ with 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~~ To request an exemption, institutions shall submit a descriptive narrative describing how the institution and/or program(s) qualifies for an exemption. The request shall include a citation to the exemption provision relied on in the Act and/or these rules and documentation supporting the requested exemption such as: copies of all institutional materials; brochures; advertising; state charter or business license; and organizational ties and/or contracts with other educational providers ~~and a descriptive narrative of how the organization qualifies for exemption specifically citing the Act and/or rules. Upon receipt of an exemption request, Commission staff shall make a written determination and~~

provide a date by which an aggrieved institution may submit a request for further review by the Executive Director. Such date shall not be earlier than ten business days after the date of the letter.

~~(a) Based upon the submitted material Commission staff shall make a written determination of institutional status.~~

(4) If the institution is aggrieved by a ~~that~~ determination concerning exemption status, the party institution may ~~appeal~~ seek review as provided for in ~~the manner provided by~~ Rule 1540-01-02-.02(2)(b) and T.C.A. § 49-7-2010(b). Any request for review shall be in writing, signed, list each instance where Commission staff erred, and provide a detailed explanation of each error, including references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth is paragraph (3).

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

#### 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~~ T.C.A. § 49-7-2006 and as further defined in these ~~regulations~~ rules.
- (2) Meet the definition of a postsecondary educational institution as given in the Act and/or these ~~rules~~ postsecondary regulations.
- (3) Have physical presence in the state as given in these ~~rules~~ regulations.
- (4) The institution is properly registered with the Tennessee Department of State or, in the case of a general partnership or sole proprietorship, has a local business license ~~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 s~~Secure an continuous institutional surety bond or like security described in ~~rule~~ 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 ~~rules~~ 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~~ institution 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 oOperational and aAdministration sStandards, such as educational, financial, admissions, enrollment, instructor, etc., as given in these rules.
  - (d) New or revised programs must conform ~~with~~to all requirements given in these rules under New Program or Change in Program, Rule 1540-01-02-.07.
  - (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-.08.
  - (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 the current site.
- (13) An exception to any part of ~~the Minimum Authorization Standards~~this rule must be reviewed on an individual basis by the Commission.
- (14) ~~School~~Institution Name:
- (a) No postsecondary educational institution under the Act and these rules may use the word "university" in ~~their-its~~ name unless the schoolinstitution meets the definition of university as set forth in these rules and has been ~~so~~ approved by a regional accrediting body so recognized by the ~~U.-S.-U.S.~~ Department of Education.
  - (b) No postsecondary educational institution under the Act and these rules may use the word "college" in ~~their-its~~ name unless:
    - 1. The institution meets the definition of college as set forth in these rules;
    - 2. The institution~~the school~~ has been ~~so~~ approved by an regional accrediting body recognized by the U.-S.-U.S. Department of Education to offer degree level programs; and
    - 3. The institution offers or is seeking to offer at least one (1) degree program.~~;~~~~of~~



(c) An unaccredited institution or institution that does not meet the requirements in subparagraph (b) may not use “college” in its name unless:

1. For institutions authorized prior to October 1, 2006, the institution name includes ~~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 ~~or~~.
2. For institutions authorized on or after October 1, 2006, the institution name includes an appropriate qualifier preceding the word “college,” such as “career,” “vocational,” “business,” “technical,” “art” or in the case of a religious institution, “Bible” or a denominational term.

(de) All institutions ~~authorized after July 1, 1997~~ using “college” in accordance with item 14(~~bc~~) above, must achieve ~~regional or national~~ accreditation from an accrediting body recognized by the ~~U.S.U.S.~~ Department of Education in a timely manner while demonstrating consistent good faith efforts toward achieving that goal. Institutions that fail to make good faith efforts toward accreditation or to achieve accreditation in a timely manner shall be required to remove “college” from the institutional name.

~~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.~~

21. 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.~~

(15) A sign, acceptable to the Commission, must be affixed to the building and/or the main entrance door indicating the name of the institution.

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

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

(1) Application deadline:

(a) Institutions seeking initial authorization or approval of new programs must submit the appropriate application by the deadline date established by Commission staff.

(ab) Incomplete submissions as given below in [paragraph \(2\)](#). Authorization - What Constitutes a Complete Application, ~~or~~ applications submitted after the established deadline, [or applications that are not typed](#) may be deferred to the next quarterly meeting at the discretion of staff.

(bc) 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 [and typed](#) application which includes at least the following:

1. a title or name of the institution in compliance with these rules;
2. [proof that the institution is properly registered with the Tennessee Department of State or, in the case of a general partnership or sole proprietorship, a copy of the institution's local business license](#) ~~a copy of the Tennessee state charter as filed with the Secretary of State (incorporated) or local business license (sole proprietorship);~~
3. ~~ownership and/or controlling officers~~ [name\(s\), home address\(es\), and phone number\(s\) of all owner\(s\), controlling officer\(s\), and/or members of the board of directors;](#)
4. address and general description of facilities;
5. list of instructional equipment for each program [specifying whether each item is](#) ~~(owned or leased);~~
6. qualifications for instructional staff and ~~supervisors~~ [administrative personnel, see Rule 1540-01-02-.16;](#)
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 (Rule 1540-01-02-.16);~~
8. ~~definition~~ [description](#) of any administrative structure above the [institutional](#) director with the signature of the official that will notify the Commission if the [institutional](#) director is replaced;
9. a check or money order payable to the State Treasurer for Tennessee for such fees as prescribed under these rules;
10. institutional surety bond as described by ~~rule~~ [Rule](#) 1540-01-02-.07 ~~and or as prescribed by~~ T.C.A. § 49-7-2013;

11. a copy of the enrollment ~~contract or~~ agreement described in ~~these regulations~~[Rule 1540-01-02-.13](#);
12. a copy of the [pre-enrollment checklist described in Rule 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.](#) [current verification of fire and sanitation inspections of educational facilities and student housing that is owned, leased or otherwise operated by the institution;](#)
- ~~14~~[15.](#) a draft or copy of the institutional catalog [as described in Rules](#)(~~see~~ 1540-01-02-.11, [.12](#), [.17](#) and [.19](#));
- ~~15~~[16.](#) a complete description of the proposed educational programs in compliance with the Act and these rules;
- ~~16~~[17.](#) a complete syllabus for each course proposed that demonstrates sufficient content and depth for the proposed level of the program and credential offered;
- ~~17~~[18.](#) any specific requirements as outlined under degree granting and/or non degree granting sections of ~~these regulations~~[Rule 1540-01-02-.08](#);
- ~~18~~[19.](#) 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~~[U.S.](#) Department of Education;
- ~~19~~[20.](#) 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~~[21.](#) 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.~~
- (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 [these](#) 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~~ [U.S.](#) 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 [a surety company authorized to do business](#) ~~an insurance company licensed~~ in Tennessee, a surety bond for the penal sum of:
    1. [ten thousand dollars \(\\$10,000\)](#) for in-state institutions, [out-of-state public institutions and all institutions providing primarily religious instruction](#) and
    2. [twenty thousand dollars \(\\$20,000\)](#) for [all other institutions, including](#) out-of-state [private education institutions,](#) ~~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).~~

(7b) Out-of-state institutions must, on forms provided by the Commission, secure a surety bond for agents in the penal sum of five thousand dollars (\$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 five thousand dollars (\$5,000) surety bond.

(8c) ~~All B~~onds provided by institutions under ~~Section-Rule~~ 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.

(9d) ~~All B~~onds provided by institutions under ~~Section-Rule~~ 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.

(10e) ~~An irrevocable letter of credit secured by a C~~certificates of deposit or a cash deposit with a bank may be accepted in lieu of the bond, ~~pending 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.

(117) Fire and Sanitation Inspections:

(a) Initial authorization, change of ownership, and renewal 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 i~~Institutions ~~seeking initial authorization and renewal~~ must maintain and provide upon request by Commission staff 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.~~

(1c) Commission staff may seek supplemental fire and/or sanitation reports from appropriate local or state agencies.

(128) ~~New Ownership /~~ Change in Ownership:

(a) The following constitutes ~~new a change in~~ 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 any other ownership ~~structure by a partnership or a corporation~~, when more than 50% of the institution or of the owning ~~partnership or corporation~~ entity 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) Commission staff should be notified of any anticipated change of ownership prior to the change. In the event of a change of ownership, greater than 50%, 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 the standard established standard 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 another current owner ~~stockholder of the corporation~~ is not considered a change in ownership, ~~and t~~ The executive ~~Executive director~~ Director may determine that other transfers should also be excluded from these requirements.

(439) New Program or ~~Change in~~ Program Revisions:

(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.~~

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

(ec) Authorized institutions must submit to the Commission a ~~supplementary~~ New Program application ~~Application~~ if additional programs are proposed during any authorization year and the program must be ~~authorized~~ approved prior to providing or offering instruction, including advertising and solicitation ~~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.

(ed) The following shall apply to all program revisions, including tuition and fee changes:

1. All program revisions must be submitted on Program Revision Forms provided by the Commission and approved by Commission staff prior to implementation. All program revisions shall be submitted thirty (30) to

ninety (90) days prior to the proposed effective date.

2. ~~Ongoing~~ Institutions that revise an approved program~~make changes to an existing program(s) previously approved by the Commission~~ must file a New Program Application if program changes exceed 25% within the past twelve months~~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.~~
3. Tuition and fee revisions that in the opinion of the Commission are excessive, unreasonable and exceed initial disclosure to the student may result in an in-depth audit of the institution at the institution's expense to assure the Commission of financial stability.
4. All changes must be reflected in the institutional catalog.
- ~~(f)~~ 5. 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~~ Any course addition must be 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.

(1410) ~~New Location~~ / Change of Address:

- (a) ~~An~~ application from an authorized institution to reflect a ~~new location~~change of address shall be ~~filed~~submitted to the Commission staff thirty (30) days prior to moving and shall include all documents designated by the Executive Director as being necessary with the appropriate fee. Documents shall include, but are not~~not necessarily~~ limited to:
  - ~~(1.)~~ \_\_\_\_\_ evidence of satisfactory health inspection,
  - ~~(2.)~~ \_\_\_\_\_ evidence of satisfactory fire inspection,
  - ~~(3.)~~ \_\_\_\_\_ copy of an executed lease or proof of ownership, and
  4. \_\_\_\_\_ all physical material and building requirements given under Initial Authorization.
- (b) \_\_\_\_\_ Approval may be issued after the new facilities have been inspected and the application is complete.
- (c) \_\_\_\_\_ 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.
- (d) \_\_\_\_\_ Within thirty (30) days of approval of any change of address, the institution shall submit a bond or bond rider reflecting the institution's current address.

(11) Change of Institution Name:

- (a) An application from an authorized institution to reflect a change of name shall be submitted to Commission staff thirty (30) days prior to changing the institution's name and shall include all documents designated by the Executive Director as being necessary and the appropriate fee.

(12) Discontinuance of Program:

- (a) Institutions that discontinue any approved program must complete a Program Deletion Form.

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

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 staff, 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 Department ~~State Board~~ of Education).~~

- (b) Authorized institutions that promote, advertise or use prepared materials of any person, group or entity that offers vocational/professional certifications (that are not part of the institution~~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 Rule 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.~~

- ~~(c)~~ (e)c) 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.~~

(ba) 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~~ rules and/or statues must justify expansion of training in terms of exceptional student benefits. Such programs may also be required to review curriculum to evaluate consolidation of classes and course material.

(3) Degree Granting Institutions:

~~(a) New institutions seeking authorization to offer degrees in the state of Tennessee or new program applications for a degree program must submit the application by the deadline date established by Commission staff, which shall be 45 to 60 days prior to the quarterly meeting of the Committee on Postsecondary Educational Institutions.~~

(ba) 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. An exception may be approved by the Executive Director upon recommendation of Commission staff. Any request for exception shall be made in writing and include proof of the following:

1. ~~An exception may be approved by the Executive Director upon recommendation of Commission staff.~~The institution is accredited by a U.S. Department of Education approved accreditor for the specific degree level;
2. The program is accredited by an appropriate accrediting agency if such accreditation is necessary for employment in or licensure by the state; and
3. The institution has articulation agreements with two (2) regionally accredited institutions with physical locations in the Southeast region and the agreements are applicable to at least one of the institutions' physical locations in the Southeast region.

(cb) 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.

(dc) ~~Non-Un~~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. Twenty-five percent (25%) to fifty percent (50%) of the total program, depending on the degree offered, must be in general education courses and should be indicated separately in the curriculum presented;
3. provide a syllabus for each course offered;
4. maintain 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. demonstrate that the degree and the program ~~has~~have merit and value academically, professionally or vocationally in Tennessee;
6. master's 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.

(ed) Undergraduate degree programs must include at least twenty-five percent (25%) to fifty percent (50%) of the program in general education courses unless the institution can demonstrate program accreditation requirements which are less ~~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.~~ Unaccredited institutions proposing to offer associate degree level programs which are technical in nature, and have less than twenty-five percent (25%) of general education courses must demonstrate to Commission staff the benefit to students. All general education courses must be taught by holders of baccalaureate degrees with at least twenty-five percent (25%) of the general education staff with earned master's degrees or equivalent.

(ef) 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 to a student a printed catalog, and a signed copy of the pre-enrollment checklist and enrollment agreement-enrollment disclosure statement and a contract as required in these ~~regulations~~rules. 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-d~~Distance learning institutions must meet directly and indirectly all requirements of the Act and these ~~regulations~~rules and must seek authorization for a specific location, assign specific administrative responsibilities at each separately authorized site to a director for adequate and appropriate staffing to serve the stated purpose and to make reports as directed by these rules, and as requested by the Commission staff.

(d) ~~Long-d~~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~~distance learning 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 ~~TCAT.C.A.~~ § 49-7-115, all ~~schools~~-institutions 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 Rule 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 including when ~~and~~ advertising the agency and from the ~~school~~-institution.
- (b) Talent seminars, interviews or 'talent searches' may not be used to enroll individuals in modeling schools or training.
- (c) Schools that operate as a 'finishing school', exclusively for personal deportment or for enrichment may not advertise or conduct courses that implies or suggests vocational modeling or related goals.

~~(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.~~

(98) Teacher Training (K-12) or Licensing or Recertification:

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

~~(10) Seminars / Workshops:~~

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

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

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

- (1) All ~~unaccredited~~ authorized institutions ~~and institutions under Temporary or Conditional Authorization~~ must submit ~~an annual report or renewal~~ a reauthorization application on a form provided by Commission staff. The annual reauthorization year will be from July 1 through June 30, ~~and~~ The annual reauthorization 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~~ Reauthorization 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~~.
- (43) For ~~unaccredited~~ all authorized institutions ~~and institutions under Temporary or Conditional Authorization~~, unless otherwise required by Commission staff, the ~~annual report or renewal~~ reauthorization 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, Rule~~ [1540-01-02-.14](#) and shall include:
  - 1. a balance sheet (statement of financial position);
  - 2. [an income statement](#) (statement of the results of institutional operation including, ~~but not limited to,~~ 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, [49-7-2008](#) and 49-7-2014.

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

- (1) The institutional purpose and objectives must be stated in measurable potential outcomes in a catalog, bulletin, or brochure of the institution.
- (2) In relation to the size and scope of the institutions, it shall furnish adequate student services to fulfill the mission of the school and provide counseling and ~~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 [includes, but is not limited to,](#) ~~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 breakdown 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~~an 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 may request a waiver of the requirement to provide placement rates for programs for which the institution does not ~~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.~~
- (a) Requests for waiver shall be made when filing a new program application or, for programs approved prior to the effective date of this rule, by submitting a letter requesting a waiver for each program.
- (b) Requests for waiver shall include at a minimum an explanation as to why the institution does not typically report vocational placement data for that program.
- (c) Institutions are required to gather the data required for reporting until such time as a waiver is granted.
- (6) The maximum pupil to 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) ~~;~~;
- (f) class A truck cab: 4:1; and
- (g) class B truck cab: 2:1.

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

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

- (1) Each institution must publish a catalog or brochure (a draft copy may be provided ~~for~~ in the initial ~~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;
- (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 or in a designated state authorization section of the catalog ~~and on the signature page of enrollment contracts, which must~~ that reads as follows:  
  

~~The~~ (Name of institution) is authorized by the Tennessee Higher Education Commission. This authorization must be renewed each year and is based on an evaluation by 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 Division of Postsecondary School Authorization ~~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."

(r) the cash discount policy, if offered to students.

- (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 required to 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; ~~and~~ and
- (5) Full-~~time~~ students should have a reasonable expectation to complete programs as printed in the institutional catalog at the time of enrollment.

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

#### 1540-01-02-.12 ADMISSIONS STANDARDS

- (1) Institutions must adopt an admission policy that is based on the institution's objectives and that meets the following minimum requirements.
- (a) Non-degree program admission policies must require the prospective student to have received a high school diploma, passed the General Education Development (GED) test, or passed an ability-to-benefit test as that term is described below.
- (b) Degree program admission policies must be at least the following, as applicable.
1. undergraduate degree programs must require a high school diploma or General Education Development (GED) test and
  2. graduate degree programs must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.
- (2) 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~~ licensure 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.~~

~~(3e)~~ 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.

(4) Additional requirements for the administration of ability-to-benefit tests:

~~(ae)~~ 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.

~~(be)~~ An agent is not allowed to administer the test, nor is anyone allowed to assist the applicant in answering the questions.

~~(cf)~~ 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 remains a high school diploma, GED, or a passing score on the admission exam.

(d) Tests administered for purposes other than the determination of admissibility are not governed by ~~1540-01-02-.12(2)~~ [this rule](#).

(e) 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. §§ [49-7-2005](#), [49-7-2006](#) and [49-7-2008](#).

#### 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 [pre-enrollment checklist](#) ~~form to be placed in the student file, which is either part of the enrollment contract or a pre-enrollment check list~~ verifying that the student:

(a) toured the institution [\(not applicable to institutions that deliver all instruction through distance learning\)](#);

(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.;

(g) has been given a copy of the institutional cancellation and refund policy;

(h) [has been given a copy of the completed transferability of credit disclosure statement required by T.C.A. § 49-7-144](#) and 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 [the following](#) ~~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."

(j) has received the most recent withdrawal, completion and in-field placement data as calculated by the Commission by including:

1. the following statement: "For the program entitled, (program name), I have been informed that, for the July (year)/June (year) period, the withdrawal rate is (percent)%, the completion rate is (percent)%, and the in-field placement rate is (percent)%. Detailed statistical data for this program may be viewed by going to [www.tn.gov/thec](http://www.tn.gov/thec) and clicking on the Authorized Institution Data button."; or

2. a copy of the report created for the institution by Commission staff and a statement that "the report can be viewed by going to [www.tn.gov/thec](http://www.tn.gov/thec) and clicking on the Authorized Institution Data button"; and

~~(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."~~

(k) has received and understands the institution's cash discount policy (applicable only to those institutions that have a cash discount policy).

~~(34) Institutions that receive a waiver pursuant to Rule 1540-01-02-.10(5) do not have to include the in-field placement rate for the program in the pre-enrollment checklist. 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.~~

~~(54)~~ Institutions shall require a student enrolling to sign and date an enrollment agreement, which ~~An enrollment contract~~ shall include, but not be limited to, the following items:

(a) full and correct name and location of the institution;

(b) name, address and social security number or unique student identification 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 (including costs of any books and equipment required to be purchased from the

institution), fees paid to the institution, and estimated costs for items such as , books and any required equipment that students may purchase from the institution or a third party;

- (h) cancellation and refund policy;
- (i) verification that the student has received an exact signed copy of the agreement; and-
- (j) a guarantee of the total cost of tuition and fees for 1200 contact hours or twelve (12) months from the time of enrollment.

~~(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.~~

(5) When enrolling a student in a single class that is part of an approved program, an institution may modify the pre-enrollment checklist and enrollment agreement as needed to substitute the word class (or other similar word) for the word program where necessary and to qualify any other language so that it applies to the specific class. In no event shall any modification result in less protection for or fewer disclosures to the student.

~~(76)~~ Programs less than 1200 clock (contact) hours must have an enrollment contract with a set total tuition and fees.

~~(87)~~ Programs longer than 1200 clock (contact) hours that increase tuition and fees cost after the initial 1200 clock (contact) hours or one year twelve (12) month period, must provide counseling related to the tuition increase.

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

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

#### 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 the most recent institutional fiscal year](#). 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 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 [for the most recent institutional fiscal year](#). ~~Within five years from initial temporary authorization, n~~ 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 [one million dollars \(\\$1,000,000\)](#) or less may request a waiver of the audit contemplated by this section and provide the most recent financial information [in a format acceptable to](#) ~~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.
- (9) [All institutions seeking authorization must maintain a business account with a financial institution that is federally insured in said institution's name.](#)

Authority: T.C.A. §§ [49-7-2005](#), 49-7-2006, [and](#) 49-7-2015.

#### 1540-01-02-.15 INSTITUTIONAL AND STUDENT RECORDS

- (1) Records of enrollees, completers, and placements must be sufficient to [verify data reported to the Commission](#) ~~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 [for a minimum of three \(3\) years from the conclusion of said complaint](#).
- (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, in table format, consisting of at least the following information for any person who signs an enrollment agreement financially obligating that person or makes a down payment to attend, or both:
- (a) registration/enrollment date;
  - (b) full name of the student;
  - (c) complete address ~~of student~~;
  - (d) telephone number;
  - (e) social security number or unique student identification number;
  - (f) name of course or program name and code; ~~and~~
  - (g) ~~current student status of student or date of dropout or completion, date of employment, employment status (i.e.g., enrolled, withdrawn, leave of absence, or graduated) 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's file ~~or folder and shall include but not be limited to~~:
- (a) transferability of credit disclosure statement required by T.C.A. § 49-7-144 ~~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) proof that the student meets the institution's admission requirements. If a high school diploma or the equivalent is required, the institution shall have on file an official copy of the high school transcript, the equivalency certificate with scores which meet the state's minimum for passing, or an official transcript from a postsecondary educational institution or official documentation from the U.S. Department of Defense that indicates that the student received a high school diploma or GED (military documentation includes a DD Form 214 Certificate of Release or Discharge from Active Duty or Enlisted Record Brief); or if an ability-to-benefit basis, the institution shall have on file official records of such; ~~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) pre-enrollment disclosure statement or checklist as given in these rules ~~regulations (unless incorporated in the enrollment agreement);~~
  - (d) a complete enrollment agreement as given in these regulations ~~rules~~;

(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. Transcripts must indicate the name and address of the institution and be signed by an appropriate institutional officer(s), (e.g., registrar, president, dean). 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, leaves of absence, and graduations;
7. beginning date or academic term with the year for each course attempted, with ~~an~~a 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;
13. appropriate signature(s); and

(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, t~~he institution may maintain transcripts~~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, such as bartending and truck driving, 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. §§ [49-7-2005](#), [49-7-2006](#), and [49-7-2016](#).

#### 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. As further described below, personnel qualifications must be submitted to the Commission on a School Personnel Application to be provided by the Commission staff, no later than ten (10) days after the hire date.
  - (a) Unaccredited institutions must submit to the Commission School Personnel Applications for all instructors and administrative personnel as that term is defined in this rule.
  - (b) Institutions accredited by an accrediting body recognized by the U.S. Department of Education must submit to the Commission School Personnel Applications for all administrative personnel as that term is defined in this rule. For each instructor, an accredited institution shall maintain on-site documentation supporting instructors meeting the minimum qualifications and shall complete a School Personnel Application at any time upon request from Commission staff.
- (2) Administrative personnel and instructors shall meet all qualifications listed in this rule. Evidence of education, experience, or training (including official transcripts) for each personnel must be maintained on-site at the location. Institutions must submit a copy of this evidence at any time upon request from Commission staff.
- (3) The method of administration and procedure for staff selection must be defined in a way that each employee has specific duties and responsibilities.
- (~~3~~4) Administrative personnel generally encompass individuals that oversee areas as outlined in operational and administrative standards. This includes by function, but is not limited to titles of an institutional director; financial aid administrator; director of admissions; director of education; business officer or manager; director of student services (including counseling and placement) and the registrar. Support and clerical staff is not included as administrative personnel, but shall be included for reporting purposes on re-authorization forms annually.
- (~~4~~5) 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~~6) 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~~7) Institutional owners or the controlling board must ensure that each authorized site has an 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.

- (78) 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.
- (89) 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.
- (910) 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.
- (1011) 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.
- (1112) Instructors:
  - (a) Instructional staff for all institutions must be selected at a minimum on the basis of these rules ~~credentials demonstrably higher, on the basis of experience and training, than the level to be taught.~~
  - (b) Instructors ~~in a trade~~ in a trade 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.
  - (ed) 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:
      - (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) [Meet the minimum requirements for doctorate, masters or baccalaureate level; or](#)
- (ii) Hold an associate degree from a postsecondary institution judged to be appropriate by the Commission and either:
  - (I) an associate degree with a concentration in the subject to be taught and 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.

5. Minimum for diploma and certificate level:

- (i) [Meet the minimum requirements for doctorate, masters, baccalaureate or associate level; or](#)
- (ii) Hold a high school diploma or GED and a certificate of completion from a postsecondary institution judged to be appropriate by the Commission in a relevant subject area and a

minimum of three 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 in paragraph (7) with sufficient justification and an assurance that the program quality will not be lessened. In such a situation the institutional director must submit written justification and documentation with the ~~personnel form~~ School Personnel Application submission. In addition, the instructor must be institutionally evaluated at the close of the first instructional period for effectiveness and quality. This evaluation shall be made available to the Commission staff upon request.

(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 a~~ Agents as defined by the Act and Rule 1540-01-02-.03 ~~these regulations~~ must submit an Agent Permit A application, ~~on forms a s~~ provided by the Commission staff, ~~have authorization~~ and have received approval and an agent permit from Commission staff ~~and secure the appropriate bond~~ prior to any solicitation. The application ~~nt~~ must be accompanied by the following:

1. ~~new applicants must forward~~ recommendations by two (2) 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 five thousand (\$5,000) per agent of an out-of-state institution or as specified in Rule 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~~ the institutions have common ownership such that the institutions present a common name to the public and have the same mission. Mutual agreement by institutions is required.

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

(e) Institutional directors, not marketing offices, are responsible for actions of agents.

- (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.
- (fg) 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 by the institution. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent ~~shall be may be null and void and unenforceable~~ at the option of the student. In cases where the institution is willing to honor the contract and the student wishes the contract enforced, it can be. However, in cases where the contract has been fully executed between the institution and the student, the student would not be entitled to a refund solely because he or she was solicited by a non-licensed 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-~~2005~~, 49-7-2006, 49-7-2009, ~~and~~ 49-7-2011.

1540-01-02-.17 CANCELLATION AND REFUND POLICY [NO PROPOSED AMENDMENTS]

#### 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.U.S.~~ Secretary of Education and the ~~U.S.U.S.~~ Department of Education.
- (3) No entity may publicize, promote or imply an accreditation that is not recognized by the ~~U.S.U.S.~~ Department of Education.
- (4) No school seeking, holding or required to hold authorization under the Act or these

regulations may publicize, promote or imply an academic, vocational, professional or educational certification from any entity without the approval of the Commission.

- (a) Certifications held out to students that imply a special status, licensing or credential beyond the authorized award by the institution whether offered within the school or by an independent entity, where such certifications are not recognized or required by: the state and its laws or for employment purposes within the industry/profession, will require the approval of the Commission.
- (5) For consumer disclosure and truth in advertising to all Tennessee citizens, an educational service, business or person must clearly identify the nature of the educational service offered and may not use broad language or phrases to imply that the service is a school, can award credits, degrees or other educational credentials.
- (6) Unaccredited institutions shall not accept funds for tuition and fees prior to ten (10) business days before the scheduled start date of the class or program.

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

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

- (1) Institutions may not discount tuition except that an institution may provide a discount for cash payments provided:
  - (a) the institution has a written policy in the catalog that includes the definition of cash and details the qualifications for receiving and the amount of a cash discount and
  - (b) the student verifies receipt and understanding of the policy in the pre-enrollment checklist.
- (2) An institution may award a scholarship, tuition waiver or other award provided:
  - (a) the criteria for receiving the award are clearly defined in writing;
  - (b) the institution has a form and procedure to verify eligibility; and
  - (c) the amount of the award is a flat dollar amount or subject to calculation using a defined formula or scale.
- (3) 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.
- (24) Fair consumer practices means honesty, fairness and disclosure to students in ~~the areas of~~ areas including: 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. Fair consumer practices include applying institution policies as written and presented to students.

- (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.
- (35) 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.
- (46) 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.
- (7) The investigation and further review of written complaints will occur in accordance with the following provisions:
- (a) Complaints shall be signed and submitted through hand delivery, mail, electronic mail or facsimile.
  - (b) Commission staff shall investigate all written complaints.
  - (c) Any named institution and/or agent will receive a copy of the complaint and be provided an opportunity to respond to all allegations contained in the complaint.
  - (d) Any named institution and/or agent shall provide all information requested by Commission staff as part of the investigation.
  - (e) As part of the investigation process, Commission staff may work with the complainant and the named institution and/or agent to effectuate a settlement.
  - (f) Following the completion of the investigation, Commission staff shall provide to all parties written findings and conclusions, including any determinations with regard to the complainant's receipt of a refund or other monetary relief or the assessment of a fine or other adverse action. The written findings and conclusions shall contain a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b). Such date shall not be earlier than ten business days after the date of the findings and conclusions.
  - (g) Any request for review shall be in writing, signed, list each instance where Commission staff erred, and provide a detailed explanation of each error, including, where applicable, references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in subparagraph (f).

(h) Notwithstanding this paragraph, Commission staff may take appropriate action to investigate complaints in order to protect the public interest.

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

#### 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.tn.gov/thec/ ~~<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~~ U.S. 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, except for radio, 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; radio advertisements must include the full and correct name of the institution and the city and state where the institution is located.
- (7) Institutions that advertise in formats that will be in the public domain for long periods (such as the telephone book directory), where such advertising, if in noncompliance, cannot be rewritten or retracted may be fined in accordance with the Act for each day, week or month the advertisement is in active circulation. Such fines shall not exceed \$10,000.
- (8) Printed bulletins or other promotional information must emphasize training available rather than amount and kinds of aid available.
- (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.
- (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 Rule 1540-01-02-.08(49) 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 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.
- (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. §§ [49-7-2005](#), 49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013.

#### 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).~~ Temporary authorization allows ninety (90) days for initiation of enrollment of students or instruction/education, 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 (90) 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.

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

(2) Regular Authorization:

- (a) Institutions must be reauthorized annually on forms supplied by the Commission staff. 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:
- (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.

1540-01-02-.22 CAUSES FOR ADVERSE ACTION [NO PROPOSED AMENDMENTS]

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 ~~2472~~ hours or on the first business day following the date of that decision and shall submit to Commission staff within ~~10-3~~ 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~~;~~ and
  - (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"):

- (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 or reasonable 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~~the transcripts academic and financial records, each, shall be alphabetized and sorted and separated by year. If necessary as a result of the number of transcripts, institutions should provide transcripts, in alphabetical order, and physically contained to Commission staff in boxes fifteen (15) inches long, twelve (12) inches wide, ten (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~~Financial aid records shall be alphabetized and separated by year. If necessary as a result of the number of records, institutions shall provide the records in boxes fifteen (15) inches long, twelve (12) inches wide, ten (10) inches high with tops and handles.

(d) In the event that an Institution provides academic transcripts to the Commission, Commission staff will provide an official copy of a transcript to a student after the student has requested the transcript using the Student Request Form and paid the ten dollar (\$10) fee as described in the form.

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

#### 1540-01-02-.24 TUITION GUARANTEE FUND (TGF)

(1) "Tuition guaranty fund" or "TGF" or "fund" fund" means the tuition guaranty fund created by T.C.A. § 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.~~ (2) All institutions authorized on or after July 1, 2006, shall pay into the Tuition Guarantee Fund for six consecutive years.

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

#### 1540-01-02-.25 FEES [NO PROPOSED AMENDMENTS]

##### 1540-01-02-.26 Return of Regulatory Fees

(1) Following the year-end closing, the Commission shall return to authorized institutions as described herein any reserve balance as of the end of the fiscal year that is greater than one and a half million dollars (\$1,500,000).

(a) No monies shall be returned if the amount due an institution is less than twenty-five dollars (\$25.00).

(b) The percentage of the excess due an institution is calculated by determining the percentage of the total of all reauthorization fees paid by the institution during the fiscal year.

(c) Institutions that did not pay a reauthorization fee during the fiscal year shall not receive any share of the excess.

(d) Institutions that close or that have had their authorization to operate revoked prior to the end of the fiscal year shall forfeit any share of the excess.

(2) If an institution withdraws its pending application as a new institution, renewal applicant, or a new program within 3 working days from receipt, or prior to staff review and/or a site visit then all fees assessed shall be refunded. After three days and once staff review begins the following shall apply:

(a) For in-state schools making initial application, the Commission may retain 50% of the assessed fees if staff have reviewed the submitted materials and completed appropriate reports. Once the site visit has been conducted no rebate of assessed fees is possible.

(b) For out-of-state schools making initial application, the Commission may retain 100% of the assessed fees if staff have reviewed the submitted materials and completed appropriate reports.

(c) For any school that voluntarily or involuntarily deferred an application before the Committee and failed to complete the application process in the established time deadline given under Institutional Applications (1540-1-2-.07) shall forfeit all fees paid.

(d) Any other fee collected is nonrefundable once Commission staff have performed the associated review or work related to that fee.

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



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 [NO PROPOSED AMENDMENTS]

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 Committee on Postsecondary Educational Institutions regarding all authorizations, awarding educational credentials (including authority to grant degrees) and any other matter at the request of the Commission's Executive Director.
- (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 the 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) business 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 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 Educational 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 the Act.
  - (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 Committee on Postsecondary Educational Institutions:
- (a) The Committee on Postsecondary Educational Institutions 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; and
    5. such other matters relating to the 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 the Act. 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 the Act and these rules.
  - (b) The Commission staff responsible for oversight of the Act and these rules shall be officially referred to as the Tennessee Higher Education Commission, Division of Postsecondary School Authorization.
  - (c) Commission staff shall 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. Site visits may be conducted for initial authorization for new institutions, new program reviews, authorization inspections for non-exempt 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 unauthorized postsecondary educational activities to verify adherence to the Act and these rules.
  - (e) Establish a deadline for submission of initial authorization applications, new program applications and any other materials to be included on the agenda for each quarterly meeting of the Committee.
  - (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. §§ 49-7-2005 and 49-7-2014.

#### 1540-01-02-.03 DEFINITIONS

- (1) The following definitions are complementary to definitions in T.C.A. § 49-7-2003 and have the following meanings, unless the context clearly indicates otherwise:
  - (a) "Ability-to-benefit student" 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" as used in the description of a program or institution means that which is organized primarily for academic training or transfer.
- (c) "Accreditation" is a non-governmental, peer evaluation of educational institutions and programs. Private educational associations of regional and national scope have adopted criteria reflecting the qualities of a sound educational program and have developed procedures for evaluating institutions or programs. These criteria determine whether or not institutions or programs are operating at basic levels of quality. The Commission only recognizes accrediting agencies that are recognized by the U.S. Department of Education.
- (d) "Act" means the Postsecondary Education Authorization Act of 1974, Tennessee Code Annotated 49-7-2001, et seq. as amended.
- (e) "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.
- (f) "Agent" means any person owning any interest in, employed by or representing for remuneration a postsecondary educational institution, who, by solicitation in any form, outside of the institution, enrolls or seeks to enroll a student for education offered by an authorized institution, or offers to award educational credentials, for remuneration, on behalf of any such institution for any such purpose.
- (g) "Agent's permit" means a nontransferable written authorization issued to a natural person by the Commission which allows that person to act as an agent.
- (h) "Articulation agreement" means an arrangement between two higher education institutions approved and signed by authorized institutional representatives and constructed by faculty in the discipline that equates for transfer of a defined set or block of academic credits that will meet requirements of a specified academic degree program major at the degree-awarding institution.
- (i) "Associate's 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.
- (j) "Authorization to operate" means permission 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 may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended by the Commission."
- (k) "Authorization site visit" means an institutional site visit conducted by Commission staff or Postsecondary Committee members to verify compliance with the Act and these rules. The authorization visit is commonly called a 'site visit'.
- (l) "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.

- (m) "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.
- (n) "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.
- (o) "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.
- (p) "College" means (1) a unit of a university offering specialized degrees or (2) a postsecondary institution offering courses of study leading to a degree.
- (q) "Commission" means the Tennessee Higher Education Commission.
- (r) "Committee" means the Committee on Postsecondary Educational Institutions.
- (s) "Contact Hour" or "clock hour" refers to actual directed or supervised instructional time, not to be less than 50 minutes for every 60 minutes of time.
- (t) "Credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution.
- (u) "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.
- (v) "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.
- (w) "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.
- (x) "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.

- (y) "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 class(es), or, in the case of Distance Learning programs, received one or more lessons.
- (z) "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, unaccredited courses or non-college training.
- (aa) "General education courses" means academic subjects intended to broaden communication/language skills, contribute to the intellectual growth of the student or give balance to the total program beyond the area of vocational or professional concentration.
- (bb) "Independent certified public accountant (C.P.A.)" means a C.P.A. not associated with the institution or its owners, especially in such a way that a conflict of interest or appearance of conflict arises.
- (cc) "Institutional director" means the institutional executive designated by the institution to assume responsibility for ensuring that the conduct of the institution and its agents is 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. Additional responsibilities and qualifications are listed in Rule 1540-01-02-.16.
- (dd) "Instructional site" means a non-residential facility that is commercially zoned and utilized for the training of students.
- (ee) "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.
- (ff) "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.
- (gg) "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.
- (hh) "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 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.
- 
- (ii) "Postsecondary educational institution" includes, but is not limited to, an academic, vocational, technical, online/distance learning, business, professional, or other school, college, or university, or other organization or person, offering educational credentials, or offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives.
- (jj) "Quarter" is a period of instruction into which the academic year may be divided. A quarter must consist of at least ten (10) weeks.
- (kk) "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.
- (ll) "Residential 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., Distance Learning).
- (mm) "School" means (1) A unit within a college or university that offers specialized instruction (e.g., a school of engineering). (2) An institution that offers specialized instruction in areas (e.g., 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.
- (nn) "Semester" is a period of instruction into which the academic year may be divided. A semester must consist of at least 15 weeks.
- (oo) "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 hours of laboratory experience per week for a semester, or three hours of intern/externship experience per week or the equivalent number of hours.
- (pp) "Solicitation" means contact, written or verbal, on behalf of an institution for the purpose of supplying information in an attempt to enroll Tennessee residents.

- (qq) "These rules" or "these regulations" means all rules contained in Rule Chapter 1540-01-02.
- (rr) "Traditional degree" shall mean degrees including, but not limited to: Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Business Administration, Bachelor of Science, Bachelor of Fine Arts, Master of Arts, Master of Science, Master of Fine Arts, Master of Business Administration, Doctor of Philosophy, Doctor of Psychology, and Doctor of Education.
- (ss) "Tuition" shall mean, but not be limited to, any money or fee involving the student, actually charged by the institution and directly related to the instruction/training provided (e.g., per credit hour cost and equipment fee). Tuition does not include student activity fees or fees paid to third parties for products or services related to the training. These fees may be referred to as "other fees."
- (tt) "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.
- (uu) "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.
- (vv) "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. §§ 49-7-2003 and 49-7-2005.

1540-01-02-.04 DETERMINATION FOR REQUIRED AUTHORIZATION [NO PROPOSED AMENDMENTS]

1540-01-02-.05 EXEMPTION

- (1) T.C.A. § 49-7-2009 includes general descriptions of institutions and programs that are exempt from the provisions of the Act and these rules. Institutions and programs meeting the specific provisions below shall be considered exempt pursuant to the general exemption descriptions of T.C.A. § 49-7-2009.
  - (a) Education, instruction or training that is:
    1. maintained or given by an employer or group of employers, for employees or for persons they anticipate employing without charge, including payroll deduction or minimum length of employment, except that the employer/institution may accept funds provided through a state or federal program that provides adequate institutional and/or programmatic review as determined by Commission staff; or
    2. maintained or given by a U.S. Department of Labor or state recognized labor organization to its membership/apprentices or without charge, except that the institution may accept funds provided through a state or



federal program that provides adequate institutional and/or programmatic review as determined by Commission staff; or

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 educational credentials that in the opinion of the Commission are specifically directed toward new or additional vocational, professional or academic goals.
- (b) Programs, seminars or workshops that are recreational or avocational, including motivational or enrichment programs, as determined by Commission staff shall be considered exempt from authorization requirements. Upon review by Commission staff, a provider that presents the instruction in such a way as to suggest a vocational end may be required to become authorized, or clarify through public advertising that the program, seminar, or workshop is in fact recreational or avocational.
- (c) Short-term programs, seminars or workshops that are solely for professional enhancement as determined by Commission staff shall be considered exempt from authorization requirements. Education, training or instruction resulting in specialized certifications clearly used to denote technical, professional or vocational proficiency toward an additional vocational goal or new job title must be authorized for operation.
- (d) Programs that operate under Part 61 of the Federal Aviation Regulations and that provide only avocational training are exempt. Aviation programs that operate entirely under Part 141 of the Federal Aviation Regulations and programs that operate under Part 61 of the Federal Aviation Regulations and that provide vocational training are non-exempt. Oversight of these aviation schools will in no way conflict with oversight provided by the Federal Aviation Administration. While the FAA oversight ensures adequate curricula and safety of the student, the Commission's oversight is focused on protection of the personal and financial interests of the student.
- (e) Intensive review courses designed solely to prepare students for graduate or professional school entrance exams and professional licensure exams. The latter shall include, but not be limited to, intensive review courses for certified public accountancy tests, the examination for professional practice in psychology, and the bar examination.
- (f) Training designed to prepare students for credit-by-examination tests may be considered exempt from authorization requirements. The exemption is contingent on the entity's agreement to indicate in all promotional materials that the training is for test preparation for credit-by-examination tests and refrains from any misleading representations. Such representations include:
1. suggesting that the training results in receipt of an educational credential, such as a degree;
  2. listing anticipated salary amounts; and
  3. suggesting that the entity is accredited.

- (g) Eleemosynary institutions, including bona fide religious institutions, that:
    - 1. offer instruction or training and do not offer degrees of any type;
    - 2. do not suggest that postsecondary credit may be awarded by another party or transfer in educational credentials from another source; and
    - 3. do not offer diplomas/certificates, including those that in the opinion of the Commission replicate letters of designation or degrees.
  - (h) 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.
  - (i) 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.
- (2) To operate within exemption status, the following guidelines shall be used:
- (a) Institutions that clearly qualify as exempt under the Act and these rules after Commission staff review shall be considered exempt from authorization without a vote of the Commission.
  - (b) Any institution or program exemption is subject to annual Commission staff review and/or revocation any time the activity deviates from the original determination factors for exemption.
  - (c) Exemptions can be revoked or amended by the Commission staff as they pertain to individual institutions whenever it is determined by the Commission staff that an institution exempted by the Act or these rules has not acted in accordance with the purpose of T.C.A. § 49-7-2002.
- (3) To request an exemption, institutions shall submit a descriptive narrative describing how the institution and/or program(s) qualifies for an exemption. The request shall include a citation to the exemption provision relied on in the Act and/or these rules and documentation supporting the requested exemption such as: copies of all institutional materials; brochures; advertising; state charter or business license; and organizational ties and/or contracts with other educational providers. Upon receipt of an exemption request, Commission staff shall make a written determination and provide a date by which an aggrieved institution may submit a request for further review by the Executive Director. Such date shall not be earlier than ten business days after the date of the letter.
- (4) If the institution is aggrieved by a determination concerning exemption status, the institution may seek review as provided for in Rule 1540-01-02-.02(2)(b) and T.C.A. § 49-7-2010(b). Any request for review shall be in writing, signed, list each instance where Commission staff erred, and provide a detailed explanation of each error, including references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in paragraph (3).

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

#### 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 T.C.A. § 49-7-2006 and as further defined in these rules.
- (2) Meet the definition of a postsecondary educational institution as given in the Act and/or these rules.
- (3) Have physical presence in the state as given in these rules.
- (4) The institution is properly registered with the Tennessee Department of State or, in the case of a general partnership or sole proprietorship, has a local business license.
- (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) Secure a continuous institutional surety bond or like security described in Rule 1540-01-02-.07.
- (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 rules.
- (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 institution 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 to all requirements given in these rules under New Program or Change in Program, Rule 1540-01-02-.07.
  - (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-.08.

- (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 the current site.
- (13) An exception to any part of this rule must be reviewed on an individual basis by the Commission.
- (14) Institution Name:
  - (a) No postsecondary educational institution under the Act and these rules may use the word "university" in its name unless the institution meets the definition of university as set forth in these rules and has been 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 its name unless:
    - 1. The institution meets the definition of college as set forth in these rules;
    - 2. The institution has been approved by an accrediting body recognized by the U.S. Department of Education to offer degree level programs; and
    - 3. The institution offers or is seeking to offer at least one (1) degree program.
  - (c) An unaccredited institution or institution that does not meet the requirements in subparagraph (b) may not use "college" in its name unless:
    - 1. For institutions authorized prior to October 1, 2006, the institution name includes 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 or
    - 2. For institutions authorized on or after October 1, 2006, the institution name includes an appropriate qualifier preceding the word "college," such as "career," "vocational," "business," "technical," "art" or in the case of a religious institution, "Bible" or a denominational term.
  - (d) All institutions using "college" in accordance with item 14(c) above, must achieve 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. Institutions that fail to make good faith

efforts toward accreditation or to achieve accreditation in a timely manner shall be required to remove "college" from the institutional name.

1. 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.

- (15) A sign, acceptable to the Commission, must be affixed to the building and/or the main entrance door indicating the name of the institution.

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

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

- (1) Application deadline:

- (a) Institutions seeking initial authorization or approval of new programs must submit the appropriate application by the deadline date established by Commission staff.
- (b) Incomplete submissions as given below in paragraph (2), Authorization - What Constitutes a Complete Application, applications submitted after the established deadline, or applications that are not typed may be deferred to the next quarterly meeting at the discretion of staff.
- (c) 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) Institutions seeking or required to hold an authorization must submit on forms provided by the Commission, a completed and typed application which includes at least the following:
  1. a title or name of the institution in compliance with these rules;
  2. proof that the institution is properly registered with the Tennessee Department of State or, in the case of a general partnership or sole proprietorship, a copy of the institution's local business license;
  3. name(s), home address(es), and phone number(s) of all owner(s), controlling officer(s), and/or members of the board of directors;
  4. address and general description of facilities;
  5. list of instructional equipment for each program specifying whether each

item is owned or leased;

6. qualifications for instructional staff and administrative personnel, see Rule 1540-01-02-.16;
7. designation of an institutional director for each site responsible for authorization contracts and maintenance of records and all other duties as described under Rule 1540-01-02-.16;
8. description of any administrative structure above the institutional director with the signature of the official that will notify the Commission if the institutional director is replaced;
9. a check or money order payable to the State Treasurer for Tennessee for such fees as prescribed under these rules;
10. institutional surety bond as described by Rule 1540-01-02-.07 and T.C.A. § 49-7-2013;
11. a copy of the enrollment agreement described in Rule 1540-01-02-.13;
12. a copy of the pre-enrollment checklist described in Rule 1540-01-02-.13;
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) ;
14. current verification of fire and sanitation inspections of educational facilities and student housing that is owned, leased or otherwise operated by the institution;
15. a draft or copy of the institutional catalog as described in Rules 1540-01-02-.11, .12, .17 and .19;
16. a complete description of the proposed educational programs in compliance with the Act and these rules;
17. a complete syllabus for each course proposed that demonstrates sufficient content and depth for the proposed level of the program and credential offered;
18. any specific requirements as outlined under degree granting and/or non degree granting sections of Rule 1540-01-02-.08;
19. 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 U.S. Department of Education;
20. 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;
- 21. 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.
- (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 these rules;
  - (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 U.S. Department of Education.
- (6) Bond Requirements for Institutions:
  - (a) Institutions must, on forms provided by the Commission, secure for student indemnification purposes, from a surety company authorized to do business in Tennessee, a surety bond for the penal sum of:
    - 1. ten thousand dollars (\$10,000) for in-state institutions, out-of-state public institutions and all institutions providing primarily religious instruction and
    - 2. twenty thousand dollars (\$20,000) for all other institutions, including out-of-state private institutions..
  - (b) Out-of-state institutions must, on forms provided by the Commission, secure a surety bond for agents in the penal sum of five thousand dollars (\$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 five thousand dollars (\$5,000) surety bond.

- (c) All bonds provided by institutions under Rule 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.
- (d) All bonds provided by institutions under Rule 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.
- (e) An irrevocable letter of credit secured by a certificate of deposit or a cash deposit with a bank may be accepted in lieu of the bond, pending 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.

(7) Fire and Sanitation Inspections:

- (a) Initial authorization, change of ownership, and renewal 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) Institutions must maintain and provide upon request by Commission staff documentation in their authorization records that a fire and sanitation inspection has been successfully passed during the past twelve months
- (c) Commission staff may seek supplemental fire and/or sanitation reports from appropriate local or state agencies.

(8) Change in Ownership:

- (a) The following constitutes a change in 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 any other ownership structure, when more than 50% of the institution or of the owning entity 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) Commission staff should be notified of any anticipated change of ownership prior to the change. In the event of a change of ownership, greater than 50%, a new owner or governing body must request from the Executive Director conditional authorization to operate until temporary authorization can be acquired under the established standard 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 another current owner is not considered a change in ownership. The Executive Director may determine that other transfers should also be excluded from these requirements.
- (9) New Program or Program Revisions:
- (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) Institutions must submit a rationale with supporting data to justify initiation of programs proposed.
  - (c) Authorized institutions must submit to the Commission a New Program Application if additional programs are proposed during any authorization year and the program must be approved prior to providing or offering instruction, including advertising and solicitation. Applications must be received by the quarterly deadline established by Commission staff to be included on the ensuing Committee and Commission agenda.
  - (d) The following shall apply to all program revisions, including tuition and fee changes:
    1. All program revisions must be submitted on Program Revision Forms provided by the Commission and approved by Commission staff prior to implementation. All program revisions shall be submitted thirty (30) to ninety (90) days prior to the proposed effective date.
    2. Institutions that revise an approved program must file a New Program Application if program changes exceed 25% within the past twelve months or if in the opinion of staff a significant change has occurred.
    3. Tuition and fee revisions that in the opinion of the Commission are excessive, unreasonable and exceed initial disclosure to the student may result in an in-depth audit of the institution at the institution's expense to assure the Commission of financial stability.
    4. All changes must be reflected in the institutional catalog.
    5. 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. Any course addition must be 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.

(10) Change of Address:

- (a) an application from an authorized institution to reflect a change of address shall be submitted to the Commission staff thirty (30) days prior to moving and shall include all documents designated by the Executive Director as being necessary with the appropriate fee. Documents shall include, but are not limited to:
  - 1. evidence of satisfactory health inspection,
  - 2. evidence of satisfactory fire inspection,
  - 3. copy of an executed lease or proof of ownership, and
  - 4. all physical material and building requirements given under Initial Authorization.
- (b) Approval may be issued after the new facilities have been inspected and the application is complete.
- (c) 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.
- (d) Within thirty (30) days of approval of any change of address, the institution shall submit a bond or bond rider reflecting the institution's current address.

(11) Change of Institution Name:

- (a) An application from an authorized institution to reflect a change of name shall be submitted to Commission staff thirty (30) days prior to changing the institution's name and shall include all documents designated by the Executive Director as being necessary and the appropriate fee.

(12) Discontinuance of Program:

- (a) Institutions that discontinue any approved program must complete a Program Deletion Form.

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

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 staff, 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 Department of Education.

(b) Authorized institutions that promote, advertise or use prepared materials of any person, group or entity that offers vocational/professional certifications (that are not part of the institution'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:

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 Rule 1540-01-02-.18.

(c) 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 typically prepare individuals for employment and do not require courses beyond those specific to the job or 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 rules and/or statues must justify expansion of training in terms of exceptional student benefits. Such programs may also be required to review curriculum to evaluate consolidation of classes and course material.

(3) Degree Granting Institutions:

(a) All degrees offered must be approved by name and designation by the Commission. No institution may offer traditional degrees or professional degree designations unless previously approved by a recognized regional accrediting body. An exception may be approved by the Executive Director upon recommendation of Commission staff. Any request for exception shall be made in writing and include proof of the following:

1. The institution is accredited by a U.S. Department of Education approved accreditor for the specific degree level;

2. The program is accredited by an appropriate accrediting agency if such accreditation is necessary for employment in or licensure by the state; and
  3. The institution has articulation agreements with two (2) regionally accredited institutions with physical locations in the Southeast region and the agreements are applicable to at least one of the institutions' physical locations in the Southeast region.
- (b) 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.
- (c) Unaccredited 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. Twenty-five percent (25%) to fifty percent (50%) of the total program, depending on the degree offered, must be in general education courses and should be indicated separately in the curriculum presented;
  3. provide a syllabus for each course offered;
  4. maintain 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. demonstrate that the degree and the program have merit and value academically, professionally or vocationally in Tennessee;
  6. master's 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.
- (d) Undergraduate degree programs must include at least twenty-five percent (25%) to fifty percent (50%) of the program in general education courses unless the institution can demonstrate program accreditation requirements which are less. Unaccredited institutions proposing to offer associate degree level programs which are technical in nature, and have less than twenty-five percent (25%) of general education courses must demonstrate to Commission staff the benefit to students. All general education courses must be taught by holders of baccalaureate degrees with at least twenty-five percent (25%) of the general education staff with earned master's degrees or equivalent.
- (e) 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.

(4) Distance Learning:

- (a) Required authorization of 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 distance learning provider will be interpreted to limit review by any other state agency concerning issues of consumer protection and disclosure.
- (b) All authorized distance learning institutions must provide to a student a catalog and a signed copy of the pre-enrollment checklist and enrollment agreement as required in these rules. 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) Distance learning institutions must meet directly and indirectly all requirements of the Act and these rules and must seek authorization for a specific location, assign specific administrative responsibilities at each separately authorized site to a director for adequate and appropriate staffing to serve the stated purpose and to make reports as directed by these rules, and as requested by the Commission staff.
- (d) 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 distance learning 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

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 T.C.A. § 49-7-115, all institutions 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 Rule 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 including when advertising the agency and the institution.
  - (b) Talent seminars, interviews or 'talent searches' may not be used to enroll individuals in modeling schools or training.
  - (c) Schools that operate as a 'finishing school', exclusively for personal department or for enrichment may not advertise or conduct courses that implies or suggests vocational modeling or related goals.
- (8) Teacher Training (K-12) or Licensing or Recertification:
  - (a) The Tennessee Department 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.

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

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

- (1) All authorized institutions must submit a reauthorization application on a form provided by Commission staff. The annual reauthorization year will be from July 1 through June 30. The annual reauthorization application is due each October 15 and must be accompanied by an annual fee as prescribed by these rules.

- (2) Reauthorization applications postmarked after October 15 or other due date will be assessed a late renewal fee as described in Rule 1540-01-02-.25.
- (3) For all authorized institutions, unless otherwise required by Commission staff, the reauthorization 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 Rule 1540-01-02-.14 and shall include:
    1. a balance sheet (statement of financial position);
    2. an income statement (statement of the results of institutional operation including, but not limited to, 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, 49-7-2008 and 49-7-2014.

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

- (1) The institutional purpose and objectives must be stated in measurable potential outcomes in a catalog, bulletin, or brochure of the institution.
- (2) In relation to the size and scope of the institutions, it shall furnish adequate student services to fulfill the mission of the school and provide counseling and/or resources necessary to support programs and claims of the institution. Such services must have staff available to students with the knowledge and skills to effect counseling, guidance and coordination in areas such as; academic standing and satisfactory progress; admissions; employment opportunities or placement; intern/externships; library; financial aid.
- (3) Administrative capability must be demonstrated in the daily operational standards at the institution. Administrative capability includes, but is not limited to, 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 breakdown 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 an 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 may request a waiver of the requirement to provide placement rates for programs for which the institution does not typically report vocational placement data.
  - (a) Requests for waiver shall be made when filing a new program application or, for programs approved prior to the effective date of this rule, by submitting a letter requesting a waiver for each program.
  - (b) Requests for waiver shall include at a minimum an explanation as to why the institution does not typically report vocational placement data for that program.
  - (c) Institutions are required to gather the data required for reporting until such time as a waiver is granted.
- (6) The maximum pupil to 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);
  - (e) vocational lab: 40-1 (such as auto mechanics, drafting, air conditioning);
  - (f) class A truck cab: 4:1; and
  - (g) class B truck cab: 2:1.

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

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

- (1) Each institution must publish a catalog or brochure (a draft copy may be provided in the initial 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;
- (o) a statement provided within the first four pages or in a designated state authorization section of the catalog that reads as follows:  
  
 (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 Division of Postsecondary School Authorization 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."

- (r) the cash discount policy, if offered to students.
- (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;
  - (4) Less information may be required to 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; and
  - (5) Full-time students should have a reasonable expectation to complete programs as printed in the institutional catalog at the time of enrollment.

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

#### 1540-01-02-.12 ADMISSIONS STANDARDS

- (1) Institutions must adopt an admission policy that is based on the institution's objectives and that meets the following minimum requirements.
  - (a) Non-degree program admission policies must require the prospective student to have received a high school diploma, passed the General Education Development (GED) test, or passed an ability-to-benefit test as that term is described below.
  - (b) Degree program admission policies must be at least the following, as applicable.
    - 1. undergraduate degree programs must require a high school diploma or General Education Development (GED) test and
    - 2. graduate degree programs must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.
- (2) 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 a licensure program, regardless of license eligibility, the institution may admit such student after the student submits, in writing for retention by the institution and review by Commission staff, a statement acknowledging such ineligibility. This provision is not intended to speak contrary to institutions' options to enroll students as non-credit students, auditing students or continuing education students.

- (3) 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.
- (4) Additional requirements for the administration of ability-to-benefit tests:
  - (a) 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.
  - (b) An agent is not allowed to administer the test, nor is anyone allowed to assist the applicant in answering the questions.
  - (c) 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 remains a high school diploma, GED, or a passing score on the admission exam.
  - (d) Tests administered for purposes other than the determination of admissibility are not governed by this rule.
  - (e) Institutions which admit enrollees on an ability-to-benefit basis, must submit all documents related to such admission policies to the Commission.

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

#### 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 pre-enrollment checklist verifying that the student:
  - (a) toured the institution (not applicable to institutions that deliver all instruction through distance learning);
  - (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.;
  - (g) has been given a copy of the institutional cancellation and refund policy;
  - (h) has been given a copy of the completed transferability of credit disclosure statement required by T.C.A. § 49-7-144 and 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 the following statement:
    1. "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."
  - (j) has received the most recent withdrawal, completion and in-field placement data as calculated by the Commission by including:
    1. the following statement: "For the program entitled, (program name), I have been informed that, for the July (year)/June (year) period, the withdrawal rate is (percent)%, the completion rate is (percent)%, and the in-field placement rate is (percent)%. Detailed statistical data for this program may be viewed by going to [www.tn.gov/thec](http://www.tn.gov/thec) and clicking on the Authorized Institution Data button."; or
    2. a copy of the report created for the institution by Commission staff and a statement that "the report can be viewed by going to [www.tn.gov/thec](http://www.tn.gov/thec) and clicking on the Authorized Institution Data button"; and
  - (k) has received and understands the institution's cash discount policy (applicable only to those institutions that have a cash discount policy).
- (3) Institutions that receive a waiver pursuant to Rule 1540-01-02-.10(5) do not have to include the in-field placement rate for the program in the pre-enrollment checklist.
- (4) Institutions shall require a student enrolling to sign and date an enrollment agreement, which shall include, but not be limited to, the following items:
- (a) full and correct name and location of the institution;
  - (b) name, address and social security number or unique student identification 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 (including costs of any books and equipment required to be purchased from the institution), fees paid to the institution, and estimated costs for items such as books and required equipment that students may purchase from the institution or a third party;
  - (h) cancellation and refund policy;
  - (i) verification that the student has received an exact signed copy of the agreement; and
  - (j) a guarantee of the total cost of tuition and fees for 1200 contact hours or twelve (12) months from the time of enrollment.
- (5) When enrolling a student in a single class that is part of an approved program, an institution may modify the pre-enrollment checklist and enrollment agreement as needed to substitute the word class (or other similar word) for the word program where necessary and to qualify any other language so that it applies to the specific class. In no event shall any modification result in less protection for or fewer disclosures to the student.
  - (6) Programs less than 1200 clock (contact) hours must have an enrollment contract with a set total tuition and fees.
  - (7) Programs longer than 1200 clock (contact) hours that increase tuition and fees after the initial 1200 clock (contact) hours or twelve (12) month period, must provide counseling related to the increase.

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

#### 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 the most recent institutional fiscal year. 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 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 for the most recent institutional fiscal year. 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. Institutions that have annual gross tuition revenue of one million dollars (\$1,000,000) or less may request a waiver of the audit contemplated by this section and provide the most recent financial information in a format acceptable to 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.
- (9) All institutions seeking authorization must maintain a business account with a financial institution that is federally insured in said institution's name.

Authority: T.C.A. §§ 49-7-2005, 49-7-2006 and 49-7-2015.

#### 1540-01-02-.15 INSTITUTIONAL AND STUDENT RECORDS

- (1) Records of enrollees, completers, and placements must be sufficient to verify data reported to the Commission.
- (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 for a minimum of three (3) years from the conclusion of said complaint.
- (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, in table format, consisting of at least the following information for any person who signs an enrollment agreement financially obligating that person or makes a down payment to attend, or both:
  - (a) registration/enrollment date;
  - (b) full name of the student;
  - (c) complete address;
  - (d) telephone number;
  - (e) social security number or unique student identification number;
  - (f) name of course or program name and code;
  - (g) status of student (e.g., enrolled, withdrawn, leave of absence, or graduated);
- (6) Institutions must maintain the following documentation in each enrolled student's file:
  - (a) transferability of credit disclosure statement required by T.C.A. § 49-7-144;
  - (b) proof that the student meets the institution's admission requirements. If a high school diploma or the equivalent is required, the institution shall have on file an official copy of the high school transcript, the equivalency certificate with scores which meet the state's minimum for passing, or an official transcript from a postsecondary educational institution or official documentation from the U.S. Department of Defense that indicates that the student received a high school diploma or GED (military documentation includes a DD Form 214 Certificate of Release or Discharge from Active Duty or Enlisted Record Brief); or if an ability-to-benefit basis, the institution shall have on file official records of such; ;
  - (c) pre-enrollment checklist as given in these rules ;
  - (d) a complete enrollment agreement as given in these rules;
  - (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. Transcripts must indicate the name and address of the institution and be signed by an appropriate institutional officer(s), (e.g., registrar, president, dean). 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, leaves of absence, and graduations;
  7. beginning date or academic term with the year for each course attempted, with a 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;
  13. appropriate signature(s); and
- (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) The institution may maintain transcripts 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 programs with no separation of courses by subject content, such as bartending and truck driving, 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. §§ 49-7-2005, 49-7-2006 and 49-7-2016.

#### 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. As further described below, personnel qualifications must be submitted to the Commission on a School Personnel Application to be provided by the Commission staff, no later than ten (10) days after the hire date.



- (a) Unaccredited institutions must submit to the Commission School Personnel Applications for all instructors and administrative personnel as that term is defined in this rule.
  - (b) Institutions accredited by an accrediting body recognized by the U.S. Department of Education must submit to the Commission School Personnel Applications for all administrative personnel as that term is defined in this rule. For each instructor, an accredited institution shall maintain on-site documentation supporting instructors meeting the minimum qualifications and shall complete a School Personnel Application at any time upon request from Commission staff.
- (2) Administrative personnel and instructors shall meet all qualifications listed in this rule. Evidence of education, experience, or training (including official transcripts) for each personnel must be maintained on-site at the location. Institutions must submit a copy of this evidence at any time upon request from Commission staff.
- (3) The method of administration and procedure for staff selection must be defined in a way that each employee has specific duties and responsibilities.
- (4) Administrative personnel generally encompass individuals that oversee areas as outlined in operational and administrative standards. This includes by function, but is not limited to titles of an institutional director; financial aid administrator; director of admissions; director of education; business officer or manager; director of student services (including counseling and placement) and the registrar. Support and clerical staff is not included as administrative personnel, but shall be included for reporting purposes on re-authorization forms annually.
- (5) 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.
- (6) 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.
- (7) Institutional owners or the controlling board must ensure that each authorized site has an 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.
- (8) 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.
- (9) 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.
- (10) 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.

- (11) 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.
- (12) Instructors:
- (a) Instructional staff for all institutions must be selected at a minimum on the basis of these rules.
  - (b) Instructors in a trade related or specific skill 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 and must meet the following qualifications as minimum requirements:
    - 1. Minimum for doctorate level:
      - (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) Meet the minimum requirements for doctorate, masters or baccalaureate level; or
  - (ii) Hold an associate degree from a postsecondary institution judged to be appropriate by the Commission and either:
    - (I) an associate degree with a concentration in the subject to be taught and 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.
- 5. Minimum for diploma and certificate level:
  - (i) Meet the minimum requirements for doctorate, masters, baccalaureate or associate level; or
  - (ii) Hold a high school diploma or GED and a certificate of completion from a postsecondary institution judged to be appropriate by the Commission in a relevant subject area and a minimum of three 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.
- (13) The Executive Director may approve a variance from the specific qualifications in paragraph (7) with sufficient justification and an assurance that the program quality will not be lessened. In such a situation the institutional director must submit written justification and documentation with the School Personnel Application submission. In addition, the instructor must be institutionally evaluated at the close of the first instructional period for effectiveness and quality. This evaluation shall be made available to the Commission staff upon request.
- (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 :

- (a) Agents as defined by the Act and Rule 1540-01-02-.03 must submit an Agent Permit Application, as provided by the Commission staff, and have received approval and an agent permit from Commission staff prior to any solicitation. The application must be accompanied by the following:
  - 1. recommendations by two (2) 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 five thousand (\$5,000) per agent of an out-of-state institution or as specified in Rule 1540-01-02-.07; 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 the institutions have common ownership such that the institutions present a common name to the public and have the same mission. Mutual agreement by institutions is required.
- (d) All agents must verify by signature that they have read and are familiar with rules on advertising and solicitation and must verify intent to follow rules as set forth in Fair Consumer Practices.
- (e) Institutional directors, not marketing offices, are responsible for actions of agents.
- (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 by the institution. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent shall be unenforceable at the option of the student. In cases where the institution is willing to honor the contract and the student wishes the contract enforced, it can be. However, in cases where the contract has been fully executed between the institution and the student, the student would not be entitled to a refund solely because he or she was solicited by a non-licensed 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, 49-7-2005, 49-7-2006, 49-7-2009 and 49-7-2011.

#### 1540-01-02-.17 CANCELLATION AND REFUND POLICY[NO PROPOSED AMENDMENTS]

#### 1540-01-02-.18 PROHIBITED ACTS

- (1) Grant or offer to grant or infer through advertising, promotions or other representations that educational credentials or credits may be obtained through any postsecondary institution, business, person or educational service unless so authorized in the state.
- (2) No school seeking, holding or required to hold authorization under the Act may call itself a university or use university in its name, unless prior to authorization in Tennessee such an institution has been so approved by a regional accrediting body recognized by the U.S. Secretary of Education and the U.S. Department of Education.
- (3) No entity may publicize, promote or imply an accreditation that is not recognized by the U.S. Department of Education.
- (4) No school seeking, holding or required to hold authorization under the Act or these regulations may publicize, promote or imply an academic, vocational, professional or educational certification from any entity without the approval of the Commission.
  - (a) Certifications held out to students that imply a special status, licensing or credential beyond the authorized award by the institution whether offered within the school or by an independent entity, where such certifications are not recognized or required by: the state and its laws or for employment purposes within the industry/profession, will require the approval of the Commission.
- (5) For consumer disclosure and truth in advertising to all Tennessee citizens, an educational service, business or person must clearly identify the nature of the educational service offered and may not use broad language or phrases to imply that the service is a school, can award credits, degrees or other educational credentials.
- (6) Unaccredited institutions shall not accept funds for tuition and fees prior to ten (10) business days before the scheduled start date of the class or program.

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

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

- (1) Institutions may not discount tuition except that an institution may provide a discount for cash payments provided:

- (a) the institution has a written policy in the catalog that includes the definition of cash and details the qualifications for receiving and the amount of a cash discount and
  - (b) the student verifies receipt and understanding of the policy in the pre-enrollment checklist.
- (2) An institution may award a scholarship, tuition waiver or other award provided:
  - (a) the criteria for receiving the award are clearly defined in writing;
  - (b) the institution has a form and procedure to verify eligibility; and
  - (c) the amount of the award is a flat dollar amount or subject to calculation using a defined formula or scale.
- (3) 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.
- (4) Fair consumer practices means honesty, fairness and disclosure to students in areas including: 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. Fair consumer practices include applying institution policies as written and presented to students.
  - (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.
- (5) Findings by Commission staff and/or ongoing complaints by current or prospective students that show a pattern of misinformation, misrepresentation, lack of disclosure or discrepancies between verbal and written information, intimidation or coercion may require corrective public announcements 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.
- (6) 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.
- (7) The investigation and further review of written complaints will occur in accordance with the following provisions:

- (a) Complaints shall be signed and submitted through hand delivery, mail, electronic mail or facsimile.
- (b) Commission staff shall investigate all written complaints.
- (c) Any named institution and/or agent will receive a copy of the complaint and be provided an opportunity to respond to all allegations contained in the complaint.
- (d) Any named institution and/or agent shall provide all information requested by Commission staff as part of the investigation.
- (e) As part of the investigation process, Commission staff may work with the complainant and the named institution and/or agent to effectuate a settlement.
- (f) Following the completion of the investigation, Commission staff shall provide to all parties written findings and conclusions, including any determinations with regard to the complainant's receipt of a refund or other monetary relief or the assessment of a fine or other adverse action. The written findings and conclusions shall contain a date by which an aggrieved party may submit a request for further review by the Executive Director as provided for in Rule 1540-01-02-.02(2)(b). Such date shall not be earlier than ten business days after the date of the findings and conclusions.
- (g) Any request for review shall be in writing, signed, list each instance where Commission staff erred, and provide a detailed explanation of each error, including, where applicable, references to specific statutes or rules. Requests for review shall be received through hand delivery, mail, electronic mail or facsimile. A request may be denied if it is not received in a timely manner as set forth in subparagraph (f).
- (h) Notwithstanding this paragraph, Commission staff may take appropriate action to investigate complaints in order to protect the public interest.

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

#### 1540-01-02-.20 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.
- (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.tn.gov/thec/](http://www.tn.gov/thec/).

- (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 recognized accrediting agency listed by the U.S. 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, except for radio, 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; radio advertisements must include the full and correct name of the institution and the city and state where the institution is located.
- (7) Institutions that advertise in formats that will be in the public domain for long periods (such as the telephone book directory), where such advertising, if in noncompliance, cannot be rewritten or retracted may be fined in accordance with the Act for each day, week or month the advertisement is in active circulation. Such fines shall not exceed \$10,000.
- (8) Printed bulletins or other promotional information must emphasize training available rather than amount and kinds of aid available.
- (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.
- (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 Rule 1540-01-02-.08 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 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.
- (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. §§ 49-7-2005, 49-7-2006, 49-7-2007, 49-7-2008, 49-7-2013.

#### 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) Temporary authorization allows ninety (90) days for initiation of enrollment of students or instruction/education, 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 (90) 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.
  - (d) The temporary authorization allows ninety days for initiation of actual operation and enrollment of students and unless satisfactory reasons are forwarded by letter from the applicant for not beginning operation and enrolling students, the temporary authorization may be withdrawn. All new institutions must submit a status report ninety days after receipt of temporary authorization and submit annual reports on the annual reporting schedule which requires annual fees and reports due October 15 each year.
- (2) Regular Authorization:
- (a) Institutions must be reauthorized annually on forms supplied by the Commission staff.
- (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:

- (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.

1540-01-02-.22 CAUSES FOR ADVERSE ACTION [NO PROPOSED AMENDMENTS]

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 24 hours or on the first business day following the date of that decision and shall submit to Commission staff within 3 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; and
  - (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"):

- (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 or reasonable geographic area as that in which the closed institution existed;
  - 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 academic transcripts from closed institutions are prepared for delivery to the Commission, the transcripts shall be alphabetized and separated by year. If necessary as a result of the number of transcripts, institutions should provide transcripts to Commission staff in boxes fifteen (15) inches long, twelve (12) inches wide, ten (10) inches high with tops and handles.
- (c) Financial aid records shall be alphabetized and separated by year. If necessary as a result of the number of records, institutions shall provide the records in boxes fifteen (15) inches long, twelve (12) inches wide, ten (10) inches high with tops and handles.
- (d) In the event that an Institution provides academic transcripts to the Commission, Commission staff will provide an official copy of a transcript to a student after the student has requested the transcript using the Student Request Form and paid

the ten dollar (\$10) fee as described in the form.

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

1540-01-02-.24 TUITION GUARANTEE FUND (TGF)

- (1) "Tuition guaranty fund" or "TGF" or "fund" means the tuition guaranty fund created by T.C.A. § 49-7-2018.
- (2) All institutions authorized on or after July 1, 2006, shall pay into the Tuition Guarantee Fund for six consecutive years.

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

1540-01-02-.25 FEES [NO PROPOSED AMENDMENTS]

1540-01-02-.26 Return of Regulatory Fees

- (1) Following the year-end closing, the Commission shall return to authorized institutions as described herein any reserve balance as of the end of the fiscal year that is greater than one and a half million dollars (\$1,500,000).
  - (a) No monies shall be returned if the amount due an institution is less than twenty-five dollars (\$25.00).
  - (b) The percentage of the excess due an institution is calculated by determining the percentage of the total of all reauthorization fees paid by the institution during the fiscal year.
  - (c) Institutions that did not pay a reauthorization fee during the fiscal year shall not receive any share of the excess.
  - (d) Institutions that close or that have had their authorization to operate revoked prior to the end of the fiscal year shall forfeit any share of the excess.
- (2) If an institution withdraws its pending application as a new institution, renewal applicant, or a new program within 3 working days from receipt, or prior to staff review and/or a site visit then all fees assessed shall be refunded. After three days and once staff review begins the following shall apply:
  - (a) For in-state schools making initial application, the Commission may retain 50% of the assessed fees if staff have reviewed the submitted materials and completed appropriate reports. Once the site visit has been conducted no rebate of assessed fees is possible.
  - (b) For out-of-state schools making initial application, the Commission may retain 100% of the assessed fees if staff have reviewed the submitted materials and completed appropriate reports.
  - (c) For any school that voluntarily or involuntarily deferred an application before the Committee and failed to complete the application process in the established time deadline given under Institutional Applications (1540-1-2-.07) shall forfeit all fees paid.

- (d) Any other fee collected is nonrefundable once Commission staff have performed the associated review or work related to that fee.

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

## Summary of Comments on Proposed Rules

April 26, 2012 Commission Meeting

Committer	Rules of Interest	Comment Summary	Commission Staff Comment
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.03	THEC should add definitions of Institution, Placement, Program, and Cash Discount.	<p><input checked="" type="checkbox"/> Commission staff does not recommend adopting these suggestions for the following reasons:</p> <p>“Institution” is defined as “postsecondary educational institution.”</p> <p>“Program” is defined through various terms such as “associate’s degree,” “certificate program,” and “diploma program.”</p> <p>The Commission should not adopt a definition of placement without further comment from institutions. Currently, Commission staff considers a student to have been placed if following completion of the program and during the reporting period the student is employed. “Placement service,” “placement assistance” or similar terms describe an institution’s role in finding employment for completers. Note also that the determination of whether a student is placed depends on the entity answering the question, for example, institutions, accreditors and regulators may all respond differently. Commission staff will mark this comment for discussion during any future rulemaking.</p> <p>There is no definition of “cash discount” because it is the responsibility of the institution to develop a written cash discount policy that includes the definition of “cash.” Please see the proposed revisions to Rule 1540-01-02-.19.</p>
Nashville Auction School Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.03(1)(c)	The addition of the definition fails to acknowledge standards of education and recognition granted by other state agencies. The definition will create confusion and attempts to clarify statutes outside the Commission’s authority.	<p><input checked="" type="checkbox"/> Commission staff does not recommend adopting the suggestion that the definition is too broad. The definitions in 1540-01-02-.03 are complimentary to the Postsecondary Education Authorization Act of 1974 and apply to the use of the terms in Rule Chapter 1540-01-02. Moreover, this definition was first adopted by the Commission in 2008, and Commission staff submits that</p>



## Summary of Comments on Proposed Rules

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Committer	Rules of Interest	Comment Summary	Commission Staff Comment
		Suggest deleting last sentence of the definition as it is not necessary to definition of accreditation.	<p>the definition is consistent with the use of the term by the U.S. Department of Education.</p> <p><input checked="" type="checkbox"/> Commission staff recommends adopting the suggestion as the last sentence is not defining language.</p>
<p>Weston Distance Learning, Inc. (At-Home Professions)</p> <p>North Central Institute</p>	1540-01-02-.03(1)(h)	<p>Articulation agreements may be signed by other people in an institution other than the CEO. Perhaps this could say either: “approved and signed by an appropriate representative of each institution” or “approved and signed by the school’s chief executive officer or president.”</p> <p>THEC should not limit articulation agreements to degrees. In many instances an articulation agreement would be useful for postsecondary programs that are not degree-granting.</p>	<p><input checked="" type="checkbox"/> Commission staff recommends adopting the suggestion such that the definition read “approved and signed by authorized institutional representatives.” This language will allow flexibility when executing an articulation agreement and still satisfy the Commission requirement of an institution having a properly executed articulation agreement.</p> <p><input checked="" type="checkbox"/> Commission staff does not recommend adopting the suggestion regarding limiting the definition to degree programs. Commission staff notes that this definition was added to provide guidance for the purpose of Rule 1540-01-02-.08(3), which governs the naming of degrees. Commission staff encourages any institution to develop an agreement with another institution to assist with the transferability of credits or contact hours.</p>
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.03(1)(m)	Definition of “certificate program” is limited by the time, contact hours and single skill terminology. For example, our approved course teaches two skills – medical transcription and medical editing. Suggest revised definition of certificate program such as, “‘Certificate program’ generally means a postsecondary vocational or technical program resulting in a certificate of completion.”	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion because the definition of certificate program is not narrowly tailored to a single skill objective. The phrase “normally with a single skill objective” is not exclusive and allows for a certificate program to encompass more than one skill objective. Also, the time and clock hour provisions in the definition serve to differentiate a certificate program from a diploma program, a term that is also defined in Rule 1540-01-02-.03.
Larenda LLC (Larenda Emerging Technologies College – Recommended for Authorization)	1540-01-02-.03(1)(t)	Suggest leaving "Credential" intact. Rationale: Workforce development is a major national initiative. Many students and professionals have learning objectives which specifically	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion, but that term be amended to duplicate the definition currently in the statute, which is: "Educational credentials" means degrees, diplomas, certificates,

## Summary of Comments on Proposed Rules

April 26, 2012 Commission Meeting

Committer	Rules of Interest	Comment Summary	Commission Staff Comment
Approval on the 4/26 Commission Meeting Agenda)		include obtaining certain industry credentials. The term "credential" is also used on Page 8 as part of the definition for (jj) "Postsecondary educational institution."	transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution." While it is not necessary to duplicate a statutory definition in the rules, it may be helpful to rule readers to have the definition in the rules.
Tennessee Proprietary Business School Association  Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02.03(1)(u) (in the 3/5/12 redline)	<p>Diploma mills can be "traditional" or "nontraditional" in appearance, can charge a huge tuition and they are not just degree granting.</p> <p>Per Weston Distance Learning, Inc., the suggested definition is "'Diploma mill'" means an unaccredited and non-state approved postsecondary school that offers postsecondary training that is not commensurate with obtaining bona fide occupational skills or subject knowledge."</p> <p>"The <a href="#">Higher Education Opportunity Act</a> defines a diploma mill as follows:            DIPLOMA MILL- The term `diploma mill' means an entity that--            (A)(i) offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; and            (ii) requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate;            and</p>	<p><input checked="" type="checkbox"/>/ <input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion; however, upon further review it is the opinion of the Commission staff that the definition is not needed in the rules because the term is not used elsewhere in the rules. The term is defined at T.C.A. § 49-7-2003(6). That definition reads: "a nontraditional, unaccredited postsecondary school that offers degrees for a relatively low flat fee, promotes the award of academic credits based on life experience, and does not require any classroom instruction."</p>

## Summary of Comments on Proposed Rules

April 26, 2012 Commission Meeting

Committer	Rules of Interest	Comment Summary	Commission Staff Comment
		<p>(B) lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education (as such term is defined in section 102) by--</p> <p>(i) the Secretary pursuant to subpart 2 of part H of title IV; or (ii) a Federal agency, State government, or other organization or association that recognizes accrediting agencies or associations.</p>	
<p>Larenda LLC (Larenda Emerging Technologies College – Recommended for Authorization Approval on the 4/26 Commission Meeting Agenda)</p> <p>Weston Distance Learning, Inc. (At-Home Professions)</p>	<p>1540-01-02-.03(1)(w)</p>	<p>Suggest slight revisions to verbiage to reflect a more updated definition such as the following:</p> <p>(w) "Distance Learning" means a system and process that connects learners with distributed learning resources through delivery systems such as cloud-based and mobile app platforms providing (but not limited to) virtual textbook curricula, prerecorded instructional videos; webcasts; live, interactive audio- or videoconferencing; virtual world classrooms, CDs or DVDs; or computer-based systems accessed over the Internet, where there is physical separation of the instruction and the student. Source: <a href="http://nces.ed.gov/fastfacts/display.asp?id=80">http://nces.ed.gov/fastfacts/display.asp?id=80</a></p> <p>Suggest change "Distance Learning" to lower case.</p>	<p><input checked="" type="checkbox"/> Commission staff does not recommend adopting a new definition of "distance learning" without further comment from institutions. The proposed definition is identical to the definition of "long distance learning." The only proposed changes are to delete the word "long" and reorder the term alphabetically within 1540-01-02-.03(1). Commission staff notes that the recommended definition does not include correspondence, yet a few authorized institutions continue to use correspondence training. Additionally, the National Center of Educational Statistics website referenced by Larenda LLC specifically excludes correspondence from "distance education." Commission staff will mark this comment for discussion during any future rulemaking.</p> <p><input checked="" type="checkbox"/> Commission staff recommends adopting the capitalization suggestion such that the term will be listed as "Distance learning." This change improves the formatting of the rules as a whole.</p>
<p>Weston Distance Learning, Inc. (At-Home Professions)</p>	<p>1540-01-02-.03(1)(aa)</p>	<p>Other than "communication/language skills," general education can also include history, basic science, freshman-level math. Perhaps the connector word can be changed from "and" to "or" so that one or more of the three parts of the definition for "general education</p>	<p><input checked="" type="checkbox"/> Commission staff recommends adopting the suggestion that the "and" be changed to "or" so that any of three parts of the definition apply.</p>

## Summary of Comments on Proposed Rules

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Commenter	Rules of Interest	Comment Summary	Commission Staff Comment
		courses” apply rather than all three applying.	
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.03(1)(bb)	First use of acronym generally appears after full spelling of what it represents. In this case, suggest beginning the sentence with, “Independent certified public accountant (C.P.A.).”	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion. This change improves the formatting of the rules as a whole.
Tennessee Proprietary Business School Association	1540-01-02-.03(1)(cc) (in the 3/5/12 redline)	The definition of “institute” uses the term “traditional,” which tends to classify degrees by institutional accreditation. The restriction should not be in the rule.	<input checked="" type="checkbox"/> / <input checked="" type="checkbox"/> Commission staff does not recommend adopting this particular suggestion. However, upon further review of the rules and the Postsecondary Education Authorization Act of 1974, it is the opinion of the Commission staff that the definition of “institute” is not needed in the rules because the term is not used elsewhere in the rules or in the Act.
Larenda LLC (Larenda Emerging Technologies College – Recommended for Authorization Approval on the 4/26 Commission Meeting Agenda)	1540-01-02-.03(1)(dd)	Suggest slight revisions to (ee) "instructional site" to consider verbiage such as: “that is commercially zoned; dual-zoned; or otherwise approved by local zoning and utilized for the training of students.” Particularly with distance learning programs and urban "live-work" districts, many local level zoning ordinances do offer allowances for special considerations for educational entities.	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion without further comment from institutions. The Commission adopted the proposed definition in 2008. Commission staff will mark this comment for discussion during any future rulemaking.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02.03(1)(ff)	Suggest use of “includes” instead of “means.”	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion as it is the opinion of Commission staff that the definition “includes” suggests that there may be other non-exempt institutions.
Nashville Auction School	1540-01-02-.03(1)(ii)	The removal of language limiting THEC and DPSA to the state of Tennessee is too broad and opens the door for Tennessee to regulate educational institutions which do not have a footprint in this state and who are not actively recruiting in Tennessee. The change oversteps the Commission’s legislative authority.	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion. The definition proposed in this rulemaking was adopted by the Commission in 2008 and is identical to the definition in T.C.A. § 49-7-2003(11). Moreover, the scenario described by the commenter where Tennessee would regulate institutions that “do not have a footprint in this state and who are not actively recruiting in Tennessee” cannot occur because the Commission requires an institution to have a physical presence in

## Summary of Comments on Proposed Rules

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Committer	Rules of Interest	Comment Summary	Commission Staff Comment
			Tennessee before authorization is required. The definition of physical presence is found in Rule 1540-01-02-.03(1)(ii).
North Central Institute	1540-01-02.03(1)(ss)	The definition of "tuition" should not include equipment fees.	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion. Since at least 1998, this definition has included monies and fees charged for instruction/training. The proposed revision is intended to add clarity to the definition and provide non-exempt institutions better notice of the fees that fall within the definition of tuition. During meetings over the last couple of years, institutions agreed with the proposition that a fee for an item/service that is necessary to the training (e.g., a knife set for culinary training) falls within the definition of tuition. Institutions did suggest the addition of language explaining that fees paid to third parties or activity fees are not tuition. Commission staff agreed and added such language.
National College of Business and Technology (Corporate Office)  Tennessee Proprietary Business School Association	1540-01-02-.03(uu)	<p>The definition of "university" should mirror the Virginia Administrative Code definition, which reads: "any institution offering programs leading to degrees or degree credit beyond the baccalaureate level." The current definition is anachronistic and does not reflect modern reality in education. A number of universities in Tennessee are distinguished from colleges not by virtue of any research facilities, activities or capacities, but by the fact that they offer advanced degrees.</p> <p>The definition uses the term "traditional," which in conjunction with Rule 1540-01-02-.06(14)(a), requires regional accreditation. The restriction should not be in the rule.</p>	<input checked="" type="checkbox"/> Commission staff does not recommend adopting a new definition of "university" without further comment from institutions. The current definition has been in place since at least 1993. The proposed revision seeks only to remove the list of traditional degrees from this definition and the definition of college into a stand-alone definition of "traditional degree." Commission staff will mark this comment for discussion during any future rulemaking.

## Summary of Comments on Proposed Rules

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Committer	Rules of Interest	Comment Summary	Commission Staff Comment
<p>Aircraft Owners &amp; Pilot Association (AOPA) – Southern Region</p> <p>Wings of Eagles School of Flight (Smyrna and Nashville)</p>	<p>1540-01-02-.05(1)(d)</p>	<p>The institution is already heavily regulated by the Federal Aviation Administration and Veterans Affairs. The rule is incongruent with the realities of a very heavily regulated and diverse process that is administered by the Federal Aviation Administration.</p> <p>It appears that there has been no consultation with those impacted within the aviation industry.</p> <p>It is unclear how the vocational/avocational intent of the student will be determined.</p> <p>The rule discriminates against Part 141 flight schools who must now comply with the rules. The rule discourages establishing Part 141 flight schools. The rule is beyond THEC’s ability to equitably administer and enforce.</p> <p>Tennessee should review California Senate Bill 619.</p> <p>Students and instructors are not required to have a high school diploma or a GED in order to obtain pilot licenses. There are no upfront</p>	<p>✘ DPSA proposes to add the language in order to return the rule to its 2008 form.<sup>1</sup> The flight school exemption derives from the statutory exemption in T.C.A. § 49-7-2004(3), which exempts “[e]ducation solely avocational or recreational in nature, as determined by the commission, and institutions offering such education exclusively.” The intent of the proposed revision is to memorialize the determination that avocational flight school training is exempt, but any vocational training is subject to regulation by the Commission. Ultimately, the requirement that vocational programs be authorized is statutory, and it is beyond the authority of the Commission to exempt such programs or institutions offering vocational programs.</p> <p>DPSA notes that it is not necessary to determine the vocational/avocational intent of each student. Instead, DPSA looks at the program as a whole when deciding whether a program is vocational or avocational. Many programs lend themselves to avocational pursuits yet the program is “organized primarily for job entry or upgrading of job skills that would result in a new job or position.”<sup>2</sup></p> <p>DPSA has reviewed California Senate Bill 619.<sup>3</sup> DPSA opines that adopting similar language as a rule exceeds</p>

<sup>1</sup> A similar version of the exemption language appears in THEC rules as early as 1985. In that year, the language read: “Aviation programs which teach students for private pilot’s rating and are under the supervision of the Federal Aviation Administration.” Effective March 31, 1993, the Commission revised the language such that with the exception of language addressing schools previously treated as exempt the language of rule was the same as that proposed in this rulemaking. This exemption language remained in the rules until 2000 when as a result of an error the language was not included in the official version of the rules. In the 2008 rulemaking proceeding, THEC corrected the error by inserted the language in Rule 1540-01-02-.05. When the Davidson County Chancery Court declared the 2008 rulemaking void and of no effect, the rule language, with the exception of 1540-01-02-.25, reverted to the language in the 2000 version of the rules. Thus, the exemption language is not in the 2011 version of the rules.

<sup>2</sup> See Rule 1540-01-02-.03(1)(qq) (2011) (definition of vocational).

<sup>3</sup> The language of the Bill 619 reads:

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		charges; the only requirement is to pay as you fly.	<p>the Commission’s authority because the proposed exemption language could include vocational programs.</p> <p>DPSA notes that the proposed language does not create a new requirement. Thus, the commenter’s suggestion that Part 141 must “now” comply with the rules is not accurate. Any institution that must be authorized after the effective date of these proposed revisions is currently required to be authorized by the Postsecondary Educational Authorization Act of 1974. This determination is consistent with a recent Attorney General opinion in which the Attorney General opined that a private or proprietary flight training school falls within the definition of postsecondary educational institution. See AG Opinion No. 12-35 (March 12, 2012).</p>
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.05(1)(i)	Add hyphen to compound adjective “short-term.”	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it is a typographical or grammatical correction.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.05(4)	Revise last sentence to, “A request may be denied if it is not received in a timely manner.” Consider defining “timely.”	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as the change improves the reading of the rule.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.06(14)(c)	Add “university” to the rule – “No unaccredited institution may use “university” or “college” in its name unless...”	<input type="checkbox"/> Commission staff does not recommend adopting this suggestion as restrictions on the use of “university” are in Rule 1540-01-02-.06(14)(a), and an unaccredited institution may never use “university” in its name.
Tennessee Proprietary Business School Association	1540-01-02-.06(14)(d)1	The rule distinguishes between types of accreditation and allows unnecessary classification and limitations based on the type of accreditation.	<input type="checkbox"/> Commission staff does not recommend modifying the existing rule without further comment from institutions. At this time, Commission staff is not proposing any revisions to the language in part 1. Instead, the only

(k) Flight instruction providers or programs that provide flight instruction pursuant to Federal Aviation Administration regulations and meet both of the following criteria:

- (1) The flight instruction provider or program does not require students to enter into written or oral contracts of indebtedness.
- (2) The flight instruction provider or program does not require prepayment of instruction-related costs in excess of two thousand five hundred dollars (\$2,500).

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			change is that the part is renumbered as a result of revisions to other provisions in the rule. Commission staff will mark this comment for discussion during any future rulemaking.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.07(1)(b)	To be consistent with other portions of the rules, provide rule reference number for "Authorization – What Constitutes a Complete Application."	<input checked="" type="checkbox"/> Commission staff recommends adopting the suggestion as the change improves the formatting of the rules as a whole.
North Central Institute	1540-01-02-.07(6)	Commission authorized schools should have a \$10,000 bond and the Commission should not differentiate between private and public schools with regard to the bond requirement.	<input type="checkbox"/> Commission staff does not recommend adopting this suggestion. The rule derives from T.C.A. § 49-7-2013, which sets the bond amounts and applies only to institutions regulated pursuant to the Postsecondary Education Authorization Act of 1974.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.07(9)(d)1&2	To clarify, can the form used for #1 be named since the form for #2 is named?	<input checked="" type="checkbox"/> Commission staff recommends adopting the suggestion as the change improves the formatting of the rules as a whole.
Tennessee Proprietary Business School Association  Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.07(9)(d)3	The new rule as written cause institutions unnecessary expense based on an opinion of tuition and fee revisions being excessive and unreasonable without a defined scale of measurement.  Insert hyphen for "in-depth" compound adjective.	<input type="checkbox"/> Commission staff does not recommend adopting this suggestion. This provision has been in the rules since at least 1998. The primary intention of the revision is to move the language from 1540-01-02-.13(9), governing enrollment agreements, to Rule 1540-01-02-.07(9), governing program revisions. Commission staff submits that the move improves the organization of the rules.  Commission staff opines that there is statutory authority for this provision; therefore, the Commission should approve the revision as proposed. T.C.A. § 49-7-2006(a)(1)(H) mandates that the Commission require an institution to be "financially sound and capable of fulfilling its commitments to students." Commission staff implements this statute in various ways one of which is this rule. Moreover, Commission staff submits that standard in the rule is such that an audit would only be triggered in rare instances. In fact, Commission staff is not aware of any instance where staff deemed it necessary to conduct the audit provided for by this rule.



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Commenter	Rules of Interest	Comment Summary	Commission Staff Comment
			<input checked="" type="checkbox"/> Commission staff recommends adopting the suggestion to insert a hyphen as it is a typographical or grammatical error.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.07(9)(d)3&4	Insert line space between item 3 and 4.	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it is a typographical error.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.07(9)(d)(5)	For clarification, suggest revising first long sentence to add a period after “enrollment.” Begin new sentence directly after that with “Any course addition must be in response to...”	<input checked="" type="checkbox"/> Commission staff recommends adopting the suggestion as the change improves the reading of the rule.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.07(10)(a)(3)	Suggest this item address purchase as well as lease.	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it will better address all location changes. The language of Rule 1540-01-02-.07(10)(a)(3) should read, “copy of an executed lease or proof of ownership, and”.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.08(2)(a)(1)	Insert hyphen in “entry-level” compound adjective.	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it is a typographical or grammatical error.
Anthem Career College (Nashville) Daymar Colleges Group, LLC (Corporate Office-3 letters, Clarksville, Nashville, and Murfreesboro) International Academy of Design & Technology ITT Technical Institute (Cordova) Miller-Motte Technical College (Madison)	1540-01-02-.08(3)(a)	This rule is unique to Tennessee and has a negative effect on Tennessee graduates. The non-traditional degree name is normally not recognized in the business community. It is confusing to the employers and penalizes students.  Other states and the federal government do not differentiate between national and regional accreditation.  THEC’s definition of accreditation only recognizes accrediting bodies that are recognized by the U.S. Department of Education. The regulation is too narrowly focused on creating distinctions between	<input checked="" type="checkbox"/> The amendment to Rule 1540-01-02-.08(3)(b) is proposed in order to formalize the approach generally taken by the Commission in the past with regard to exceptions to the degree name regulation. This amendment is intended to aid institutions by providing a clear set of factors that if met would result in an exception. The proposed rule, in fact, reduces what is requested today from institutions who seek to offer traditional degrees.  It is important to note that the proposed amendment to Rule 1540-01-02-.08(3)(b) does not change the accreditation distinction currently in effect, a distinction that the Commission has formally recognized since at least 1991. The degree name distinctions were recognized by the Commission in the past as a result of

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<p>Nashville Auction School</p> <p>National College of Business and Technology (Corporate Office, Bristol, Nashville, Memphis, Bartlett, Madison and Knoxville)</p> <p>North Central Institute</p> <p>Remington College (Memphis)</p> <p>Tennessee Association of Independent Colleges &amp; Schools</p> <p>Tennessee Proprietary Business School Association</p> <p>Virginia College (corporate)</p> <p>Weston Distance Learning, Inc. (At-Home Professions)</p>		<p>private sector proprietary institutions and public sector and private sector, non-profit institutions.</p> <p>This rule is antithetical to the interests of Tennessee consumers. THEC should apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions.</p> <p>U.S. Department of Education approves the scope of national accreditors to include higher-level degrees, up to and including Ph.D.'s.</p> <p>Regionally and nationally accredited institutions are required to comply with the same rules.</p> <p>National accreditors mandate content requirements that are nearly identical to, and in some respects, exceed the requirements of the Southern Association of Colleges and Schools (SACS). Faculty requirements of national accreditors compare favorably to SACS's requirements. The name of a degree should be based on the curricular content of the program.</p> <p>It is not clear that the proposed exception language that allows the use of degrees if an institution has articulation agreements with two SACS-accredited institutions is meaningful.</p> <p>This section does not address regionally-accredited distance educators.</p>	<p>its consumer protection responsibilities outlined in the Postsecondary Education Authorization Act of 1974. Traditional degree designations have developed over the years under the purview of the regional accrediting agencies and the institutions accredited by those agencies to meet established, rigorous standards.</p> <p>This concept is reinforced by the knowledge that, although thoughts on national and regional accreditation vary, it is generally accepted that national accreditation developed as a means to accredit institutions that offer programs with a vocational or technical focus rather than institutions offering programs with a comprehensive focus. This explains, for example, the use of "applied" or "occupational" in degree names as these qualifiers signify the vocational or technical focus of the degree.</p> <p>While one might suggest that the reach of national accreditors is changing, it remains that in Tennessee today, many of the degree programs offered by nationally accredited institutions are vocational/technical in nature, for example, degrees in fields related to computer technology or allied health.</p> <p>The need for the distinction in the proposed requirements for receiving an exception is further supported by the expectations of those students receiving traditional degrees. Using associate degrees as an example, as this is the degree most commonly offered by the nationally accredited institutions in Tennessee, Associate of Arts (AA) and Associate of Science (AS) degrees are designed to prepare students for transfer to baccalaureate programs. Given this, it is without question that THEC should strive to ensure that students enrolling in AA and AS degree programs will be able to further their education by pursuing a baccalaureate degree. Today in Tennessee, the number of</p>

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			<p>baccalaureate degrees offered by nationally accredited institutions is minimal when compared to the regionally accredited institutions. Thus, it is only reasonable to apply a standard that provides students with the greatest access to opportunities. This is accomplished by requiring articulation agreements with regionally accredited institutions before allowing the use of traditional degree names. Any less stringent standard would work in opposition to THEC's statutory role to protect students.</p> <p>Similarly, students receiving traditional bachelor's degrees may anticipate receipt of a graduate degree. In Tennessee, in nearly every instance, this means attending a regionally accredited institution.</p> <p>All this being said, DPSA realizes that there may be instances when an exception to a general rule is appropriate, thus the need for the exception process. DPSA opines that if an institution meets the criteria set forth in the proposed revision, then that institution will have demonstrated that its programs are equivalent to those traditional programs that have developed through the years. Additionally, Tennessee students will have a greater opportunity to seamlessly transition to a baccalaureate or graduate degree program.</p> <p>One comment received suggests that the articulation agreement must be with a SACS accredited institution. This is not true. The proposed revision requires "articulation agreements with two (2) regionally accredited institutions with physical locations in the Southeast region and the agreements are applicable to at least one of the institutions' physical locations in the Southeast region."</p> <p>For the purposes of the exception listed in 1540-01-02-</p>

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			.08(3)(a), the articulation agreements must be with institutions with a physical location in the Southeast. The decision to require a physical location was intentional. Commission staff recommends that this requirement remain in the exception in order to ensure that Tennessee students have residential options available in the Southeast.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.08(3)(c)	Is there any requirement for unaccredited degree-granting institutions to eventually gain accreditation? Many states require this.	<input type="checkbox"/> Commission staff does not recommend adopting an accreditation requirement as there are safeguards currently in place. The statutes and rules governing postsecondary educational institutions in Tennessee do not require unaccredited degree-granting institutions to gain accreditation. Rule 1540-01-02-.08(c)(3), however, sets forth standards for such institutions to ensure that they are offering quality degree programs. Moreover, pursuant to Rule 1540-01-02-.06(14), if an unaccredited institution wants to use college in its name, it must use a qualifier and achieve accreditation in a timely manner while demonstrating good faith efforts toward achieving that goal.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.08(3)(c)1	Insert hyphen in “degree-granting” compound adjective.	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it is a typographical or grammatical error.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.08(4)(c)	“Directly and indirectly” may cause confusion. Can this simply say, “Distance learning institutions must meet all requirements...?”	<input type="checkbox"/> Commission staff does not recommend adopting this suggestion without further comment from institutions. Commission staff is not proposing any revision to the direct/indirect language, but will mark this comment for discussion during any future rulemaking.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.08(4)(d)(1)	Suggest changing “the home study method” to “distance education.”	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion, but using the term “distance learning.” This change improves the consistency of the rule.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.08(4)(d)2-5	These items seem like something that should be required of all institutions, not just distance educating institutions.	<input type="checkbox"/> Commission staff does not recommend adopting this suggestion. Commission staff agrees that in some instances the requirements referenced by the

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Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.10(4)&(5)	<p>If placement services are not required, why is a school (other than those granted a waiver) that does not provide placement required to report a placement number? This is confusing to us as well as our students.</p> <p>Our other regulatory agencies acknowledge “placement” as a school’s decision whether to actively place graduates in employment situations. Our understanding from TN is that the reference to “placement” is used more as an “employment” number representing graduates who obtain a job (either through placement or their own job search). Should this be reworded to be an “employment” statistic?</p>	<p>commenter are applicable to both residential and distance learning institutions. However, those requirements appear elsewhere in the general requirements. See Rules 1540-01-02-.07, .10 and .16.</p> <p><input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion. Initially, Commission staff notes that the proposed revisions do not include any changes to paragraph (4). The proposed revision of paragraph (5) changes the current practice of receiving institution-wide waivers to program specific waivers. Thus, the comment does not address a proposed revision, and Commission staff does not recommend any revision be adopted without further comment from institutions.</p> <p>For informational purposes, Commission staff notes that Tennessee has used the term “placement” as it appears in today’s rules since at least 1990. Additionally, the Postsecondary Education Authorization Act of 1974 uses the term “placement.” T.C.A. § 49-7-2008(3) provides: “The commission may require an institution to publish placement rates and other information indicating actual employment and earnings in relevant occupations post successful completion of offered programs.” The term placement also appears in T.C.A. § 49-7-2019 as “job placement.” Commission staff submits that the use of the term in the rule is consistent with the Postsecondary Education Authorization Act of 1974. It is a standard within the industry, including the U.S. Department of Education, to use the term placement rates when referring to the employment of a student after completion of a program. Commission staff does not believe that the use of the term placement is misleading to a potential consumer. It is the duty of the institution to fairly disclose the availability of placement assistance.</p>
Weston Distance Learning, Inc. (At-Home	1540-01-02-.10(6)	Suggest changing “pupil teacher ratios” to “pupil to teacher ratios.”	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it is a typographical error.

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Professions)			
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.11(1)(o)	Adjust statement in quotes to remove initial "The." Otherwise, the sentence will be awkward with a school with a name like ours, "The At-Home Professions is authorized..."	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it improves the reading of the rule.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.11(1)(r)	Does "cash discount" mean tuition paid in full at the time of enrollment?	<input checked="" type="checkbox"/> There is no definition of "cash discount" because it is the responsibility of the institution to develop a written cash discount policy that includes the definition of "cash." Please see the proposed revisions to Rule 1540-01-02-.19. As long as a cash discount is utilized in accordance with the statutes and rules governing postsecondary educational institutions, the applicability and definition of "cash" is determined by each institution. Commission staff acknowledges that institutions are unique and may seek to define and apply the cash discount differently.
Anthem Career College (Nashville) Daymar Colleges Group, LLC (Corporate Office-3 letters, Clarksville, Nashville, and Murfreesboro) International Academy of Design & Technology ITT Technical Institute (Cordova) Miller-Motte Technical College (Madison) Nashville Auction School North Central Institute Tennessee Association of Independent Colleges &	1540-01-02-.12(1)(a)	The Commission should follow the professional licensure requirements for admission policies. In some cases, it is a fact that professional licensure supersedes the high school diploma in order to obtain employment. This rule revision creates a barrier for students who could otherwise obtain employment in the state of Tennessee. This rule establishes admission standards which do not apply to similar programs offered through Tennessee's Technology Centers and Community colleges.  Suggest allowing the completion of up to the first 50% of assignments in the non-degree program as evidence of ability to benefit from the program's instruction. If a student's grade falls below a "C" at any point during that time, the school must consider student unable to benefit from the program and refund all	<input checked="" type="checkbox"/> Commission staff does not recommend adopting the suggestion regarding professional licensure requirements. First, staff notes that Rule 1540-01-02-.12(1)(a) does not establish new minimum standards. Similar standards have been used by the Commission since 1985. Today, Commission staff is recommending that the Commission state the standards in a more straight-forward manner to ensure a better understanding by readers. The Commission should not adopt a new minimum standard without further comment from institutions.  Second, one aspect of the consumer protection function of this agency is to ensure that an individual has enough information at the time of enrollment to make an informed decision regarding the investment of time and money. Thus, this rule uses certain proxies (that is, receipt of a high school diploma or GED or passage of an ability to benefit test) to ensure that students have the necessary ability to benefit. The ability of an institution

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<p>Schools Tennessee Proprietary Business School Association</p>		<p>monies paid.</p>	<p>to enroll a student without knowing whether the student will have the ability to benefit is not in line with the Commission’s consumer protection function.</p> <p><input checked="" type="checkbox"/> Commission staff does not recommend adopting the suggestion regarding completion of 50% of assignments. Staff contends that the ability to benefit should be established prior to enrollment to avoid any unnecessary expense of time and money.</p> <p>Commission staff notes that Rule 1540-01-02-.02(2)(d) allows the Executive Director to exempt a program from compliance with a specific rule if the exemption can be demonstrated to be in the public good or interest.</p>
<p>Capella University South College</p>	<p>Rule 1540-01-02-.12(1)(b)</p>	<p>The proposed change may limit an institution’s ability to offer programs in the future. Most states do not set a minimum degree requirement for graduate degree programs. If they do, a high school diploma is mentioned as a requirement on a general level. If the Commission chooses to set a minimum degree requirement, we suggest an exception to this requirement listed in this rule as an alternative. For example, Georgia regulations do require a possession of a baccalaureate degree for admission into a graduate level program, but it allows for the institutions to have special admission policies as long as it is approved by the state.</p> <p>The rules indicate that for a graduate degree program, a baccalaureate degree must be required. This is not the case for Doctor of Pharmacy programs. There is a long list of prerequisites for the program that usually equate to 2-3 years of the program. The</p>	<p><input checked="" type="checkbox"/> Commission staff does not recommend adopting the suggestion regarding the minimum standards for degree program admission policies. First, staff notes that this is not a new requirement. These same minimums are currently listed in Rule 1540-01-02-.12(4) and have been in effect since 1985. Today, Commission staff is recommending that the Commission move those requirements to Rule 1540-01-02-.12(1)(b) so that admission policies for both degree and non-degree programs are listed together. The Commission should not adopt a new minimum standard without further comment from institutions.</p> <p>Commission staff notes that Rule 1540-01-02-.02(2)(d) allows the Executive Director to exempt a program from compliance with a specific rule if the exemption can be demonstrated to be in the public good or interest.</p>

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		<p>University of Tennessee does not require a bachelor's degree for admission.</p> <p>In addition, the proposed rule change requires the Commission to judge baccalaureate degrees to be appropriate. Capella University proposes the following language be added: "from an institution <i>accredited by an agency recognized by the U.S. Department of Education.</i>"</p>	
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.13(2)(d)	Insert hyphens in "full-time" and "part-time" compound adjectives.	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it is a typographical or grammatical error.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.13(2)(i)	"Format" generally applies to the layout of something. Suggest revising sentence to "including on the form the following statement:"	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.13(4)(b)	Suggest making social security number optional to coincide with change to 1540-01-02-.15(5)(e).	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion because Commission staff allows an institution to use a unique student identification number in lieu of a student's social security number on the master student registration list <sup>4</sup> and believes that adding such language to the enrollment agreement requirements is appropriate as well.
Bridgepoint Education (Ashford University and University of the Rockies)	1540-01-02-.13(4)(j)	The rule creates an impractical and unreasonable requirement for the vast majority of institutions that enroll students at multiple times during the year. Institutions cannot practically guarantee to all students that their tuition will not increase within twelve months from the time of enrollment. A feasible way to ensure that the Commission meets its goal of creating proper disclosure standards and enabling rolling admissions	<input type="checkbox"/> Commission staff does not recommend adopting the suggestion. A similar requirement has been in the rules since at least 1995. The proposed revision before the Commission moves the existing language from .13(6) to .13(4)(j) and changes "one calendar year" to "twelve (12) months." Commission staff explains to institutions that the language used by the institution should be such that the student may calculate the maximum tuition for which the student will be liable in the next 12 months or 1200 contact hours. Thus, language such as "currently

<sup>4</sup> See proposed revisions to Rule 1540-01-02-.15(5)(e).



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		could be through appropriate disclaimers, rather than a guarantee. The proposed amended language is: "if applicable, a disclaimer that states tuition and fees may increase within 1200 contact hours or twelve (12) months from the time of enrollment."	tuition is set at \$10,000 and will not be increased by more than 5% in the next 12 months" is compliant with the rule. Commission staff encourages the commenter to contact Commission staff to develop complaint language that compliments the commenter's business model.
<p>Bridgepoint Education (Ashford University and University of the Rockies)</p> <p>Weston Distance Learning, Inc. (At-Home Professions)</p>	1540-01-02-.13(7)	<p>Suggest changing word "counseling" to "due notice" or define amount of advance notice a school must provide a student.</p> <p>"Counseling" is a vague term that may impose unintended requirements upon institutions. Proposed amended language is "provide financial counseling and/or notice related to the tuition increase."</p>	<p><input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion without further comment from institutions. The term "counseling" has been in the rules since at least 1998. The use of the word counseling is to convey that institutions are to explain changes, answer questions and address concerns. Commission staff will mark this comment for discussion during any future rulemaking.</p>
<p>Anthem Career College (Nashville)</p> <p>Daymar Colleges Group, LLC (Corporate Office-3 letters, Clarksville, Nashville, and Murfreesboro)</p> <p>International Academy of Design &amp; Technology</p> <p>ITT Technical Institute (Cordova)</p> <p>Miller-Motte Technical College (Madison)</p> <p>Nashville Auction School</p> <p>National College of Business and Technology (Bristol, Nashville, Memphis, Bartlett,</p>	1540-01-02-.15(6)(b)	<p>We recommend that THEC delete the DD214 form and insert and accept the ERB instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB) does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.</p>	<p><input checked="" type="checkbox"/> Commission staff recommends adopting this recommendation as the revised language will clarify the requirements of the rule. The proposed language reads: "proof that the student meets the institution's admission requirements. If a high school diploma or the equivalent is required, the institution shall have on file an official copy of the high school transcript, the equivalency certificate with scores which meet the state's minimum for passing, or an official transcript from a postsecondary educational institution or official documentation from the U.S. Department of Defense that indicates that the student received a high school diploma or GED (military documentation includes a DD Form 214 Certificate of Release or Discharge from Active Duty or Enlisted Record Brief); or if an ability-to-benefit basis, the institution shall have on file official records of such; . . ."</p>

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<p>Madison and Knoxville) North Central Institute Remington College (Memphis) Tennessee Association of Independent Colleges &amp; Schools Tennessee Proprietary Business School Association</p>			
<p>North Central Institute Weston Distance Learning, Inc. (At-Home Professions)</p>	<p>1540-01-02-.15(6)(e)(3)</p>	<p>To be consistent with 1540-01-02-.15(5)(e), change to “social security number or unique student identification number.”</p>	<p><input type="checkbox"/> Commission staff does not recommend adopting this suggestion. Commission staff understands the institution’s sensitivity to collecting and using social security numbers; however, in this instance institutions should indicate the social security number on the transcript. A transcript follows a student for life and may be requested by a postsecondary educational institution or employer in the future. Often, the social security number is the only identifying information that remains constant.</p>
<p>Capella University</p>	<p>1540-01-02-.16(1)(b)</p>	<p>The proposed rule change would be tremendously onerous on our faculty, requiring them to complete these applications and keep them at the institution. Alternative language proposed is: “For each instructor, an accredited institution shall complete a School Personnel Application (or comparable substantive documentation) and maintain it in the institution’s personnel file.”</p>	<p><input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion in part. The purpose of the proposed revision is to promulgate a rule for a procedure initiated in 1999. Currently, the rules require that all institutions submit School Personnel Applications for all administrative personnel and instructors. In 1999, accredited institutions were permitted to retain the original School Personnel Applications for instructors in-house and not submit the documents to Commission staff. The proposed rule continues this practice, but only requires the accredited institution to complete a School Personnel Application at the request of Commission staff. This ensures that when information is needed, it will be presented in a format familiar to Commission staff.</p>

## Summary of Comments on Proposed Rules

April 26, 2012 Commission Meeting

Committer	Rules of Interest	Comment Summary	Commission Staff Comment
Bridgepoint Education (Ashford University and University of the Rockies)	1540-01-02-.16(2)	To ensure a more reasonable standard, the word "reasonable" shall be included in the text such that the rule reads "upon reasonable request from Commission staff."	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion as Commission staff would not make an unreasonable request.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.16(15)(h)	Suggest consideration of Colorado § 12-59-117(1)(k). This section lists as a deceptive trade or sales practice the following: A school or agent to designate or refer to its sales representatives as "counselors" or "advisors" or to use words of similar import which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of such sales representatives or agents.	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion without further comment from institutions. Commission staff notes that it did not propose any revisions to subparagraph (h). Commission staff will mark this comment for discussion during any future rulemaking.
Nashville Auction School	1540-01-02-.18(6)	This rule restricts the rights of prospective students to pay for their schooling in a manner that works within their financial planning. The rule should allow an institution to accept pre-paid tuitions and fees provided the cumulative total of all prepaid funds on the institution's accounting ledger at any given time do not exceed the limits of the bond.	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion. The Commission adopted this language in 2008. The language was proposed at that time because staff had administered an institutional closure where the institution had collected large sums of money from students far in advance of the students' start dates. As a result, Commission staff arranged teach-outs that were funded through the Tuition Guarantee Fund. The charge to the fund was \$415,000. Commission staff advises that the proposed alternative would be difficult for some institutions to manage and Commission staff to monitor.
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.20(6)	Delete extra period at end of this item.	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion as it is a typographical correction.
Larenda LLC (Larenda Emerging Technologies College – Recommended for Authorization Approval on the 4/26 Commission Meeting Agenda)	1540-01-02-.21(1) and (2)	Regular Authorization: Suggest clarification to include verbiage such as: "After the initial Temporary Authorization period of twenty-four months, institutions must be reauthorized annually on forms supplied by the Commission staff." Rationale: On previous page (47), under Temporary Authorization (b) - it states ...must be maintained for at least	<input checked="" type="checkbox"/> Commission staff does not recommend adopting this suggestion since the proposed revision of Rule 1540-01-02-.09(1) clarifies that all institutions, regardless of authorization status, must submit the annual reauthorization application.

## Summary of Comments on Proposed Rules

April 26, 2012 Commission Meeting

Committer	Rules of Interest	Comment Summary	Commission Staff Comment
		twenty-four months..." Under Regular Authorization (p48), it is a bit confusing as to whether there must be any "annual" reporting/application after the first year of the 24-month Temporary Authorization period.	
Weston Distance Learning, Inc. (At-Home Professions)	1540-01-02-.23(1)	Suggest making this "24 business hours" to allow for fact that a decision could be made on a Saturday, and THEC will be closed more than 24 hours before school can contact them (unless contact is by email or voice mail).	<input checked="" type="checkbox"/> Commission staff recommends adopting this suggestion, but proposes that the revised language read "notify Commission staff within 24 hours or on the first business day following the date of the decision . . . ."



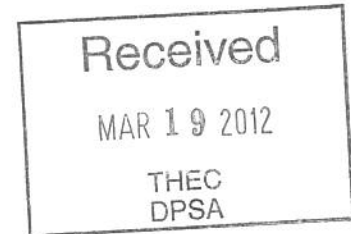
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March 19, 2012

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Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



Dear Ms. Woodruff:

We thank you for this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. We appreciate the vital role played by THEC and the State in the protection of our students. We know that you place the welfare of students above all other considerations, just as we do.

**Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as we know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended—and highly negative—effect on Tennessee’s college graduates entering the workforce.

Students who graduate from a nationally accredited college in Tennessee are placed at a very real disadvantage compared to students who attend a nationally accredited college in any other state. When applying for the same job, one graduate will have a traditional degree name on his/her diploma, while the other will have a degree name that is normally not recognized in the business community. It is our belief that this is confusing to the employer and clearly penalizes the students through no fault of their own.

Every other state (and the federal government) accepts that degrees issued by nationally accredited colleges are, in fact, “traditional undergraduate college degrees,” while Tennessee does not. Students continue to be set apart from college graduates who attended similar schools in other states (*or even from their cohorts attending the same institution with the same curricula at a campus in another state*). We sincerely do not believe this unique regulation serves the cause of consumer protection.

In the Commission’s own definition of accreditation, Section 1540-01-02-.03, the Commission only recognizes accrediting bodies that are recognized by the U.S. Department of Education.

We recommend that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes are in the best interest of Tennessee’s college students and graduates to ensure they are all on a level playing field with graduates from other states.

We believe this regulation is too narrowly focused on creating distinctions between private sector proprietary schools and public sector institutions in the minds of potential students while neglecting the potential real-world consequences of these rules on college graduates in the job market.

**Comments on Rule 1540-01-02-.06(14)**

We fully support the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution’s name. This recognizes all accrediting bodies and is in line with the U. S. Department

of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures they are all on a level playing field with graduates from other states.

**Comments on Rule 1540-01-02-.12(1)(a)**

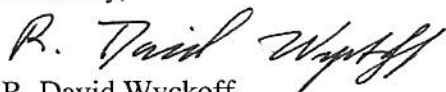
We recommend that THEC rules follow the professional licensure requirements for admissions policies. While we realize that high school diplomas are required for many professions, they are not required in all circumstances. In some cases, it is a fact that a professional licensure supersedes the high school diploma in order to obtain employment. This rule revision creates a barrier for students who could otherwise obtain employment in the state of Tennessee. We recommend that THEC recognize the professional licensure requirements where applicable and follow suit, thus removing obstacles to employment and career advancement.

**Comments on Rule 1540-01-02-.15(6)(b)**

We recommend that THEC delete the DD214 form and insert and accept the ERB instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB) does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.

We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,



R. David Wyckoff  
Associate Vice President  
Interim Campus President  
Anthem Career College  
560 Royal Parkway  
Nashville, TN 37214

Julie Woodruff

From: Bob Minter <minter.bob@gmail.com>  
Sent: Monday, March 19, 2012 5:06 PM  
To: Julie Woodruff  
Cc: Bill Orellana; Sen. Bill Ketron; Sen. Jim Tracy  
Subject: THEC RULES CHAPTER 1540-01-02 (1)(d) COMMENTS  
Attachments: Calif SB 619 Chaptered.pdf



TO: THE TENNESSEE HIGHER EDUCATION COMMISSION

Ref: RULES OF THE THEC – CHAPTER 1540-01-02 – AUTHORIZATION AND REGULATION OF POST SECONDARY EDUCATION INSTITUTIONS AND THEIR AGENTS

My name is Bob Minter and I am the Southern Region Manager of the Aircraft owners & Pilots Association, a not-for-profit membership organization representing the general aviation interests of over 400,000 members nationwide, including those of over 7,000 Tennesseans. AOPA members are both consumers and providers of flight training services.

As I read THEC Rule 1540-01-02-05 (1)(d) EXEMPTION with my over 50 years of experience in aviation and flight training, I am concerned that prior to the THEC’s promulgation of this proposed rule, it appears that no consultation with those impacted within the aviation industry has taken place. The incongruity of this rule, as currently written, with the realities of a very heavily regulated and diverse training and certification process administered by the Federal Aviation Administration is clearly apparent.

1. How does the THEC propose to establish the vocational or avocational intent or purpose of a flight student receiving instruction under either FAR Part 61 or Part 141?
2. There are thousands of Flight Instructors in Tennessee who teach flying independently both avocationally and vocationally under FAR Part 61.
3. Pilots frequently seek higher ratings, such as a Commercial Pilot Rating, to improve their skills with no intention of flying for hire. Likewise, Commercially Rated Pilots who do not fly for hire seek additional ratings, again to improve their skills and to certify in different types of aircraft, often times for insurance purposes alone.
4. This rule discriminates against FAR Part 141 Flight Schools who have invested extraordinary amounts of money into facilities, equipment and aircraft that now must meet the Rules and pay the fees of the THEC at even more expense, thus their customers/students will have to pay more. The rule discourages establishing a Part 141 Flight School in Tennessee and the jobs that are created as well.

The referenced proposed rule under (1) (d) EXEMPTION states: “While the FAA oversight ensures adequate curricula and safety of the student, the Commission’s oversight is focused on protection of the personal and financial interests of the student.”

I respectfully suggest that this proposed rule is far beyond the THEC’s ability to equitably administer and enforce as it relates to flight training and that it places aviation training businesses in Tennessee at an economic and competitive disadvantage with our neighboring states and nationally.

I urge you to study the action(s) of the State of California, especially the enactment of California Senate Bill 619, An act to amend Section 94874 of, and to repeal Section 94874.3 of, the Education Code, relating to private postsecondary education, and declaring the urgency thereof, signed by the CA Governor on September 20, 2011, Chaptered 309. A copy of Calif. SB 619 is attached for your convenience.

AOPA stands ready to be of any assistance possible and we sincerely appreciate this opportunity to comment. My contact information is below.

Respectfully submitted,

Bob Minter  
Southern Region Manager  
Aircraft Owners & Pilots Association

Cc: Mr. Bill Orellana, Director – TDOT Division of Aeronautics  
Sen. Jim Tracy  
Sen. Bill Ketron  
Mr. Greg Pecoraro, AOPA V.P. Govt. & Tech. Affairs  
Mr. Mark Kimberling, AOPA Director State Legislative Affairs



**Bob Minter**  
**AOPA Southern Region Manager**  
**(KY, TN, MS, AL, GA, FL, SC & NC)**  
**395 Devon Chase Hill, Suite #101**  
**Gallatin, TN 37066-6691**  
**Personal Office: (615) 452-3696**  
**Fax: (615) 829-8539**  
**iPhone: (865) 368-2646**  
**Email: [Bob.Minter@aopa.org](mailto:Bob.Minter@aopa.org)**



## Senate Bill No. 619

### CHAPTER 309

An act to amend Section 94874 of, and to repeal Section 94874.3 of, the Education Code, relating to private postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2011. Filed with  
Secretary of State September 21, 2011.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 619, Fuller. California Private Postsecondary Education Act of 2009: exemptions.

Existing law, the California Private Postsecondary Education Act of 2009, provides, among other things, for student protections and regulatory oversight of private postsecondary schools in the state. The act is enforced by the Bureau for Private Postsecondary Education within the Department of Consumer Affairs. The act exempts specified institutions from its provisions.

This bill would exempt from the act flight instruction providers or programs that provide flight instruction pursuant to Federal Aviation Administration regulations and meet specified criteria.

The act prohibits the bureau, for the period of July 1, 2010, to July 1, 2011, inclusive, from enforcing the act against institutions engaged in flight instruction and aircraft maintenance education, as specified, if those institutions notify the bureau that they are in operation during that time period.

This bill would repeal that provision.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 94874 of the Education Code is amended to read: 94874. The following are exempt from this chapter:

(a) An institution that offers solely avocational or recreational educational programs.

(b) An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(c) A postsecondary educational institution established, operated, and governed by the federal government or by this state or its political subdivisions.

(d) An institution offering either of the following:

(1) Test preparation for examinations required for admission to a postsecondary educational institution.

(2) Continuing education or license examination preparation, if the institution or the program is approved, certified, or sponsored by any of the following:

(A) A government agency, other than the bureau, that licenses persons in a particular profession, occupation, trade, or career field.

(B) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, occupation, trade, or career field.

(C) A bona fide trade, business, or professional organization.

(e) (1) An institution owned, controlled, and operated and maintained by a religious organization lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, that meets all of the following requirements:

(A) The instruction is limited to the principles of that religious organization, or to courses offered pursuant to Section 2789 of Business and Professions Code.

(B) The diploma or degree is limited to evidence of completion of that education.

(2) An institution operating under this subdivision shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(3) An institution operating under this subdivision shall not award degrees in any area of physical science.

(4) Any degree or diploma granted under this subdivision shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area.

(5) A degree awarded under this subdivision shall reflect the nature of the degree title, such as "associate of religious studies," "bachelor of religious studies," "master of divinity," or "doctor of divinity."

(f) An institution that does not award degrees and that solely provides educational programs for total charges of two thousand five hundred dollars (\$2,500) or less when no part of the total charges is paid from state or federal student financial aid programs. The bureau may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its Internet Web site, as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of this chapter.

(g) A law school that is accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or a law school or law study program that is subject to the approval, regulation, and oversight of the Committee of Bar Examiners, pursuant to Sections 6046.7 and 6060.7 of the Business and Professions Code.

(h) A nonprofit public benefit corporation that satisfies all of the following criteria:

(1) Is qualified under Section 501(c)(3) of the United States Internal Revenue Code.

(2) Is organized specifically to provide workforce development or rehabilitation services.

(3) Is accredited by an accrediting organization for workforce development or rehabilitation services recognized by the Department of Rehabilitation.

(i) An institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

(j) An institution that satisfies all of the following criteria:

(1) The institution has been accredited, for at least 10 years, by an accrediting agency that is recognized by the United States Department of Education.

(2) The institution has operated continuously in this state for at least 25 years.

(3) During its existence, the institution has not filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(4) The institution's cohort default rate on guaranteed student loans does not exceed 10 percent for the most recent three years, as published by the United States Department of Education.

(5) The institution maintains a composite score of 1.5 or greater on its equity, primary reserve, and net income ratios, as provided under Section 668.172 of Title 34 of the Code of Federal Regulations.

(6) The institution provides a pro rata refund of unearned institutional charges to students who complete 75 percent or less of the period of attendance.

(7) The institution provides to all students the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the second class session, or the 14th day after enrollment, whichever is later.

(8) The institution submits to the bureau copies of its most recent IRS Form 990, the institution's Integrated Postsecondary Education Data System Report of the United States Department of Education, and its accumulated default rate.

(9) The institution is incorporated and lawfully operates as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and is not managed or administered by an entity for profit.

(k) Flight instruction providers or programs that provide flight instruction pursuant to Federal Aviation Administration regulations and meet both of the following criteria:

(1) The flight instruction provider or program does not require students to enter into written or oral contracts of indebtedness.

(2) The flight instruction provider or program does not require prepayment of instruction-related costs in excess of two thousand five hundred dollars (\$2,500).

SEC. 2. Section 94874.3 of the Education Code is repealed.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to establish an exemption from the California Private Postsecondary Education Act of 2009 for flight instruction providers and programs that provide flight instruction pursuant to Federal Aviation Administration regulations, soon after a similar exemption expired on July 1, 2011, it is necessary that this act take effect immediately.

**Julie Woodruff**

**From:** Richard Harris <rharris@belhaven.edu>  
**Sent:** Friday, March 16, 2012 8:23 AM  
**To:** Julie Woodruff  
**Cc:** Stephanie Bellard; Dan Fredericks; Lee Skinkle  
**Subject:** RE: Suggested Rule Revisions



Dear Ms. Woodruff:

As a regionally accredited university that has long experience in Tennessee and a positive working relationship with THEC DPSA, we find the proposed rule changes will have limited impact on Belhaven University. Our review from the perspectives of both onsite and online campuses indicates Belhaven is currently in compliance with existing rules and the proposed changes.

Thank you for the opportunity to review and comment,

Richard Harris  
 Assistant VP for Adult Studies  
 Belhaven University  
[rharris@belhaven.edu](mailto:rharris@belhaven.edu)  
 407-379-0114

---

**From:** Julie Woodruff [<mailto:Julie.Woodruff@tn.gov>]  
**Sent:** Monday, March 05, 2012 2:09 PM  
**To:** Julie Woodruff; Stephanie Bellard  
**Cc:** Will Burns; Christina Coleman; Nicholas Cook  
**Subject:** Suggested Rule Revisions  
**Importance:** High

The Division of Postsecondary School Authorization (DPSA) is considering revisions to the state's rules governing postsecondary educational institutions in Tennessee. These rules are located in Rule Chapter 1540-01-02. You are being sent this email because you either work for an authorized institution or its corporate parent or are considered an interested person.

Attached you will find a draft of the suggested rule revisions. We encourage you to review them thoroughly. You may offer written comments for our consideration; comments may be submitted via mail, facsimile, or electronic mail. After review of all comments, we will decide whether to move forward with a rulemaking proceeding.

All written comments must be received by **Monday, March 19, 2012**, to ensure proper consideration can be given to your input. Any other questions or comments may be directed to me at (615) 253-8857 or [julie.woodruff@tn.gov](mailto:julie.woodruff@tn.gov).

**Julie M. Woodruff, Esq.**

Director of Regulatory Affairs and Complaint Resolution  
 Division of Postsecondary School Authorization  
 Tennessee Higher Education Commission  
 Parkway Towers, Suite 1900, 404 James Robertson Parkway  
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FILE COPY

**Julie Woodruff**

**From:** Lee, Brittney <Brittney.Lee@bridgepointeducation.com>  
**Sent:** Monday, March 19, 2012 2:15 PM  
**To:** Julie Woodruff  
**Cc:** Schray, Vickie  
**Subject:** Ashford University and University of the Rockies - Public Comments to the Tennessee Higher Education Commission  
**Attachments:** Ashford University and University of the Rockies - Public Comments to the Tennessee Higher Education Commission.pdf

Received

MAR 19 2012

THEC  
USA

Dear Ms. Julie Woodruff:

Thank you for the opportunity to provide public comments to the Tennessee Higher Education Commission's proposed amendments to Chapter 1540-01-02, Authorization and Regulation of Postsecondary Education Institutions and Their Agents.

Ashford University and University of the Rockies submit the attached public comments for consideration. Should you have any questions, please feel free to contact Brittney Lee at 866.475.0317 x 1776 or [Brittney.lee@bridgepointeducation.com](mailto:Brittney.lee@bridgepointeducation.com).

Sincerely,

Vickie L. Schray

Vickie Schray | Vice President, Regulatory Affairs  
Bridgepoint Education | Higher access to higher education  
13500 Evening Creek Drive North Suite 600  
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[www.bridgepointeducation.com](http://www.bridgepointeducation.com)

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**Proposed Amendments to Chapter 1540-01-02, Authorization and Regulation of  
Postsecondary Education Institutions and Their Agents**

Thank you for the opportunity to provide public comments to the Tennessee Higher Education Commission (Commission)'s proposed amendments to Chapter 1540-01-02, Authorization and Regulation of Postsecondary Education Institutions and Their Agents. Ashford University and University of the Rockies submit the following comments:

1) As proposed, Chapter 1540-01-02, Section .13 Enrollment Agreements and Disclosure Standards, subsection (4)(j) reads:

(4) Institutions shall require a student enrolling to sign and date an enrollment agreement, which shall include, but not be limited to, the following items:

...

(j) a guarantee of the total cost of tuition and fees for 1200 contact hours or twelve (12) months from the time of enrollment.

Pursuant to subsection (4)(j), an institution must guarantee that it will not increase tuition and fees for 12 contact hours or twelve months from the time of enrollment. However, we are concerned that this rule would create an impractical and unreasonable requirement for the vast majority of institutions that enroll students at multiple times during the year, (e.g. on a rolling basis year-round, quarterly, or by semester) and also increase tuition for all students at a fixed time each year (e.g., each fall). Allowing enrollment at multiple times during the year serves an important role by giving students the opportunity to begin courses according to their schedule without having to wait until a particular time of the year. Institutions cannot practically guarantee to all students that their tuition will not increase within twelve months from the time of enrollment. A common occurrence is that a student enrolls during the spring semester but is subject to a tuition increase during the coming fall. In line with reasonable disclosure standards, these institutions generally increase tuition once a year and at the same time each year. Importantly, the students are also aware of the possibility of tuition increases based not only on the institution's historical practice but express disclaimers included in the catalog and/or enrollment agreements that indicate an increase in tuition and fees may occur.

A feasible and reasonable way to ensure that the Commission meets its goal of creating proper disclosure standards while also enabling institutions to practically offer students the opportunity to enroll at different times during the year could be through appropriate disclaimers, rather than a guarantee. To further ensure proper disclosure, the Commission could also require that institutions provide advance notice of an increase in tuition and fees to enrolled students. To that end, we suggest the following language instead of the proposed language for subsection (4)(j):

(j) **if applicable, a disclaimer that states** tuition and fees **may increase within** 1200 contact hours or twelve (12) months from the time of enrollment.

**Additionally, the institution shall provide advance notice of an increase in tuition and fees to enrolled students.**

2) As proposed, Chapter 1540-01-02, Section .13 Enrollment Agreements and Disclosure Standards, subsection (7) reads:

(7) Programs longer than 1200 clock (contact) hours that increase tuition and fees after the initial 1200 clock (contact) hours or twelve (12) month period, must provide counseling related to the increase.

Subsection (7) requires an institution that offers programs longer than 1200 clock hours and increases tuition and fees after the initial 1200 clock hours or 12 month period to provide “counseling” to students. “Counseling” is a vague term that may impose various unintended requirements upon institutions. For clarity and a more reasonable rule that properly fulfills the Commission’s disclosure standards, we suggest the following language instead of the proposed rule:

7) Programs longer than 1200 clock (contact) hours that increase tuition and fees after the initial 1200 clock (contact) hours or twelve (12) month period, must provide **financial** counseling **and/or notice** related to the tuition increase.

3) As proposed, Chapter 1540-01-02, Section .16 Personnel and Instructor Qualifications, subsection (2) reads:

(2) Administrative personnel and instructors shall meet all qualifications listed in this rule. Evidence of education, experience, or training (including official transcripts) for each personnel must be maintained on-site at the location. Institutions must submit a copy of this evidence at any time upon request from Commission staff.

To ensure a more reasonable standard, we suggest the following language instead of the proposed rule:

(2) Administrative personnel and instructors shall meet all qualifications listed in this rule. Evidence of education, experience, or training (including official transcripts) for each personnel must be maintained on-site at the location. Institutions must submit a copy of this evidence at any time upon **reasonable** request from Commission staff.



Julie Woodruff

**From:** Romero, Alba <Alba.Romero@Capella.edu>  
**Sent:** Monday, March 19, 2012 2:12 PM  
**To:** Julie Woodruff  
**Cc:** Stephan, Kimberly; Hansen, Kristen  
**Subject:** RE: Tennessee Division of Postsecondary School Authorization Proposed Rule Changes

Received

MAR 19 2012

THEC  
DPSA

Ms. Woodruff,

Thank you for the opportunity to comment of the proposed rule changes by the Division of Postsecondary School Authorization (DPSA). Please accept the comments below for consideration.

1. 1540-01-02-.12 ADMISSIONS STANDARDS (Page 30 of the proposed rules)
  - (1)(b) Degree program admission policies must be at least the following, as applicable: 2. graduate degree programs must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.

Capella University's Comments to Proposed Rule Change:

- a. The proposed change may limit the ability for institutions to offer programs in the future. Most states do not set a minimum degree requirement for graduate degree programs. If they do, a high school diploma is mentioned as a requirement on a general level. If the DPSA chooses to set a minimum degree requirement, we suggest an exception to this requirement listed in this rule as an alternative. For example, Georgia regulations do require a possession of a baccalaureate degree for admission into a graduate level program, but it allows for the institutions to have special admission policies as long as it is approved by the State of Georgia.
- b. In addition, the proposed rule change would require the DPSA to approve the institutions where institutions could accept baccalaureate degrees. In keeping with the spirit of the proposed change we propose the following language be added: "...from an institution **accredited by an agency recognized by the U.S. Department of Education.**"

2. 1540-01-02-.16 PERSONNEL AND INSTRUCTOR QUALIFICATIONS (Page 38 of the proposed rules)
  - (b) Institutions accredited by an accrediting body recognized by the U.S. Department of Education must submit to the Commission School Personnel Applications for all administrative personnel as that term is defined in this rule. For each instructor, an accredited institution shall complete a School Personnel Application and maintain the application in the institution's personnel file. Institutions must submit a copy of the School Personnel Application at any time upon request from Commission staff.

Capella University's Comments to Proposed Rule Change:

- a. The proposed rule change would be tremendously onerous on our faculty, requiring them to complete these applications and keep them at Capella. We currently retain the content of the proposed form from our faculty within their Human Resources Files. As an alternative we propose: "For each instructor, an accredited institution shall complete a School Personnel Application (**or comparable substantive documentation**) and maintain **it** in the institution's personnel file".

Thank you for your time and consideration.

Respectfully Yours,

**Alba Romero JD, MA**  
*Regulatory Specialist*

**Capella University**

Capella Tower  
225 S. 6<sup>th</sup> Street, 9<sup>th</sup> Floor  
Minneapolis, MN 55402

**Direct:** 612-977-5699

**Email:** [alba.romero@capella.edu](mailto:alba.romero@capella.edu)

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**From:** Julie Woodruff [<mailto:Julie.Woodruff@tn.gov>]

**Sent:** Monday, March 05, 2012 2:09 PM

**To:** Julie Woodruff; Stephanie Bellard

**Cc:** Will Burns; Christina Coleman; Nicholas Cook

**Subject:** Suggested Rule Revisions

**Importance:** High

The Division of Postsecondary School Authorization (DPSA) is considering revisions to the state's rules governing postsecondary educational institutions in Tennessee. These rules are located in Rule Chapter 1540-01-02. You are being sent this email because you either work for an authorized institution or its corporate parent or are considered an interested person.

Attached you will find a draft of the suggested rule revisions. We encourage you to review them thoroughly. You may offer written comments for our consideration; comments may be submitted via mail, facsimile, or electronic mail. After review of all comments, we will decide whether to move forward with a rulemaking proceeding.

All written comments must be received by **Monday, March 19, 2012**, to ensure proper consideration can be given to your input. Any other questions or comments may be directed to me at (615) 253-8857 or [julie.woodruff@tn.gov](mailto:julie.woodruff@tn.gov).

**Julie M. Woodruff, Esq.**

Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
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Nashville, TN 37243-0830  
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March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



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Sincerely,



Dr. Randall K. Wells  
Chief Academic Officer

# DAYMAR COLLEGES GROUP, LLC

---

2401 New Hartford Road  
Owensboro, Kentucky 42303

Phone (270) 926-1188  
Fax (270) 686-8912

March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



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Sincerely,



Susan Cooper  
Director of Government Relations

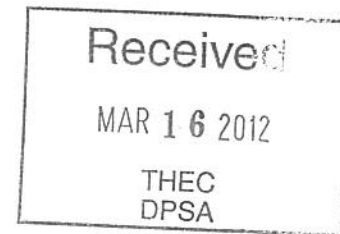
## DAYMAR INSTITUTE

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March 16, 2012

Julie M. Woodruff, Esq.  
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Sincerely,



Mark A. Gabis  
President  
Daymar Institute  
Clarksville, Nashville, Murfreesboro



**Julie Woodruff**

---

**From:** Katharine Purnell <kpurnell@daymarinstitute.edu>  
**Sent:** Monday, March 19, 2012 12:09 PM  
**To:** Julie Woodruff  
**Cc:** Mark Cate; Anne Landis Jetton  
**Subject:** THEC Proposed Rules



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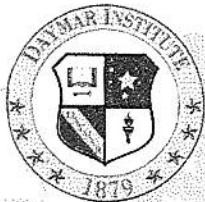
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Sincerely,

Katharine Purnell  
Campus President  
Daymar Institute - Clarksville  
931-552-7600  
931-216-9605 (Cell)

**Intelligent Hearts...Changing Lives ®**




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 DAYMAR INSTITUTE
 

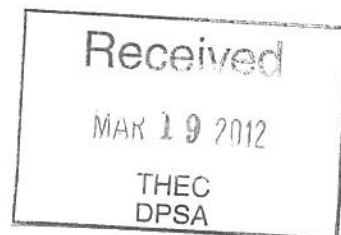
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March 19, 2012

Julie M. Woodruff, Esq.  
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Deborah Brown  
Campus President  
Daymar Institute, Murfreesboro

FILE COPY



## DAYMAR INSTITUTE

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Received

MAR 19 2012

THEC  
DPSA

March 15, 2012

Julie M. Woodruff, Esq.  
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Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
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Vice President of School Operations



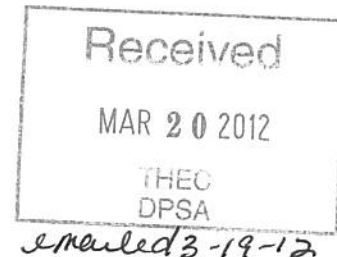
## DAYMAR INSTITUTE

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March 19, 2012

Julie M. Woodruff, Esq.  
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We recommend that THEC delete the DD214 form and insert and accept the ERB instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB) does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.

We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,



Kevin Suhr  
Campus President



**International Academy of  
Design & Technology**

You imagine. We can get you there.™



March 16, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830

Dear Ms. Woodruff:

I hope you are doing well Julie.

I appreciate the opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. I respect the vital role played by THEC and the State in the protection of our students. I know that you place the welfare of students above all other considerations, just as IADT does.

**Comment on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as I know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended, negative effect on Tennessee's college graduates entering the workforce.

Students who graduate from a nationally accredited college in Tennessee are placed at a disadvantage compared to students who attend nationally accredited colleges in any other state. When applying for the same job, one graduate will have a traditional degree name on his/her diploma, while the other will have a degree name that is normally not recognized in industry. It is my belief that this is confusing to employers and clearly penalizes the students through no fault of their own.

Other states (and the federal government) accepts that degrees issued by nationally accredited colleges are, in fact, "traditional undergraduate college degrees," while Tennessee does not. Students continue to be set apart from college graduates who attended similar schools in other states (*or even from their cohorts attending the same institution with the same curricula at a campus in another state*). I do not believe this unique regulation serves the cause of consumer protection.

In the Commission's own definition of accreditation, Section 1540-01-02-.03, the Commission only recognizes accrediting bodies that are recognized by the U.S. Department of Education.

I recommend that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes are in the best interest of Tennessee's college students and graduates to ensure they are all on a level playing field with graduates from other states.

I believe this regulation is too narrowly focused on creating distinctions between private sector proprietary schools and public sector institutions in the minds of potential students while neglecting the potential real-world consequences of these rules on college graduates in the job market.

**Comment on Rule 1540-01-02-.06(14)**

I fully support the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution's name. This recognizes all accrediting bodies and is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures all on a level playing field with graduates from other states.

**Comment on Rule 1540-01-02-.12(1)(a)**

I recommend that THEC rules follow the professional licensure requirements for admissions policies.

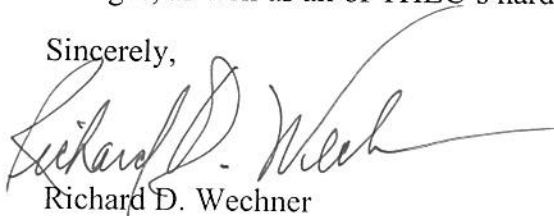
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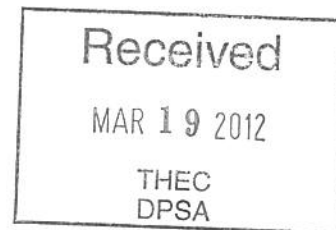
Sincerely,



Richard D. Wechner  
President

March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



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Sincerely,

A handwritten signature in black ink, appearing to read "David R. Cunningham", written in a cursive style.

David R. Cunningham  
Director

Julie Woodruff

**From:** Brenda K. Burton <brenda@larendagroup.com>  
**Sent:** Monday, March 05, 2012 5:41 PM  
**To:** Julie Woodruff  
**Cc:** Stephanie Bellard; Will Burns; Christina Coleman; Nicholas Cook  
**Subject:** Re: Suggested Rule Revisions

Received

MAR 06 2012

THEC  
DPSA

Hello Ms. Woodruff et al:

Thank you for the opportunity to review the suggested Rule revisions. Respectfully, we offer the following comments:

**Page 5:** Suggest leaving "Credential" intact.

*Rationale: Workforce development is a major national initiative. Many students and professionals have learning objectives which specifically include obtaining certain industry credentials. The term "credential" is also used on Page 8 as part of the definition for (jj) "Postsecondary educational institution."*

**Page 6:** Suggest slight revisions to verbiage to reflect a more updated definition, (note: using the word "tape" may seem dated) such as the following:

(w) "Distance Learning" means a system and process that connects learners with distributed learning resources through delivery systems such as cloud-based and mobile app platforms providing (but not limited to) virtual textbook curricula, prerecorded instructional videos; webcasts; live, interactive audio- or videoconferencing; virtual world classrooms, CDs or DVDs; or computer-based systems accessed over the Internet, where there is physical separation of the instruction and the student.

*Source: <http://nces.ed.gov/fastfacts/display.asp?id=80>*

**Page 7:** Suggest slight revisions to (ee) "instructional site" to consider verbiage such as: "...that is commercially zoned; dual-zoned; or otherwise approved by local zoning and utilized for the training of students."

*Rationale: Particularly with distance learning programs and urban "live-work" districts, many local level zoning ordinances do offer allowances for special considerations for educational entities.*

**Page 48 (2) Regular Authorization:** Suggest clarification to include verbiage such as: "After the initial Temporary Authorization period of twenty-four months, institutions much be reauthorized annually on forms supplied by the Commission staff."

*Rationale: On previous page (47), under Temporary Authorization (b) - it states ...must be maintained for at least twenty-four months..." Under Regular Authorization (p48), it is a bit confusing as to whether there must be any "annual" reporting/application after the first year of the 24-month Temporary Authorization period. Hope what I am saying makes sense!*

Thanks again for allowing us to provide our commentary on these Rules.

Best,  
Brenda

On Mon, Mar 5, 2012 at 3:09 PM, Julie Woodruff <[Julie.Woodruff@tn.gov](mailto:Julie.Woodruff@tn.gov)> wrote:

The Division of Postsecondary School Authorization (DPSA) is considering revisions to the state's rules governing postsecondary educational institutions in Tennessee. These rules are located in Rule Chapter 1540-01-02. You are being sent this email because you either work for an authorized institution or its corporate parent or are considered an interested person.

Attached you will find a draft of the suggested rule revisions. We encourage you to review them thoroughly. You may offer written comments for our consideration; comments may be submitted via mail, facsimile, or electronic mail. After review of all comments, we will decide whether to move forward with a rulemaking proceeding.

All written comments must be received by **Monday, March 19, 2012**, to ensure proper consideration can be given to your input. Any other questions or comments may be directed to me at [\(615\) 253-8857](tel:6152538857) or [julie.woodruff@tn.gov](mailto:julie.woodruff@tn.gov).

**Julie M. Woodruff, Esq.**

Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
Parkway Towers, Suite 1900, 404 James Robertson Parkway  
Nashville, TN 37243-0830  
(p) [615.253.8857](tel:6152538857) (f) [615.532.8845](tel:6155328845)

--  
Brenda K. Burton, *Co-CEO*  
cell 404.441.7011  
Skype: bkburton

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tel 877.491.7650



*Changing Futures. Changing Lives*

March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



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We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,



Nikki England  
Campus Director

FILE COPY

Received

MAR 19 2012

THEC  
DPSA

  
**NashvilleAuctionSchool**  
112 West Lauderdale Street - Tullahoma, TN 37388  
931-393-4735 - 800-543-7061  
[nas@learntoauction.com](mailto:nas@learntoauction.com)

March 19, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830

Dear Ms. Woodruff:

Thank you for this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. All of us at Nashville Auction School appreciate the vital role played by THEC and the State of Tennessee in the protection of our students. We know that you place the welfare of students above all other considerations, just as we do.

**Comments on Rule 1540-01-02-.03(c)**

The addition of this definition of "Accreditation" fails to acknowledge or honor the recognition of official standards of education and subsequent recognition granted by other regulatory boards acting under the provisions of Tennessee Code Annotated. We believe this definition will create confusion for consumers of educational services in the state of Tennessee and attempts to clarify statutes outside THEC authority. We object to the addition of this definition.

**Comments on Rule 1540-01-02-.03(ii)**

We believe the removal of language limiting THEC and the Department of Postsecondary School Authorization's to the state of Tennessee is too broad and opens the door for the state of Tennessee to regulate educational institutions which do not have a footprint in this state and who are not actively recruiting in Tennessee. As proposed, this definition could inadvertently entangle THEC in the regulatory actions of other state boards.

This change also appears to overstep the legislative authority granted to the Commission under the Tennessee Postsecondary Education Authorization Act of 1974 (Reference 49-7-2002 Legislative Intent: "...to provide for the protection, education and welfare of the citizens of this state, its institutions and practices ;..."). We oppose this change.

**Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as we know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended—and highly negative—effect on Tennessee's college graduates entering the workforce.

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We believe this regulation is too narrowly focused on creating distinctions between private sector proprietary schools and public sector institutions in the minds of potential students while neglecting the potential real-world consequences of these rules on college graduates in the job market.

#### **Comments on Rule 1540-01-02-.06(14)**

We fully support the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution's name. This recognizes all accrediting bodies and is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures they are all on a level playing field with graduates from other states.

#### **Comments on Rule 1540-01-02-.12(1)(a)**

We recommend that THEC rules follow the professional licensure requirements for admissions policies. While we realize that high school diplomas are required for many professions, they are not required in all circumstances. In some cases, it is a fact that a professional licensure supersedes the high school diploma in order to obtain employment. This rule clearly establishes an admission standard on proprietary schools which does not apply to similar programs offered through Tennessee's Technology Centers and Community Colleges, where the high school diploma or an ability-to-benefit test is not required for many professional training programs.

This rule revision creates a barrier for students who could otherwise obtain employment in the state of Tennessee and limits their educational options.

We strongly request that THEC recognize the professional licensure requirements establish by Tennessee statute, where applicable and follow suit, thus removing obstacles to education, employment and career advancement.

#### **Comments on Rule 1540-01-02-.15(6)(b)**

We recommend that THEC delete the DD214 form and insert and accept the ERB instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB)

does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.

**Comments on Rule 1540-01-02-.18(6)**

While we understand the reasoning and justifications behind this paragraph, we also recognize that it restricts the rights of prospective students to pay for their schooling in a manner that works within their financial planning and is akin to placing the State of Tennessee in the midst of individual citizens' financial affairs.

We strongly request the addition of a language that would allow an institution to accept pre-paid tuitions and fees provided the cumulative total of all prepaid funds on the institutions accounting ledger at any given time do not exceed the limits of their bond.

We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,

A handwritten signature in cursive script that reads "Wendell L. Hanson". The signature is written in black ink and is positioned above the typed name.

Wendell L. Hanson, CAI, AARE, GPPA  
President

## Julie Woodruff

---

**From:** Nashville Auction School <nas@learntoauction.com>  
**Sent:** Wednesday, March 21, 2012 11:01 AM  
**To:** Julie Woodruff  
**Cc:** It.gov.ron.ramsey@capitol.tn.gov; Mark Cate; rep.judd.matheny@capitol.tn.gov  
**Subject:** Comments on Proposed Rules

Dear Julie,

Thank you for contacting me this morning. As we discussed, there were no Rule changes to 1540-01-02-.03(ii). Instead my comments referenced under that paragraph were intended to address the proposed changes to **Rule 1540-01-02-.03(jj)**. Thank you for bringing this to my attention and for making the correction to my submitted comments.

Sincerely,  
Wendell L. Hanson  
President  
Nashville Auction School, LLC  
[nas@learntoauction.com](mailto:nas@learntoauction.com)  
931-393-4735

# National College



www.national-college.edu • 800.664.1886

Received

MAR 19 2012

THEC  
DPSA

March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830

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# *National College*



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Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Liverman', with a long horizontal line extending to the right.

**Mark Liverman**  
Campus Director  
National College of Business & Technology  
900 Madison Square  
Madison, TN 37115

615-612-3015 (office)  
615-865-9163 (fax)  
[mliverman@national-college.edu](mailto:mliverman@national-college.edu)

# National College

of Business & Technology

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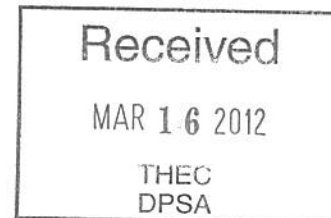


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March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
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*A Degree of Difference Since 1886*



**Comments on Rule 1540-01-02-.06(14)**

We fully support the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution's name. This recognizes all accrediting bodies and is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures they are all on a level playing field with graduates from other states.

**Comments on Rule 1540-01-02-.15(6)(b)**

We recommend that THEC delete the DD214 form and insert and accept the ERB instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB) does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.

We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,



Deborah Bowman-Black  
Campus Director  
National College of Business and Technology  
Knoxville, TN 37919

FILE COPY

# **National College**

**of Business & Technology**

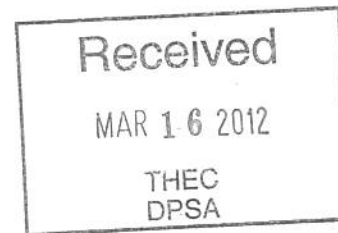
www.national-college.edu • 800.664.1886



3545 Lamar Avenue, Memphis, TN 38118

March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



Dear Ms. Woodruff:

We thank you for this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. We appreciate the vital role played by THEC and the State in the protection of our students. We know that you place the welfare of students above all other considerations, just as we do.

#### **Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as we know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended—and highly negative—effect on Tennessee’s college graduates entering the workforce.

Students who graduate from a nationally accredited college in Tennessee are placed at a very real disadvantage compared to students who attend a nationally accredited college in any other state. When applying for the same job, one graduate will have a traditional degree name on his/her diploma, while the other will have a degree name that is normally not recognized in the business community. It is our belief that this is confusing to the employer and clearly penalizes the students through no fault of their own.

Every other state (and the federal government) accepts that degrees issued by nationally accredited colleges are, in fact, “traditional undergraduate college degrees,” while Tennessee does not. Students continue to be set apart from college graduates who attended similar schools in other states (*or even from their cohorts attending the same institution with the same curricula at a campus in another state*). We sincerely do not believe this unique regulation serves the cause of consumer protection.

In the Commission’s own definition of accreditation, Section 1540-01-02-.03, the Commission only recognizes accrediting bodies that are recognized by the U.S. Department of Education.

**A Degree of Difference**

We recommend that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes are in the best interest of Tennessee's college students and graduates to ensure they are all on a level playing field with graduates from other states.

We believe this regulation is too narrowly focused on creating distinctions between private sector proprietary schools and public sector institutions in the minds of potential students while neglecting the potential real-world consequences of these rules on college graduates in the job market.

**Comments on Rule 1540-01-02-.06(14)**

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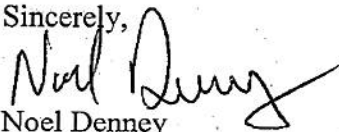
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---

We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,



Noel Denney

Campus Director, Memphis Campus

# National College

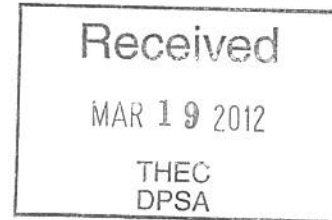


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March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



Dear Ms. Woodruff:

We appreciate this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. We thank you for the vital role played by THEC and the State in the protection of our students. We feel certain that you place the welfare of students above all other considerations, much like we do.

**Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as we know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended—and highly negative—effect on Tennessee's college graduates entering the workforce.

Students who graduate from a nationally accredited college in Tennessee are placed at a very real disadvantage compared to students who attend a nationally accredited college in any other state. When applying for the same job, one graduate will have a traditional degree name on his/her diploma, while the other will have a degree name that is normally not recognized in the business community. It is our belief that this is confusing to the employer and clearly penalizes the students through no fault of their own.

Every other state (and the federal government) accepts that degrees issued by nationally accredited colleges are, in fact, "traditional undergraduate college degrees," while Tennessee does not. Students continue to be set apart from college graduates who attended similar schools in other states (*or even from their cohorts attending the same institution with the same curricula at a campus in another state*). We, sincerely do not believe this unique regulation serves the cause of consumer protection.

# *National College*



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In the Commission's own definition of accreditation, Section 1540-01-02-.03, the Commission only recognizes accrediting bodies that are recognized by the U.S. Department of Education.

We recommend that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes are in the best interest of Tennessee's college students and graduates to ensure they are all on a level playing field with graduates from other states.

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#### **Comments on Rule 1540-01-02-.06(14)**

We fully support the revision to Rule 1540-01-02-.06(14) which remove the requirement that a qualifier be attached to an institution's name. This recognizes all accrediting bodies and is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures they are all on the same level with graduates from other states.

#### **Comments on Rule 1540-01-02-.15(6)(b)**

We recommend that THEC delete the DD214 form. After doing so, we recommend THEC insert and accept the ERB (Enlisted Record Belief) instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The ERB does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.

Thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,

*Doris Combs*

*Doris Combs*  
*Campus Director*  
**National College of Business & Technology**  
1328 Highway 11 West  
Bristol, TN 37620

Phone: 423-878-4440  
Fax: 423-793-1060

# National College

of Business & Technology



PO Box 6400 Roanoke, VA 24017

Received

MAR 19 2012

THEC  
DPSA

March 19, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830

Dear Ms. Woodruff:

I thank you for this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee.

#### Comments on Rule 1540-01-02-.03(1)(vv)

National College of Business and Technology recommends that THEC adopt the definition of "university" set forth in the Virginia Administrative Code at 8 VAC 40-31-10. That definition is, "University" means any institution offering programs leading to degrees or degree credit beyond the baccalaureate level." The definition currently set forth in the proposed regulations is anachronistic and does not reflect the modern reality in education that in the United States many universities do not conduct research, but are named "university" based on their advanced degree offerings alone. It is worth noting that a number of "universities" in Tennessee are distinguished from colleges not by virtue of any research facilities, activities or capacities, but merely by the fact that they offer advanced degrees. Although certain of these institutions may not fall under the regulatory umbrella of DPSA, it is nonetheless illogical and confusing to consumers for there to be such a division with respect to the acceptable use of the term "university" within Tennessee.

#### Comments on Rule 1540-01-02-.06(14)

National College of Business and Technology fully supports the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution's name. This recognizes all accrediting bodies and

#### VIRGINIA

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276.326.3621  
Charlottesville Campus  
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Danville Campus  
434.793.6822  
Harrisonburg Campus  
540.432.0943  
Lynchburg Campus  
434.239.3500  
Martinsville Campus  
276.632.5621  
Roanoke Valley Campus  
540.986.1800  
Tri-Cities Campus  
276.669.5333

#### KENTUCKY

Danville Campus  
859.236.6991  
Florence Campus  
859.525.6510  
Lexington Campus  
859.253.0621  
Louisville Campus  
502.447.7634  
Pikeville Campus  
606.432.5477  
Richmond Campus  
859.623.8956

#### OHIO

Dayton Area Campus  
937.299.9450

#### TENNESSEE

Knoxville Campus  
865.539.2011  
Nashville Campus  
615.333.3344

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800-664-1886 • e-mail - adm@educorp.edu

Accredited by the Accrediting Council for Independent Colleges and Schools

is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures they are all on a level playing field with graduates from other states.

#### **Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to propose rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee and unfortunately have what I believe to be an unintended negative effect on Tennessee's college graduates entering the workforce.

Students who graduate from a nationally accredited college in Tennessee are placed at a very real disadvantage compared to students who attend a nationally accredited college in any other state. When applying for the same job, one graduate will have a traditional degree name on his/her diploma, while the other will have a degree name that is not normally recognized in the business community. It is our belief that this is confusing to the employer and clearly penalizes the students through no fault of their own.

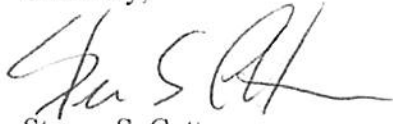
Other states (and the federal government) accept that degrees issued by nationally accredited colleges are, in fact, "traditional undergraduate college degrees," while Tennessee does not. Students and graduates continue to be set apart from those who attended similar schools in other states, and even from students attending the same institution, with the same curricula, at a campus in another state.

We believe this proposed regulation is so narrowly focused on creating distinctions between private sector proprietary schools and public and private sector non-profit institutions that it fails to recognize the real-world consequences which befall college graduates in the job market. Although this rule purports to advance the cause of consumer protection, in fact it is antithetical to the interests of consumers who have chosen to pursue their education at one of Tennessee's private sector proprietary institutions.

National College of Business and Technology recommends that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes will make the proposed rules more internally consistent (the Commission's definition of accreditation at Section 1540-01-02-.03, treats all accrediting bodies recognized by the U.S. Department of Education the same) and are in the best interest of all of Tennessee's college students and graduates.

On behalf of the students of National College of Business and Technology we thank you again for this opportunity to respond to the proposed revisions and to recommend changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven S. Cotton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steven S. Cotton  
Vice President  
Legal and Regulatory Affairs



# ***National College*** ***of Business & Technology***

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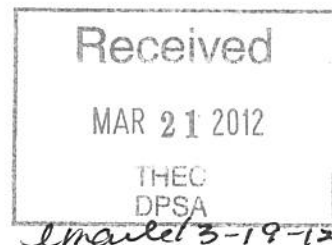


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NASHVILLE CAMPUS • 1638 BELL ROAD • NASHVILLE, TN 37211 • 615-333-3344

March 19, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



Dear Ms. Woodruff:

I appreciate the fact that THEC and the State of Tennessee understand that the protection of our students must be our number one priority. I certainly agree with and share this perspective and thank you for the opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. I would like to take this opportunity to comment on three proposed revisions.

### **Comments on Rule 1540-01-02-.15(6)(b)**

Since 2009 the DD214 no longer lists high school completion information. However, this is listed on the Enlisted Record Brief (ERB). I would recommend that THEC delete the DD214 form and insert and accept the ERB instead. This would specifically affect and assist service members in reaching their goals of postsecondary education.

### **Comments on Rule 1540-01-02-.08(3)(a)**

While no doubt drafted with the best of intentions, this rule has unintended consequences for students graduating from institutions which are nationally accredited. These graduates, while having received at least the same level of education as students graduating from regionally accredited institutions, nonetheless are awarded a degree name different than that normally recognized by many in the business community. I believe that I share the same desire for graduates of our State's postsecondary schools as does THEC: That every graduate competing for employment is evaluated on his or her abilities and not on an "other than traditional" description of a degree on a diploma. Doing otherwise makes a distinction that reflects no substantive difference to the disadvantage of some Tennessee graduates.

THEC has promulgated several regulations for the protection of Tennessee students to insure they are receiving excellent instruction. I fully support these efforts and believe that now implementing uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions will further serve that end.

**A Degree of Difference**

March 19, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Page Two

**Comments on Rule 1540-01-02-.06(14)**

Once again, this revision is in the best interest of Tennessee's college students and graduates and ensures they are all on a level playing field with graduates from other states. It removes the requirement that a qualifier be attached to an institution's name and is consistent with the U. S. Department of Education.

I thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,

A handwritten signature in cursive script, reading "Patrick Patterson", written over a horizontal line.

Dr. Patrick Patterson, Campus Director  
National College of Business and Technology  
1638 Bell Road  
Nashville, TN 37138

FILE COPY

# **National College**

*of Business & Technology*

www.national-college.edu • 800.664.1886



March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



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We recommend that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes are in the best interest of Tennessee's college students and graduates to ensure they are all on a level playing field with graduates from other states.

**A Degree of Difference**

# **National College**

*of Business & Technology*

www.national-college.edu • 800.664.1886



We believe this regulation is too narrowly focused on creating distinctions between private sector proprietary schools and public sector institutions in the minds of potential students while neglecting the potential real-world consequences of these rules on college graduates in the job market.

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We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,

A handwritten signature in cursive script that reads 'Adrena Jackson'.

**A Degree of Difference**



**School of Aviation Maintenance**  
168 Jack Miller Blvd., Suite A  
Clarksville, TN 37042  
(931) 431-9700  
<http://www.nci.edu>

March 19, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830



*emailed 3-19-12*

Dear Ms. Woodruff:

We thank you for this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. We appreciate the vital role played by THEC and the State in the protection of our students. We know that you place the welfare of students above all other considerations, just as we do. In reviewing the proposed amendments, NCI has concerns, comments or questions regarding the continuity and scope of the following items:

**Comments on Rule 1540-01-02.03 (c) (h) (tt) Definitions:**

**Added Accreditation**

Is a non-governmental, peer evaluation of educational institutions and programs. Private educational associations of regional and national scope have adopted criteria reflecting the qualities of a sound educational program and have developed procedures for evaluating institutions or programs. These criteria determine whether or not institutions or programs are operating at basic levels of quality. The Commission only recognizes accrediting agencies that are recognized by the U.S. Department of Education. Additionally, accreditation is voluntary and is not required by state law. In most cases, authorization for one (1) to two (2) years is a prerequisite for accreditation.

– does not differentiate between regionally or nationally accredited organizations. Clearly states “The Commission only recognizes accrediting agencies that are recognized by the U.S. Department of Education.”

\* Definition is sound

“Articulation agreement means an arrangement between two higher education institutions approved and signed by the chief executive officers and constructed by faculty in the discipline that equates for transfer of a defined set or block of academic credits that will meet requirements of a specified academic degree program major at the degree awarding institution.”



\*Terminology of a specified academic degree program; *NCI recommends that the word degree be removed; the statement would read:*

“Articulation agreement means an arrangement between two higher education institutions approved and signed by the chief executive officers and constructed by faculty in the discipline that equates for transfer of a defined set or block of academic credits that will meet requirements of a specified academic program at the awarding institution.”

In many instances an articulation would be useful for postsecondary programs that are not degree granting. THEC’s definition of Institute states that Institutes usually award applied science degrees, certificate and diplomas. \*definition of Institute on page 6 of 52 proposed changes.

“Tuition” why would equipment fees be included in “tuition”? *NCI recommends deleting equipment out of tuition’s definition.*

#### **Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as we know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended—and highly negative—effect on Tennessee’s college graduates entering the workforce.

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**Comments on Rule 1540-01-02-.06(14)**

We fully support the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution's name. This recognizes all accrediting bodies and is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures they are all on a level playing field with graduates from other states.

**Comments on Rule 1540-01-02-.07 (6)**

Private institutions must have a \$20,000 bond and provide annual audited financial reports. *NCI recommends a bond of \$10,000 per THEC approved schools and not differentiate between private and public schools on bond requirements.*

**Comments on Rule 1540-01-02-.12(1)(a)**

We recommend that THEC rules follow the professional licensure requirements for admissions policies.

While we realize that high school diplomas are required for many professions, they are not required in all circumstances. In some cases, it is a fact that a professional licensure supersedes the high school diploma in order to obtain employment. This rule revision creates a barrier for students who could otherwise obtain employment in the state of Tennessee. We recommend that THEC recognize the professional licensure requirements where applicable and follow suit, thus removing obstacles to employment and career advancement.

**Comments on Rule 1540-01-02-.15**

Under (6) (e), up to date educational transcript for each enrollee...item number 3 top of page 37 states that a social security number will be on the transcript.

*NCI recommends that institutes have the ability to assign a unique ID number to each student to be used on Transcripts instead of their social security number; the student record will be able to cross reference the unique student ID to the student's social security number.* Under (5) (e) on page 35/36 the Commission allows the master student registration to utilize either a unique student ID number or social security number.

**Comments on Rule 1540-01-02-.15(6)(b)**

We recommend that THEC delete the DD214 form and insert and accept the ERB instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB) does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.


Page 4  
March 19, 2012

**Comments on 1540-01-02-020**

Thank you for deleting the complete address on radio ads; it was costly to ensure that the complete address information was in the radio ad!

We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Education in Aviation,

A handwritten signature in cursive script that reads "Tamela Taliento".

Tamela Taliento  
President

/ajw



**Julie Woodruff**

---

**From:** Cyrus Vatandoost <cyrus@nossi.edu>  
**Sent:** Monday, March 05, 2012 4:51 PM  
**To:** Julie Woodruff  
**Subject:** Re: Suggested Rule Revisions



On 3/5/12 2:30 PM, "Julie Woodruff" <[Julie.Woodruff@tn.gov](mailto:Julie.Woodruff@tn.gov)> wrote:

The Division of Postsecondary School Authorization (DPSA) is considering revisions to the state's rules governing postsecondary educational institutions in Tennessee. These rules are located in Rule Chapter 1540-01-02. You are being sent this email because you either work for an authorized institution or its corporate parent or are considered an interested person.

Attached you will find a draft of the suggested rule revisions. We encourage you to review them thoroughly. You may offer written comments for our consideration; comments may be submitted via mail, facsimile, or electronic mail. After review of all comments, we will decide whether to move forward with a rulemaking proceeding.

All written comments must be received by **Monday, March 19, 2012**, to ensure proper consideration can be given to your input. Any other questions or comments may be directed to me at (615) 253-8857 or [julie.woodruff@tn.gov](mailto:julie.woodruff@tn.gov) <<mailto:julie.woodruff@tn.gov>> .

**Julie M. Woodruff, Esq.**

Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
Parkway Towers, Suite 1900, 404 James Robertson Parkway  
Nashville, TN 37243-0830  
(p) 615.253.8857 (f) 615.532.8845

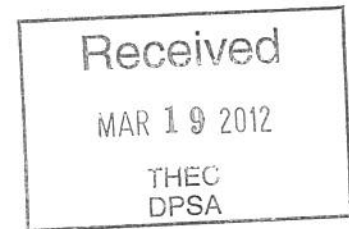
**Cyrus Vatandoost**

Executive Vice President

nossi college of art  
615.514.2787 (ARTS)  
[CYRUS@NOSSI.EDU](mailto:CYRUS@NOSSI.EDU)  
[NOSSI.EDU](http://NOSSI.EDU)

**Julie Woodruff**

**From:** Lori May <Lori.May@remingtoncollege.edu>  
**Sent:** Monday, March 19, 2012 7:03 PM  
**To:** Julie Woodruff  
**Subject:** Proposed Regs



Dear Ms. Woodruff:

We thank you for this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. We appreciate the vital role played by THEC and the State in the protection of our students. We know that you place the welfare of students above all other considerations, just as we do.

**Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as we know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended—and highly negative—effect on Tennessee’s college graduates entering the workforce.

Students who graduate from a nationally accredited college in Tennessee are placed at a very real disadvantage compared to students who attend a nationally accredited college in any other state. When applying for the same job, one graduate will have a traditional degree name on his/her diploma, while the other will have a degree name that is normally not recognized in the business community. It is our belief that this is confusing to the employer and clearly penalizes the students through no fault of their own.

Every other state (and the federal government) accepts that degrees issued by nationally accredited colleges are, in fact, “traditional undergraduate college degrees,” while Tennessee does not. Students continue to be set apart from college graduates who attended similar schools in other states (*or even from their cohorts attending the same institution with the same curricula at a campus in another state*). We sincerely do not believe this unique regulation serves the cause of consumer protection.

In the Commission’s own definition of accreditation, Section 1540-01-02-.03, the Commission only recognizes accrediting bodies that are recognized by the U.S. Department of Education.

We recommend that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes are in the best interest of Tennessee’s college students and graduates to ensure they are all on a level playing field with graduates from other states.

We believe this regulation is too narrowly focused on creating distinctions between private sector proprietary schools and public sector institutions in the minds of potential students while neglecting the potential real-world consequences of these rules on college graduates in the job market.

**Comments on Rule 1540-01-02-.06(14)**

We fully support the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution’s name. This recognizes all accrediting bodies and is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee’s college students and graduates and ensures they are all on a level playing field with graduates from other states.

**Comments on Rule 1540-01-02-.15(6)(b)**

We recommend that THEC accept either the DD214 form or the ERB. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB) does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.

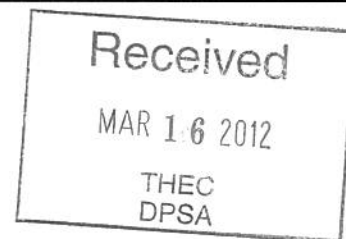
We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,

Lori May  
Campus President  
Remington College Memphis Campus

**Julie Woodruff**

**From:** Kim Hall <khall@southcollegetn.edu>  
**Sent:** Friday, March 16, 2012 8:16 AM  
**To:** Julie Woodruff  
**Cc:** Steve South; Stephanie Bellard; Kim Hall  
**Subject:** RE: Suggested Rule Revisions



Julie: Thank you for allowing us to provide comments on the suggested rule revisions. Having reviewed the draft you sent, we don't see anything other than one area that we wanted to draw your attention to in the requirements for admissions standards. The rules indicate that for a graduate degree program, a baccalaureate degree must be required. This is not the case for Doctor of Pharmacy programs. I am not aware of any Pharmacy programs that require a degree for admission. Many admitted do have degrees, but it not required. There is a long list of prerequisites for the program that usually equate to 2-3 years of college. Our program application was approved with the admissions requirements including this list of prerequisites, but not a bachelor's degree. As an example of another institution, the University of Tennessee does not require a bachelor's degree for admission to the Pharmacy program. They have a 3 year option of courses that does not lead to a degree, but to meeting the prerequisites. They do have a 3+1 option for anyone wanting to get the degree. We have the same situation. If a student wants to get a degree, he/she can complete the BS in Health Science and get all of the courses needed for the prerequisites for the Pharmacy program. We appreciate your consideration in this area. Let me know if you have any questions. Thanks and have a great day. Kim Hall

#### 1540-01-02-.12 ADMISSIONS STANDARDS

(1) Institutions must adopt an admission policy that is based on the institution's objectives and that meets the following minimum requirements.

(b) Degree program admission policies must be at least the following, as applicable.

2. graduate degree programs must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.

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**From:** Julie Woodruff [Julie.Woodruff@tn.gov]  
**Sent:** Monday, March 05, 2012 3:09 PM  
**To:** Julie Woodruff; Stephanie Bellard  
**Cc:** Will Burns; Christina Coleman; Nicholas Cook  
**Subject:** Suggested Rule Revisions

The Division of Postsecondary School Authorization (DPSA) is considering revisions to the state's rules governing postsecondary educational institutions in Tennessee. These rules are located in Rule Chapter 1540-01-02. You are being sent this email because you either work for an authorized institution or its corporate parent or are considered an interested person.

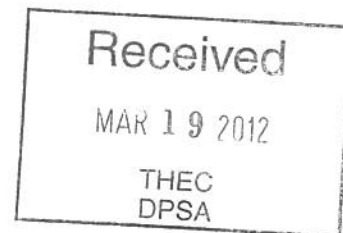
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All written comments must be received by **Monday, March 19, 2012**, to ensure proper consideration can be given to your input. Any other questions or comments may be directed to me at (615) 253-8857 or [julie.woodruff@tn.gov](mailto:julie.woodruff@tn.gov).

**Julie M. Woodruff, Esq.**

Director of Regulatory Affairs and Complaint Resolution

Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
Parkway Towers, Suite 1900, 404 James Robertson Parkway  
Nashville, TN 37243-0830  
(p) 615.253.8857 (f) 615.532.8845



March 15, 2012

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243-0830

Dear Ms. Woodruff:

We thank you for this opportunity to provide feedback and recommendations on the regulation of proprietary colleges and other institutions of higher education in Tennessee. We appreciate the vital role played by THEC and the State in the protection of our students. We know that you place the welfare of students above all other considerations, just as we do.

**Comments on Rule 1540-01-02-.08(3)(a)**

THEC continues to implement rules for the naming of degrees that are intended to highlight which colleges are nationally accredited and which are regionally accredited. These rules are unique to Tennessee. As far as we know, no other state (nor the federal government) has enacted similar policies. Unfortunately, these rules have an unintended—and highly negative—effect on Tennessee’s college graduates entering the workforce.

Students who graduate from a nationally accredited college in Tennessee are placed at a very real disadvantage compared to students who attend a nationally accredited college in any other state. When applying for the same job, one graduate will have a traditional degree name on his/her diploma, while the other will have a degree name that is normally not recognized in the business community. It is our belief that this is confusing to the employer and clearly penalizes the students through no fault of their own.

Every other state (and the federal government) accepts that degrees issued by nationally accredited colleges are, in fact, “traditional undergraduate college degrees,” while Tennessee does not. Students continue to be set apart from college graduates who attended similar schools in other states (*or even from their cohorts attending the same institution with the same curricula at a campus in another state*). We sincerely do not believe this unique regulation serves the cause of consumer protection.

In the Commission’s own definition of accreditation, Section 1540-01-02-.03, the Commission only recognizes accrediting bodies that are recognized by the U.S. Department of Education.

We recommend that THEC apply uniform standards for the naming of degrees to both nationally accredited and regionally accredited institutions. These changes are in the best interest of Tennessee’s college students and graduates to ensure they are all on a level playing field with graduates from other states.

We believe this regulation is too narrowly focused on creating distinctions between private sector proprietary schools and public sector institutions in the minds of potential students while neglecting the potential real-world consequences of these rules on college graduates in the job market.

**Comments on Rule 1540-01-02-.06(14)**

We fully support the revision to Rule 1540-01-02-.06(14) which removes the requirement that a qualifier be attached to an institution's name. This recognizes all accrediting bodies and is in line with the U. S. Department of Education. This revision is in the best interest of Tennessee's college students and graduates and ensures they are all on a level playing field with graduates from other states.

**Comments on Rule 1540-01-02-.12(1)(a)**

We recommend that THEC rules follow the professional licensure requirements for admissions policies. While we realize that high school diplomas are required for many professions, they are not required in all circumstances. In some cases, it is a fact that a professional licensure supersedes the high school diploma in order to obtain employment. This rule revision creates a barrier for students who could otherwise obtain employment in the state of Tennessee. We recommend that THEC recognize the professional licensure requirements where applicable and follow suit, thus removing obstacles to employment and career advancement.

**Comments on Rule 1540-01-02-.15(6)(b)**

We recommend that THEC delete the DD214 form and insert and accept the ERB instead. This rule revision states that institutions can accept high school information on DD214 forms; however, as of 2009 the DD214 no longer lists high school completion information. The Enlisted Record Brief (ERB) does list high school completion and/or GED completion. This would assist service members in reaching their goals of postsecondary education.

We thank you again for this opportunity to respond to the revisions and to recommend changes, as well as all of your hard work on behalf of students throughout Tennessee.

Sincerely,



Anne Landis Jetton  
Executive Director

Tennessee Association of Independent Colleges & Schools

**Julie Woodruff**

**From:** Gary Adcox <jgadcox@national-college.edu>  
**Sent:** Monday, March 19, 2012 10:11 AM  
**To:** Julie Woodruff; Stephanie Bellard  
**Cc:** Anne Landis Jetton (annelandis.jetton@taics.org); Cyndee P. Moore  
**Subject:** RE: Suggested Rule Revisions

Julie;

Thank you for allowing me to provide feedback to the proposed rule changes under consideration. The following are areas of concern and my recommendations for correction on the proposed rule changes.

#### 1540-01-02-.03 (1) DEFINITIONS

(u) "diploma mill": The use of the term "nontraditional" in the definition is unnecessary and adds to confusion in language among common terms "traditional" used in other definitions. Delete term.

(cc) "institute": The use of the term "traditional" degrees tends to classify degrees by intuitional accreditation as defined in (ss) "traditional degrees". Redefine without imposing restrictions.

(ii) "postsecondary educational institution": When taken with (cc) limits institution's ability to offer degrees as defined in (ss) "traditional degrees". Redefine without imposing limitations based on accreditation.

(vv) "University": The only classification of institution with "offers traditional undergraduate and graduate degrees" within definition and when used in conjunction with 1540-01-02-.06 (14) (a) requires regional accreditation as a minimum standards and thereby limits institution's ability to offer degrees as defined in (ss) "traditional degrees" and classify degrees by intuitional accreditation. Redefine without imposing limitations based on accreditation.

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

(d) 1. The use of the term Junior College by institutions with articulation agreements with regionally accredited institutions implies differences in institutional standards based on type of accreditation and allows unnecessary classification and limitations based on type of accreditation. Redefine without imposing limitations based on accreditation.

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

(9) (d) 3. The new rule, as written, would cause institutions unnecessary expense based on an "opinion" of "excessive, unreasonable" tuition without a defined scale of measurement for tuition cost and therefore should be redefined to eliminate vague measures and opinions.

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

(3) (a) Limits the institutions ability to offer degrees based on type of accreditation and implies differences in institutional academic standard based on type of accreditation. Redefine without imposing limitations based on accreditation.



(3) (a) 3. Requires articulation agreements with regionally accredited institutions and implies differences in institutional academic standard based on type of accreditation. Redefine without imposing limitations based on accreditation.

1540-01-02-.15 INSTITUTIONAL AND STUDENT RECORDS

(6) (b) The use of the DD Form 214 will not in all cases provide high school completion data and it is recommended that this section be reworded to indicate differences in forms and when their use is allowed.

1540-01-02-.12 ADMISSIONS STANDARDS

(1) (a) The requirement for admissions to non-degree programs should be rejected based on current policies that allow professional licensure of individuals without a high school diploma upon completion of a non-degree program. This requirement unreasonably limits ability of non-high school graduates from receiving professional training in order to obtain employment.

I recommend that new rules be drafted that applies uniform standards and consideration to both nationally and regionally accredited institutions. I believe that the current rules, as drafted, creates unfair distinctions based on type of accreditation and limits the use of types of degrees (authorized by accrediting body) offered by institutions which could negatively impact potential students and graduates in the local workforce.

Thank you for this opportunity to respond to the proposed rule changes,

Gary

J. Gary Adcox, DM  
Tennessee Proprietary Business School Association (TPBSA)  
President

---

**From:** Julie Woodruff [mailto:Julie.Woodruff@tn.gov]  
**Sent:** Monday, March 05, 2012 2:09 PM  
**To:** Julie Woodruff; Stephanie Bellard  
**Cc:** Will Burns; Christina Coleman; Nicholas Cook  
**Subject:** Suggested Rule Revisions  
**Importance:** High

The Division of Postsecondary School Authorization (DPSA) is considering revisions to the state's rules governing postsecondary educational institutions in Tennessee. These rules are located in Rule Chapter 1540-01-02. You are being sent this email because you either work for an authorized institution or its corporate parent or are considered an interested person.

Attached you will find a draft of the suggested rule revisions. We encourage you to review them thoroughly. You may offer written comments for our consideration; comments may be submitted via mail, facsimile, or electronic mail. After review of all comments, we will decide whether to move forward with a rulemaking proceeding.

All written comments must be received by **Monday, March 19, 2012**, to ensure proper consideration can be given to your input. Any other questions or comments may be directed to me at (615) 253-8857 or [julie.woodruff@tn.gov](mailto:julie.woodruff@tn.gov).

**Julie M. Woodruff, Esq.**

Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
Parkway Towers, Suite 1900, 404 James Robertson Parkway  
Nashville, TN 37243-0830



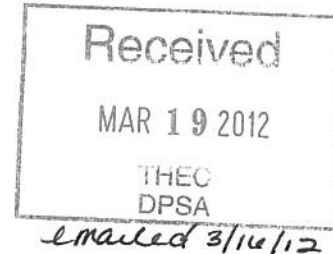


FILE COPY

March 16, 2012

BY EMAIL AND OVERNIGHT DELIVERY

Julie M. Woodruff, Esq.  
Director of Regulatory Affairs  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
Parkway Towers, Suite 1900  
404 James Robertson Parkway  
Nashville, TN 37243-0830



RE: Proposed Rules Changes

Dear Ms. Woodruff:

I am writing in response to your email notice of March 5, 2012, regarding the changes to the regulations governing postsecondary institutions in Tennessee that have been proposed by the Division of Postsecondary School Authorization ("DPSA") of the Tennessee Higher Education Commission ("THEC"). Thank you for the opportunity to comment.

Education Corporation of America owns Virginia College, LLC, an Alabama limited liability company. Virginia College is a system of colleges that today comprises 22 campuses in Alabama, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, Texas, and Virginia, including Virginia College School of Business and Health campuses in Chattanooga and Knoxville ("College"). The College is accredited by the Accrediting Council for Independent Colleges and Schools ("ACICS"), which is recognized by both the U.S. Department of Education and the Council for Higher Education Accreditation.

The College applauds the DPSA proposal and wholeheartedly supports this effort to eliminate certain unnecessary and burdensome regulatory provisions. In particular, the College strongly supports the proposed changes regarding institutional names found in Rule 1540-01-02-.06(14). We agree that the terms "college" and "university" hold particular meaning in higher education and deserve protection from potential misuse. This proposal properly recognizes that an institution that is accredited by a recognized accrediting agency and that offers postsecondary degree programs is in every sense a college as that term is commonly understood. We thank the DPSA for recognizing that distinctions between regionally accredited and nationally accredited institutions that meet these conditions are not warranted.

We strongly encourage DPSA to reach a similar conclusion with regard to the awarding of “traditional degrees” and respectfully suggest further modification of Rule 1540-01-02-.08(3)(a). To mandate a distinction in degree designations based on the source of an institution’s accreditation seems to us antithetical to the spirit otherwise embodied in the proposed rules.

Whether a private college in Tennessee is regionally accredited or nationally accredited, it is required to comply with exactly the same set of THEC rules regarding curriculum, faculty, instructional resources, student outcomes, and other academic standards. In addition, ACICS and the other national accrediting agencies mandate that all academic associate’s degree programs must be at least 60 semester credits or 90 quarter credits in length, must include at least 30 semester credits or 45 quarter credits in the area of concentration, and must provide at least 15 semester credits or 22.5 quarter credits of general education. Similarly, all bachelor’s degree programs must be at least 120 semester credits or 180 quarter credits in length, must include at least 60 semester credits or 90 quarter credits in the area of concentration, and must provide at least 36 semester credits or 54 quarter credits of general education.

ACICS specifically directs that all associate’s degree programs that award “traditional degrees” as that term is defined by THEC must be considered academic, rather than occupational or applied, degrees. All bachelor’s degree programs must meet the same requirements.

According to the ACICS accreditation standards, the general education component of an academic (*i.e.*, “traditional”) degree program must emphasize principles and theory and give balance to the entire program. The curriculum of an academic degree program must qualitatively and quantitatively approximate the standards at other colleges and, in addition to emphasis on the major or concentration, must help students acquire necessary skills such as reading, writing, communicating, critical thinking, and computer literacy.

These content requirements are nearly identical to, and in some respects, exceed the requirements of the Southern Association of Colleges and Schools (“SACS”). Moreover, the faculty requirements espoused by ACICS and the other national accrediting agencies, both in terms of appointment and credentials, compare very favorably to those promulgated by SACS.

We respectfully suggest that the name of a degree should be based on the content of that degree program. Where the content of an academic degree program is essentially identical between two institutions, one nationally accredited and one regionally accredited, we do not see what interests are served by requiring those degrees to be called by different names based on the source of the

Julie M. Woodruff, Esq.  
March 16, 2012  
Page 3

institution's accreditation. Such disparate treatment implies differences between programs that do not exist in any practical or material sense.

Moreover, it is not clear to us that the exception language built into the proposed rule change that would allow nationally accredited institutions to use traditional degree names if, *inter alia*, they have articulation agreements with two SACS-accredited institutions is meaningful or does anything to advance or assure the quality of the program so that the awarding of a traditional degree therefore is justified. Accordingly, we respectfully suggest further modification to Rule 1540-01-02-.08(3)(a), with the result that the name of a degree is based on the curricular content of the program, not the source of the awarding institution's accreditation, so long as that accreditation is granted by a recognized accrediting agency. We believe that this additional modification is consistent with and would advance DPSA's effort to update and refine the regulatory framework for private colleges in Tennessee.

Thank you again for the opportunity to comment. We look forward to the adoption of these proposed changes as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roger Swartzwelder", followed by a long horizontal line extending to the right.

Roger L. Swartzwelder  
Executive Vice President, General Counsel,  
and Chief Compliance Officer

**Julie Woodruff**

Received

MAR 12 2012

THEC  
DPSA

**From:** Janet Perry <JanetP@westondistancelearning.com>  
**Sent:** Friday, March 09, 2012 8:25 PM  
**To:** Julie Woodruff  
**Cc:** Ann Rohr  
**Subject:** RE: Suggested Rule Revisions  
**Attachments:** TN - Comments for TN Review of 1540-01-02 Revision March 2012[1].docx

File is now attached :).

---

Janet Perry, Director of Education and Compliance  
 Weston Distance Learning, Inc.  
 McKinley College ~ U.S. Career Institute ~ At-Home Professions  
 2001 Lowe Street, Fort Collins, CO 80525  
[JanetP@westondistancelearning.com](mailto:JanetP@westondistancelearning.com)  
 800.347.7899 ext. 2323  
 970.377.0934  
 Fax: 970.223.1678

*Celebrating 30 years of education excellence!*

This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Also, please indicate to the sender that you have received this email in error, and delete the copy you received. Nothing in this communication is intended to operate as an electronic signature under applicable law. Thank you.

---

**From:** Janet Perry  
**Sent:** Friday, March 09, 2012 7:23 PM  
**To:** [Julie.Woodruff@tn.gov](mailto:Julie.Woodruff@tn.gov)  
**Cc:** Ann Rohr  
**Subject:** RE: Suggested Rule Revisions

Thank you for the opportunity to review and comment on THEC's suggested rule revisions. Attached are our school's comments. "Items for Review" are content suggestions or questions. "Housekeeping Items" are minor fixes such as hyphenating compound adjectives. Please let me know if you have any questions.

Thanks again for the opportunity!

Sincerely,

---

Janet Perry, Director of Education and Compliance  
 Weston Distance Learning, Inc.  
 McKinley College ~ U.S. Career Institute ~ At-Home Professions  
 2001 Lowe Street, Fort Collins, CO 80525  
[JanetP@westondistancelearning.com](mailto:JanetP@westondistancelearning.com)  
 800.347.7899 ext. 2323  
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**Sent:** Monday, March 05, 2012 1:09 PM  
**To:** Julie Woodruff; Stephanie Bellard  
**Cc:** Will Burns; Christina Coleman; Nicholas Cook  
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**Julie M. Woodruff, Esq.**

Director of Regulatory Affairs and Complaint Resolution  
Division of Postsecondary School Authorization  
Tennessee Higher Education Commission  
Parkway Towers, Suite 1900, 404 James Robertson Parkway  
Nashville, TN 37243-0830  
(p) 615.253.8857 (f) 615.532.8845

# AHP Comments for TN Suggested Revision to 1540-01-02 March 2012

## Items for Review

POLICY	COMMENT
1540-01-02.03(h)	<p>Articulation agreements may be signed by other people in an institution other than the CEO Perhaps this could say either: “...approved and signed by an appropriate representative of each institution...” -or- “...approved and signed by the school’s chief executive officer or president...”</p>
1540-01-02-.03(m)	<p>Definition of “certificate program” is limited by the time, contact hours and single skill terminology. For example, our approved course teaches two skills – medical transcription and medical editing (a subset of transcription that not all transcriptionists are trained to do). Suggest revised definition of certificate program such as, ““Certificate program” generally means a postsecondary vocational or technical program resulting in a certificate of completion.”</p>
1540-01-02.03(u)	<p>Diploma mills can be “traditional” or “nontraditional” in appearance, can charge a huge tuition and they are not just degree granting. For clarity, suggest definition changed to, “Diploma mill” means an unaccredited and non-state approved postsecondary school that offers postsecondary training that is not commensurate with obtaining bona fide occupational skills or subject knowledge.”</p> <p>A longer definition can be found on the US DoE website (link: <a href="http://www2.ed.gov/students/prep/college/diplomamills/diploma-mills.html#defined">http://www2.ed.gov/students/prep/college/diplomamills/diploma-mills.html#defined</a>):</p> <p><i>“The Higher Education Opportunity Act defines a diploma mill as follows:</i></p> <p style="padding-left: 40px;"><i>DIPLOMA MILL- The term `diploma mill' means an entity that--</i>  <i>(A)(i) offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; and</i>  <i>(ii) requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate; and</i>  <i>(B) lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education (as such term is defined in section 102) by--</i>  <i>(i) the Secretary pursuant to subpart 2 of part H of title IV; or (ii) a Federal agency, State government, or other organization or association that recognizes accrediting agencies or associations.”</i></p>
1540-01-02-.03(aa)	<p>Other than “communication/language skills,” general education can also include history, basic science, freshman-level math (non-degree specific), etc. Perhaps the connector word can be changed from “and” to “or” so that one or more of the three parts of the definition for “general education courses” apply rather than all three applying (thus the concern about saying “communication/language skills”).</p>
1540-01-02-.03 – suggested definitions to add	<p>Institution, Placement, Program, Cash Discount</p>
1540-01-02-.06(14)(c)	<p>Add “university” to the rule – “No unaccredited institution may use “university” or “college” in its name unless...”</p>
1540-01-02-.07(10)(a)(3)	<p>Suggest this item address purchase as well as lease.</p>
1540-01-02-.08(3)(a)	<p>Suggest reconsideration of this. U.S. Department of Education approves the scope of national accreditors to include higher-level degrees, up to and including Ph.D.</p>



1540-01-02-.08(3)(a)(3)	This section does not take address regionally-accredited distance educators.
1540-01-02-.08(3)(c)	Is there any requirement for unaccredited degree-granting institutions to eventually gain accreditation? Many states require this.
1540-01-02-.08(4)(c)	"Directly and indirectly" may cause confusion. Can this simply say, "Distance learning institutions must meet all requirements...?"
1540-01-02-.08(4)(d)(items 2-5)	These items seem like something that should be required of all institutions, not just distance educating institutions.
1540-01-02-.10(4 and 5)	If placement services are not required, why is a school (other than those granted a waiver) that does not provide placement required to report a placement number? This is confusing to us as well as our students.  Our other regulatory agencies acknowledge "placement" as a school's decision whether to actively place graduates in employment situations. Our understanding from TN is that the reference to "placement" is used more as an "employment" number representing graduates who obtain a job (either through placement or their own job search). Should this be reworded to be an "employment" statistic? Thanks!
1540-01-02-.11(1)(o)	Adjust statement in quotes to remove initial "The." Otherwise, the sentence will be awkward with a school with a name like ours, "The At-Home Professions is authorized..."
1540-01-02-.11(1)(r)	Does "cash discount" mean tuition paid in full at the time of enrollment?
1540-01-02-.12(1)(a)	Proposed Change in Rules for non-degree (not degree) granting institutions: Suggest allow school the completion of up to the first 50% of assignments in the non-degree program as evidence of ability to benefit from the program's instruction. If a student's grade falls below a "C" at any point during that time, the school must consider student unable to benefit from the program and refund all monies paid.
1540-01-02-.13(i)	"Format" generally applies to the layout of something. Suggest revising sentence to "...including on the form the following statement:"
1540-01-02-.13(2 and 5)	Does the pre-enrollment checklist assume a student is enrolling in the school (thus one checklist for enrollment in any course) or in individual courses/programs (thus a different checklist for enrollment in multiple courses/programs)?
1540-01-02-.13(4)(b)	Suggest making social security number optional to coincide with change to 1540-01-02-.12(1)(a).
1540-01-02-.13(7)	Suggest changing word "counseling" to "due notice" or define amount of advance notice a school must provide a student.
1540-01-02-.15(6)(b)	Suggest adding DD214 option to 1540-01-02-.12(1)(a).
1540-01-02-.15(6)(e)(3)	To be consistent with 1540-01-02-.15(5)(e), change to "social security number or unique student identification number."
1540-01-02-.16(15)(h)	Suggest TN consideration of Colorado Article 12-59-117(1)(k) for this section: <i>A school or agent to designate or refer to its sales representatives as "counselors" or "advisors" or to use words of similar import which have the tendency to mislead or deceive prospective students or the public regarding the authority or qualifications of such sales representatives or agents.</i>
1540-01-02-.23(1)	Suggest making this "24 business hours" to allow for fact decision could be made on a Saturday, and THEC will be closed more than 24 hours before school can contact them (unless contact is by email or voice mail).

"Housekeeping" Items

POLICY	COMMENT
1540-01-02-.03(c)	Suggest deleting last sentence as this is not necessary to definition of accreditation.

1540-01-02-.03(y)	Suggest change "Distance Learning" to lower case.
1540-01-02-.03(bb)	First use of acronym generally appears after full spelling of what it represents. In this case, suggest beginning the sentence with, "Independent certified public accountant (C.P.A.)."
1540-01-02.03(gg)	Suggest use of "includes" instead of "means."
1540-01-02-.05(1)(i)	Add hyphen to compound adjective "short-term."
1540-01-02-.05(4)	Revise last sentence to, "A request may be denied if it is not received in a timely manner." Consider defining "timely."
1540-01-02-.07(b)	To be consistent with other portions of the rules, provide rule reference number for "Authorization – What Constitutes a Complete Application." (Reference is 1540-01-02-.07(2), I believe)
1540-01-02-.07(9)(d)(1 and 2)	To clarify, can the form used for #1 (which I think is different than #2) be named since the form for #2 is named?
1540-01-02-.07(9)(d)(3 and 4)	Insert line space between item 3 and 4.
1540-01-02-.07(9)(d)(3)	Insert hyphen for "in-depth" compound adjective.
1540-01-02-.07(9)(d)(5)	For clarification, suggest revising first long sentence to add a period after "enrollment." Begin new sentence directly after that with "Any course addition must be in response to..."
1540-01-02-.08(2)(a)(1)	Insert hyphen in "entry-level" compound adjective.
1540-01-02-.08(3)(c)(1)	Insert hyphen in "degree-granting" compound adjective.
1540-01-02-.08(4)(d)(1)	Suggest changing "the home study method" to "distance education."
1540-01-02-.10(6)	Suggest changing "pupil teacher ratios" to "pupil to teacher ratios."
1540-01-02-.13(2)(d)	Insert hyphens in "full-time" and "part-time" compound adjectives.
1540-01-02-.20(6)	Delete extra period at end of this item.

**Julie Woodruff**

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**From:** Paul Lamb <Paul@WingsMQY.com>  
**Sent:** Thursday, March 15, 2012 1:50 PM  
**To:** Julie Woodruff; Stephanie Bellard  
**Cc:** Will Burns; Christina Coleman; Nicholas Cook; 'James A Howell'; 'Randy Harmon'  
**Subject:** RE: Suggested Rule Revisions

Received

MAR 15 2012

THEC  
DPSA

Julie M. Woodruff, Esq.

Thank you for the opportunity to comment on the 2012 Revisions 3.5.2012. As you know Wings of Eagles is a Part 61 and 141 FAA flight school. I would like to specifically address 1540-01-02-05, EXEMPTIONS (1)(d). Wings of Eagles both at Smyrna and Nashville John Tune airports are already heavily regulated by the FAA and VA. Students and instructors are not required to have a high school diploma or a GED in order to obtain pilot licenses. In addition, we do not require any money up front from any of our students, the only requirement is "pay as you fly".

Our business plan does not include:

- job placement
- guarantee jobs
- degree certificates or licenses issued or granted
- any fees
- any tuition
- advanced payment

Because of the uniqueness of flight schools I would propose that the section (1)(d) be changed to read:

"Flight Schools that operate under Part 61 and/or Part 141 and that do not require any funds or payment up front are exempt."

Thank you,

***Paul***

Paul Lamb  
Chief Flight Instructor

 WING OF EAGLES  
School of Flight

276 Doug Warpoole Rd

Smyrna, TN 37167  
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**From:** Julie Woodruff [<mailto:Julie.Woodruff@tn.gov>]  
**Sent:** Monday, March 05, 2012 2:09 PM  
**To:** Julie Woodruff; Stephanie Bellard  
**Cc:** Will Burns; Christina Coleman; Nicholas Cook  
**Subject:** Suggested Rule Revisions  
**Importance:** High

The Division of Postsecondary School Authorization (DPSA) is considering revisions to the state's rules governing postsecondary educational institutions in Tennessee. These rules are located in Rule Chapter 1540-01-02. You are being sent this email because you either work for an authorized institution or its corporate parent or are considered an interested person.

Attached you will find a draft of the suggested rule revisions. We encourage you to review them thoroughly. You may offer written comments for our consideration; comments may be submitted via mail, facsimile, or electronic mail. After review of all comments, we will decide whether to move forward with a rulemaking proceeding.

All written comments must be received by **Monday, March 19, 2012**, to ensure proper consideration can be given to your input. Any other questions or comments may be directed to me at (615) 253-8857 or [julie.woodruff@tn.gov](mailto:julie.woodruff@tn.gov).

**Julie M. Woodruff, Esq.**

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