

RULEMAKING HEARINGS

TENNESSEE HIGHER EDUCATION COMMISSION - 1540 DIVISION OF POSTSECONDARY SCHOOL AUTHORIZATION

There will be a hearing before the Tennessee Higher Education Commission to consider the promulgation of amendments of rules pursuant to T.C.A. § 49-7-2005. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee Higher Education Commission Boardroom on the 18th Floor of Parkway Towers located at 404 James Robertson Parkway, Nashville, Tennessee at 1:00 p.m. CDT on the 14th day of September 2006.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Higher Education Commission to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee Higher Education Commission to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Higher Education Commission's ADA Coordinator at 404 James Robertson Parkway, Suite 1900, Parkway Towers, Nashville, Tennessee 37243 and (615) 741-5293.

For a copy of this notice of rulemaking hearing, contact: Melissa Stevenson, Suite 1900, Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37243-0830, (615) 741-5293.

SUBSTANCE OF PROPOSED RULES

1540-1-2-.02 Role of the Commission, Committee and Staff, is amended by deleting subparagraph (4) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (4) (b) shall read:

- (4) (b) Beginning July 1, 1997, the Division of Postsecondary School Authorization and Commission staff responsible for oversight of TCA §49-7-2001 et seq. and the related Postsecondary Regulations chapter 1540-1-2 shall be officially referred to as the Tennessee Higher Education Commission, Division of Postsecondary School Authorization.

Authority: T.C.A. §49-7-2014.

1540-1-2-.03 Definitions is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) The following definitions are complementary to definitions in T.C.A. § 49-7-2003 and have the following meanings, unless the context clearly indicates otherwise:
 - (a) "Ability-to-benefit" as used in these regulations, in contrast to the use of that term for federal financial aid or other purposes, means students, regardless of financial condition, who do not possess a high school diploma or GED, but who have demonstrated that they can profit materially or personally from a certain course of study.
 - (b) "Academic" in description of a program or institution means that which is organized primarily for academic training or transfer.
 - (c) "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

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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. Secretary of Education and the U.S. Department of Education. Additionally, accreditation is voluntary and is not required by State law. In most cases, authorization for one to two years is a prerequisite for accreditation.

- (d) "Act" means the Postsecondary Education Authorization Act of 1974, T.C.A. §§ 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, 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 solicit or enroll students for education in an authorized postsecondary educational institution.
- (h) "Articulation agreement" for the purposes of the Division of Postsecondary School Authorization, refers specifically to "program articulation", i.e., the process of developing a formal, written agreement that specifically breaks down courses (or sequences of courses within a program) from institution(s) that are comparable, and acceptable in lieu of, specific course requirements at similar institution(s). An articulation agreement is an agreement, a legal document with the appropriate signatures that specifies which courses at said institution(s) may be transferred to meet general education, major requirements, and electives at the receiving institution. These agreements, maintained by the Articulation Officers, at both institutions, facilitate the successful transfer of students between the two entities, to include, but are not limited to, associate and baccalaureate level institutions and ultimately comprehensive or research universities for masters and doctoral level programs.
- (i) "Associate degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least sixty (60) semester credit hours or ninety (90) quarter credit hours of instruction, or 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", "licensed", 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 Postsecondary Education Authorization Act of 1974, T.C.A. §§ 49-7-2001, et seq. as amended and the chapter 1540-1-2 of the Postsecondary Regulations. The authorization visit is commonly called a 'site

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visit'.

- (l) "Bachelor's degree" means a credential issued to students who complete a vocational or academic program or curriculum consisting of at least one hundred twenty (120) semester credit hours or one hundred eighty (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 five hundred (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 traditional undergraduate college degrees. Some examples of traditional degrees are, but are 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.
- (q) "Commission" means the Tennessee Higher Education Commission.
- (r) "Contact Hour" (clock hour) refers to actual directed or supervised instructional time, not to be less than fifty (50) minutes for every sixty (60) minutes of time.
- (s) "Credential" refers to educational credentials which include but are not limited to: certificates, diplomas, letters of designation, degrees, transcripts or any other papers generally taken to signify progress or completion of education and/or training at a postsecondary educational institution.
- (t) "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.
- (u) "Diploma mill" means 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.
- (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 five hundred (500) contact hours but less than contact requirements

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for the Associates degree.

- (w) "Doctoral degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least ninety (90) semester hours or one hundred thirty-five (135) quarter hours of graduate credit or equivalent.
- (x) "Enrollment" refers to those students who have completed the institution's application forms, submitted a financial deposit where required, and have actually attended one or more sessions of classes, or, in the case of home study programs, received one or more lessons.
- (y) "Educational service" means an individual or business established to provide services such as, but not limited to, a testing service, test preparation or a business that assists people in gaining academic credit for life experience, non-accredited courses or non-college training.
- (z) "General education courses" are general education core or academic subjects intended to broaden communication/language skills, contribute to the intellectual growth of the student and give balance to the total program beyond the area of vocational or professional concentration,
- (aa) "Independent certified public accountant" 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.
- (bb) "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).
- (cc) "Institutional director" means the institutional executive designated by the institution to assume responsibility for the conduct of the institution and its agents within these rules and the Act. Further, the institutional director will serve as the official contact for all business conducted between the institution and the Commission and maintain complete authorization files.
- (dd) "Instructional Site" means a non-residential facility that is commercially zoned, utilized for the training of students.
- (ee) "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.
- (ff) "Master's degree" means a credential issued to students who complete a program consisting of a bachelor's degree plus at least thirty (30) semester credit hours or forty-five (45) quarter credit hours, or equivalent.
- (gg) "Non-exempt institution" means all postsecondary institutions not specifically exempted under provisions of T.C.A. § 49-7-2004 of the Act or Section 1540-1-2-.05 of these rules and means all instructional sites which must have separate authorization.
- (hh) "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

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presence in Tennessee.

- (ii) "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.
- (jj) "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.
- (kk) "Quarter" is a period of instruction into which the academic year may be divided. A quarter must consist of at least ten (10) weeks.
- (ll) "Quarter credit hour" means a measurement of scholastic attainment earned by receipt of instruction of one (1) classroom lecture hour per week for one (1) quarter or two (2) hours of laboratory experience per week for one (1) quarter, or three (3) hours of intern/externship experience per week or the equivalent number of hours.
- (mm) "Residence course" means a course in which the student comes to an institutional campus or instructional site as opposed to a course where the student stays at home (i.e. Long Distance Learning).
- (nn) "School" means (1) A unit within a college or university that offers specialized instruction (i.e., a school of engineering). (2) An institution that offers specialized instruction in areas (i.e., driving, modeling, basic travel training) not usually associated with college or university education. Appropriate credentials awarded would include certificates and/or diplomas. Institutions using the name of "school" do not usually offer degrees.
- (oo) "Semester" is a period of instruction into which the academic year may be divided. A se-

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mester must consist of at least fifteen (15) weeks.

- (pp) "Semester credit hour" means a measurement of scholastic attainment earned by receipt of instruction of one (1) classroom lecture hour per week for one (1) semester or two (2) hours of laboratory experience per week for a semester, or three (3) hours of intern/externship experience per week or the equivalent number of hours.
- (qq) "Solicitation" means contact, written or verbal, on the part of anyone representing an institution, for the purpose of supplying information in an attempt to enroll Tennessee residents.
- (rr) "Tuition" shall mean but not be limited to, any money or fee involving the student, actually charged or tracked as a bookkeeping item for instruction/training provided.
- (ss) "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 1540-1-2-.17 of these rules, and any tuition and fees collected in advance from prospective students.
- (tt) "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 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.
- (uu) "Vocational" in description of a program or institution means that which is organized primarily for job entry or upgrading of job skills that would result in a new job title or position.

Authority: T.C.A. § 49-7-2005, Public Chapter 766, Acts of 2006.

1540-1-2-.05 Exemption is amended by deleting paragraph (1) in its entirety and substituting the following language, so that paragraph (1), so that as amended, paragraph (1) shall read as follows:

- (1) In addition to institutions exempt by Tennessee Code Annotated, Chapter 49-7-2004, the following institutions are exempt from the annual reporting and the provisions of these regulations:
 - (a) any entities offering education, instruction or training that meet 1, 2, 3, or 4 in its entirety as follows:
 1. maintained or given by an employer or group of employers, for employees or for persons they anticipate employing without charge, payroll deduction or minimum length of employment; or
 2. maintained or given by a U. S. Department of Labor or state recognized labor organization, without charge, to its membership or apprentices; or
 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

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directed toward new or additional vocational, professional or academic goals.

- (b) Short-term programs for which all promotional materials and advertisements indicate that the program purpose is exclusively for self-improvement, or instruction that is motivational or avocational in intent as determined by Commission staff.
- (c) 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.
- (d) Institutions which offer intensive review courses designed solely to prepare students for graduate and/or professional school entrance exams.
- (e) Bona fide religious institutions that:
 - 1. offer instruction or training without charge or any expense to participants and do not offer degrees of any type within the institution;
 - 2. do not suggest that postsecondary credit may be awarded by another party or transfer in educational credentials from another source;
 - 3. do not offer diplomas/certificates that in the opinion of the Commission replicate letters of designation or degrees.

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

1540-1-2-.06 Minimum Authorization Standards and Requirements, is amended by deleting paragraphs (6) and (12), subparagraph (14) (b), and paragraph 15 in their entirety and substituting instead the following language, so that as amended, the new paragraphs (6) and (12), subparagraph (14) (b), and paragraph (15) shall read:

- (6) Ability to secure a continuous institutional surety bond or like security described in rule 1540-1-2-.07 (6) (a) and (10).
- (12) Any institution based primarily outside of Tennessee which proposes to set up a site in Tennessee and is not accredited by an agency recognized by the Commission must forward reasons why resources would not best be spent on accreditation at current site.
- (14) (b) No postsecondary educational institution under the Act and these rules may use the word "college" in their name unless the school has been so approved by a regional accrediting body recognized by the U. S. Department of Education, or
 - 1. For institutions authorized prior to October 1, 2006, 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.
 - 2. For institutions authorized on or after October 1, 2006, an appropriate qualifier preceding the word "college", such as "career", "vocational", "business", "technical", "art" etc.,

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or in the case of a religious institution, "Bible" or a denominational term.

- (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.

1540-1-2-.07 Institutional Applications, is amended by deleting it in its entirety and substituting instead the following language, so that the new rule shall read:

(1) Application deadline:

- (a) Incomplete submissions as given below in Authorization - What Constitutes a Complete Application, or applications submitted after the established deadline and/or that are untyped or incomplete may be deferred to the next quarterly meeting at the discretion of staff.
- (b) Institutions that voluntarily or involuntarily defer an application before the Committee will have two additional Committee/Commission meetings to complete, correct and/or submit the application by that established deadline date. Failure to complete the application process in the established time extension will require a new application and loss of all previously paid fees.
 - 1. Exceptions must be requested in writing and granted by the Executive Director.

(2) Authorization - What Constitutes a Complete Application:

- (a) Prior to operation, which includes advertising, recruitment and solicitation, institutions seeking or required to hold an authorization must submit on forms provided by the Commission, a completed and typed application which includes at least the following:
 - 1. a title or name of the institution in compliance with these rules;
 - 2. a copy of the Tennessee state charter as filed with the Secretary of State (incorporated) or local business license (sole proprietorship);
 - 3. 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 (owned or leased);
 - 6. qualifications for instructional staff and supervisors (1540-1-2-.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;
 - 8. definition of any administrative structure above the director with the signature of the official that will notify the Commission if the director is replaced;
 - 9. a check or money order payable to the State Treasurer for Tennessee for such fees

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as prescribed under these rules;

10. institutional surety bond as prescribed by T.C.A. §49-7-2013;
 11. a copy of the enrollment contract or agreement described in these regulations;
 12. a copy of the Enrollment Disclosure Standards (1540-1-2-.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;
 14. Current verification of fire and sanitation inspections of educational facilities (and student housing owned, leased or operated by the institution) must be filed;
 15. a draft or copy of the institutional catalog (see 1540-1-2-.11);
 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 these regulations;
 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 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 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

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and informational letter for staff terminations;

- (e) advise the Commission of any application to operate in another state (Tennessee institutions only);
 - (f) sign significant operational documents (such as those vouching for accuracy of staff information, moral character, program revisions, etc.); and
 - (g) forward, if participating in federal financial aid programs, a copy of each audit of such programs by applicable state and federal agencies, applicable non-profit, state or federal agencies, including, but not limited to, the Tennessee Student Assistance Corporation and the United States Department of Education.
- (6) Bond Requirements for Institutions:
- (a) Institutions must, on forms provided by the Commission, secure for student indemnification purposes, from an insurance company licensed in Tennessee, a surety bond for the penal sum of \$10,000 for in-state institutions and \$20,000 for out-of-state education institutions.
- (7) Out of state institutions must, on forms provided by the Commission, secure a surety bond for agents in the penal sum of \$5,000 per agent from a surety company authorized to do business in Tennessee with the applicant institution as principal. Such applications must be accompanied by verification by the issuing agency that the individual seeking a permit is covered by a \$5,000 surety bond.
- (8) Bonds provided by institutions under Section 1540-1-2-.07(7) must be accompanied by the name, office address, and phone number of the issuing insurance company representative and the bond must be site specific.
- (9) Bonds provided by institutions under Section 1540-1-2-.07(7) must be identified on the top half of the first page by the name and the address of the institution. Bonds and verification of bonds should be forwarded to the Commission by institutional directors, and not directly from issuing companies.
- (10) Certificates of deposit or a cash deposit with a bank may be accepted in lieu of the bond, 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.
- (11) Fire and Sanitation Inspections:
- (a) Applicant institutions must secure, from appropriate local agencies, documentation that fire and sanitation codes are met by the proposed instructional facilities. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.
 - (b) Tennessee institutions seeking initial authorization and renewal must maintain documentation in their authorization records that a fire and sanitation inspection has been successfully passed during the past twelve months and, further, the institution must notify the Commission of the most recent inspection dates as part of the renewal application. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable.
 - (c) Out-of-state institutions must forward to the Commission a copy of fire and sanitation inspec-

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tion reports and these reports must be made at least every twelve months.

- (d) Commission staff may seek supplemental fire and/or sanitation reports from appropriate local or state agencies.
- (12) New Ownership / Change in Ownership:
- (a) The following constitutes new ownership:
 - 1. In the case of ownership by an individual, when more than 50 percent of the institution has been sold or transferred;
 - 2. In the case of ownership by a partnership or a corporation, when more than 50 percent of the institution or of the owning partnership or corporation has been sold or transferred;
 - 3. When the board of directors, officers, shareholders, or similar governing body has been changed to such an extent as to significantly alter the management and control of the institution.
 - (b) A person or persons purchasing an institution authorized to operate shall comply with all the requirements for securing an initial, new authorization including new program applications for each program. In addition, a copy of the sales contract(s), bill(s) of sale, deed(s), and all other instruments necessary to transfer ownership of the institution shall be submitted to the Commission.
 - (c) 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 percent, 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 Advisory Committee for Postsecondary Educational Institutions and affirmative vote of the Commission.
 - (d) The sale or transfer of ownership interest after the death of an owner of an institution to either a family member or a current stockholder of the corporation is not considered a change in ownership, and the executive director may determine that other transfers should also be excluded from these requirements.
- (13) New Program or Change in Program:
- (a) Vocational program names and objectives must generally coincide with or be equated with the Dictionary of Occupational Titles published by the U.S. Department of Labor and/or the Classification of Instructional Programs published by the U.S. Office of Education, National Center for Education Statistics.
 - (b) New institutions proposing to offer programs similar to those conducted by Tennessee institutions under the Tennessee desegregation plan must submit a description of the anticipated effect of the proposal on the racial composition of higher education institutions in Tennessee.
 - (c) New institutions must submit a rationale with supporting data to justify initiation of programs proposed.

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- (d) Authorized institutions must submit to the Commission a supplementary application if additional programs are proposed during any authorization year and the program must be authorized prior to operation, which includes advertising or solicitation. Applications must be received by the quarterly deadline established by Commission staff to be included on the ensuing Committee and Commission agenda.
- (e) Ongoing institutions that make changes to an existing program(s) previously approved by the Commission must file a New Program Application if program changes exceed 25 percent, or if in the opinion of staff a significant change has occurred. Changes of less than 25 percent should be reported by submitting a change of program form as a file item to the Commission detailing changes made. All changes must be reflected in the institutional catalog.
- (f) Institutions shall not arbitrarily add a course or courses to an existing program in which a student would incur additional time and expense beyond the catalog requirements at the time of enrollment, unless the addition is in response to: demonstrated educational necessity; a reasonable program completion period had elapsed; state approval agencies; recognized accrediting agencies or for requirements of professional certifications or licenses. Under approval conditions, the institution shall provide written notification to the Commission and give adequate notice to all students affected prior to any change.

(14) New Location / Change of Address:

- (a) An application from an authorized institution to reflect a new location shall be submitted to the commission staff and include all documents designated by the Executive Director as being necessary with the appropriate fee, thirty days prior to moving. Documents shall include but are not necessarily limited to: (1) evidence of satisfactory health inspection, (2) evidence of satisfactory fire inspection, (3) copy of lease, and (4) all physical material and building requirements given under Initial Authorization. Approval may be issued after the new facilities have been inspected and the application is complete. If a move is beyond 10 miles and a student is prevented from completing the training at the new location as determined by the Executive Director, a full refund of all moneys paid and a release from all obligations will be given to the student or loan holder.

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

1540-1-2-.08 Regulations for Specific School Types, is amended by deleting subparagraphs (3) (a) and (b), part (3) (d) 2., subparagraph (3) (e), and paragraph (9) are deleted in their entirety and substituting instead the following language so that as amended, the new subparagraphs (3) (a) and (b), part (3) (d) 2., subparagraph (3) (e), and subparagraph (9) (a) shall read as follows:

- (3) (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 90 days prior to the quarterly meeting of the Committee on Postsecondary Educational Institutions.
- (3) (b) All degrees offered must be approved by name and designation by the Commission. No institution may offer traditional degrees or professional degree designations such as those given in the definitions under “college” and “university” unless previously approved by a recognized regional accrediting body.

1. An exception may be approved by the Executive Director upon recommendation of

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Commission staff.

- (3) (d) 2. 25 percent to 50 percent 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) (e) Undergraduate degree programs must include at least 25 percent to 50 percent of the program in general education courses unless the institution can demonstrate program accreditation requirements which are less. Non-accredited institutions proposing to offer associate degree level programs which are technical in nature, and have less than 25 percent 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 of the general education staff with earned master's degrees or equivalent.
- (9) (a) The Tennessee State Board of Education or the Commission may request a dual review of any institution or business with physical presence in Tennessee offering courses related to but not limited to teacher (K-12) licensing, recertification or career ladder.

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

1540-1-2-.09 Annual Renewal for Authorization is renamed Annual Reauthorization, and further that the rule is deleted in its entirety and substituting instead the following language so that as amended the rule shall read as follows:

- (1) All authorized institutions and institutions under Temporary or Conditional Authorization must submit a reauthorization application on a form provided by Commission staff. The annual authorization year will be from July 1 through June 30. The annual 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 1540-1-2-.25 Fees.
- (3) For all authorized institutions and institutions under Temporary or Conditional Authorization, 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 Financial Standards, 1540-1-2-.14 and shall include:
 - 1. a balance sheet (statement of financial position);
 - 2. statement of the results of institutional operation including gross amount of tuition and fees earned and total refunds during the fiscal year;
 - (d) a renewal fee (check or money order) made payable to the State of Tennessee for such fees as stated under these regulations;
 - (e) an enrollment report for the first enrollment period on or after July 1 of previous year through

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and including the last enrollment on or before June 30 of the current year;

- (f) a list of all institutional personnel including staff, instructors and agents;
- (g) summary data for the most recent institutional fiscal year on students participating in state or federal aid programs;
- (h) such other information or clarification deemed necessary by Commission staff for determination of authorization recommendations and study of institutional and/or enrollees or former enrollees.

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

1540-1-2-.10 Required Minimum Standards, is amended by deleting paragraph (6) in its entirety and substituting instead the following language so that as amended paragraph (6) shall read as follows:

- (6) The maximum pupil teacher ratios acceptable, without special permission from the Commission, are:
 - (a) lecture: 40-1;
 - (b) business laboratory: 50-1 (such as accounting, typing, shorthand);
 - (c) technical and vocational theory: 40-1;
 - (d) technical lab: 40-1 (such as computer programming, data processing);
 - (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.

1540-1-2-.11 Institutional Catalog, is amended by deleting subparagraphs (1) (o), (1) (p), (1) (r) and paragraphs (3) and (4) in their entirety and substituting instead the following language so that, as amended, subparagraphs (1) (o), (1) (p), (1) (r) and paragraphs (3) and (4) shall read as follows:

- (1) (o) in catalogs which describe educational programs conducted in Tennessee and with enrollment contracts used by programs outside of Tennessee, a statement provided within the first four pages of the catalog and on the signature page of enrollment contracts, which must read as follows:

“The (name of institution) is authorized by the Tennessee Higher Education Commission. This authorization must be renewed each year and is based on an evaluation by minimum standards concerning quality of education, ethical business practices, health and safety, and fiscal responsibility.”;
- (1) (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

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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 Postsecondary staff of the Commission must be in the catalog for grievances not settled at the institutional level;

- (1) (r) for institutions that disseminate electronic copies of catalogs, a hard copy must be available upon request.
- (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

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

1540-1-2-.12 Admissions Standards, is amended by deleting paragraph (2) in its entirety and substituting the following language so that paragraph (2) shall read as follows:

- (2) Students without a high school diploma or a GED may be admitted as an Ability-to-Benefit student into non-degree programs that are customarily not accepted for college credit if the student has terminated secondary enrollment and is beyond the age of compulsory attendance, subject to the following conditions:
 - (a) Applicants without a high school diploma or GED shall be tested.
 - (b) An exception to these testing provisions, however, may be created for:
 1. Individual applicants to non-degree programs where the following four conditions are met:
 - (i) The student does not receive federal or state financial aid.
 - (ii) The student's high school transcript is unavailable.
 - (iii) The program is short term and the costs are low.
 - (iv) Institutions or programs at an institution composed exclusively of subject matter that does not lend itself to an objective test, upon request, if approved by the Commission.
 - (c) Any test administered for purposes of determining admission shall be a standardized test recognized nationally or by the U.S. Department of Education with minimally acceptable scores as referenced in the test material or by the U.S. Department of Education or only in cases where a standardized test is not available, a non-standardized test developed by institutional officials and approved by the Commission staff with minimally acceptable scores approved by the Commission staff.
 - (d) Tests shall be administered in a secure environment (e.g., monitors present). Tests shall not be administered in a manner inconsistent with the manner (e.g., frequency) recommended by standardized test developers. Testing policies shall be stated along with the admissions

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policy published in the institutional catalog.

- (e) An agent is not allowed to administer the test, nor is anyone allowed to assist the applicant in answering the questions.
- (f) If the admission test reveals the student to be ineligible as an ability-to-benefit student, the student may be enrolled as a remedial student and may be charged for the remedial program on an hourly pro rata basis. The student is not obligated for the tuition and fees of the non-remedial regular program until the admission requirements are met. The minimum admission requirement for postsecondary education remain a high school diploma, GED, or a passing score on the admission exam.
- (g) Tests administered for purposes other than the determination of admissibility are not governed by 1540-1-2-.12 (2).

1540-1-2-.13 Enrollment Agreements and Disclosure Standards, is amended by deleting subparagraph (2) (a) and paragraph (9) in their entirety and substituting instead the following language so that, as amended, subparagraph (2) (a) and paragraph (9) shall read as follows:

- (2) (a) toured the institution (not applicable for institutions that deliver all instruction on-line);
- (9) Tuition increases that in the opinion of the Commission are excessive, unreasonable and exceeds initial disclosure to the student may be denied and/or result in an in depth audit of the institution at the school's expense to assure the Commission of financial stability.

Authority: T.C.A. §49-7-2006.

1540-1-2-.13 Enrollment Agreements and Disclosure Standards, is further amended by adding a new paragraph (10) to read as follows:

- (10) All tuition changes must be submitted on forms provided by the Commission and approved by commission staff prior to their inception.

Authority: T.C.A. §49-7-2006.

1540-1-2-.14 Financial Standards, is amended by deleting paragraph (6) in its entirety and substituting the following language and adding a new paragraph (9) so that paragraph (6) and the new paragraph (9) shall read as follows:

- (6) All authorized institutions must file each year the most recent audited financial statement, certified by an independent certified public accountant. For multi-campus institutions, or for institutions owned by one parent company, an audited consolidated corporate financial statement shall be routinely required. The staff, Committee, or Commission, however, may request additional campus or institution specific-information where needed to protect the public interest. The audited income statement must be compiled for each institution, or group of institutions owned by the same company, authorized to operate under the Act; the balance 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

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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. 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 \$100,000 or less may request a waiver of the audit contemplated by this section and provide the most recent financial information on forms provided by the Commission.

- (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. §49-7-2006, 49-7-2015.

1540-1-2-.15 Institutional and Student Records, is amended by deleting paragraphs (2) and (5), subparagraph (6) (e), and paragraphs (7) and (8) and substituting instead the following language so that paragraphs (2) and (5), subparagraph (6) (e), and paragraphs (7) and (8) as amended shall read as follows:

- (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 years from the conclusion of said complaint.
- (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:
- (6) (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), (i.e., 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 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

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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);
- (7) The institution may maintain the above information by electronic storage provided that there is at least one complete updated 'backup' copy in a separate system or location, Commission staff and other authorized groups have complete and easy access to review student transcripts during site visits and the institution can print out any or all transcripts upon request.
- (8) For institutions with programs with no separation of courses by subject content, an exact copy of the certificate of completion may be placed in the student file in lieu of an academic transcript.

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

1540-1-2-.16 Personnel and Instructor Qualifications, is amended by deleting paragraphs (1), (12), and (16) in their entirety and substituting instead the following language so that paragraphs (1), (12), and (16) as amended shall read as follows:

- (1) Commission staff approval is necessary for all instructors and administrative personnel. All instructors and administrative personnel qualifications must be submitted, on forms provided by the commission staff, no later than 10 days after new staff have been hired.
- (12) Minimum Requirements for Instructors of all authorized institutions:
 - (a) Instructors must provide evidence of experience and training higher than the level to be taught.
- (16) Agents and Recruiters:
 - (a) Institutional agents as defined by the Act and these regulations must submit an application, on forms provided by the Commission have authorization and an agent permit and secure the appropriate bond prior to any solicitation. The application must be accompanied by the following:
 1. recommendations by two reputable persons certifying that the applicant is of good character and reputation;
 2. a check payable to the State Treasurer of Tennessee as required under these regulations;
 3. a surety bond of \$5,000 per agent of an out-of-state institution or as specified in 1540-1-2-.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

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from the date of issue or termination of employment whichever occurs first.

- (c) Agents must have separate permits to represent separate institutions. 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, 49-7-2006, 49-7-2009, 49-7-2011.

1540-1-2-.17 Cancellation and Refund Policy, is amended by deleting paragraphs (4) and (5) in their entirety and substituting the following language so that as amended paragraphs (4) and (5) shall read as follows:

- (4) The institution's refund policy shall be deemed by the Commission to be fair and equitable if:
 - (a) All or a portion of the tuition, fees, and other institutional charges assessed the student were paid or to be paid by student assistance programs sponsored by one or more governmental

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or private agencies or organization, including employer provided financial assistance, and the institution, as a condition of establishing eligibility for its students to participate in such programs, is required to adhere to a refund policy prescribed by the sponsor of the student assistance; or

- (b) If a student withdraws from the institution on or before the first day of classes, or fails to begin classes, the refund shall equal the sum of all amounts paid or to be paid by or on behalf of the student for the period of enrollment, less an administrative fee of one hundred dollars (\$100.00);
 - (c) For students not affected by subparagraph (4a), the institution may adopt and utilize the refund method for a student whose last day of attendance occurs prior to 60 percent of the period of enrollment, or such later point in time as the institution may select and be published in the institutional catalog. After completion of 60 percent of the period of enrollment the student may be deemed obligated for 100 percent of the tuition, fees and other charges assessed by the institution; or
 - (d) For students not affected by subparagraph (4a), the institution may propose a refund policy for approval by the Executive Director, if the policy can be demonstrated as a whole more favorable than subparagraph (c) ; or
 - (e) For a student enrolled in a program at a non-accredited institution, which is serial in nature, in which classes are offered one at a time, that cannot complete the individual class(es) that are part of a program for which the student was charged, the institution must refund the amounts paid or to be paid by or on behalf of the student for such individual class(es); or
 - (f) For a student who cannot complete one or more classes because the institution discontinued such class(es) during a period of enrollment for which the student was charged, the institution refunds the sum of all amounts paid or to be paid by or on behalf of the student for such class(es).
- (5) When computing refunds pursuant to the policies contained in subparagraph 4(c) and (d), the last day of attendance for a student shall be one of the following:
- (a) The date on the expulsion notice if a student is expelled from the institution; or
 - (b) The date the institution receives a written notice (including a signed drop form) of withdrawal from a student; or
 - (c) When no written notice of withdrawal is given, the institution shall use the last day of attendance as the date of withdrawal; or
 - (d) Fails to return from an approved Leave of Absence (LOA).

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

1540-1-2-.18 Prohibited Acts, is amended by adding a new paragraph (6) that shall read as follows:

- (6) Non-accredited institutions shall not accept funds for tuition prior to ten business days of the scheduled start date of the class or program.

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

1540-1-2-.19 Fair Consumer Practices and Student Complaints, is amended by adding a new paragraph (1) and renumbering the subsequent paragraphs accordingly. The new paragraph (1) shall read as follows:

- (1) No discounting is allowed. All students must be charged the same price for all programs and classes regardless of their method of payment.

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

1540-1-2-.20 Advertising and Solicitation, is amended by deleting paragraphs (2), (3), (4), (6), and (16) in their entirety and substituting the following language so that paragraphs (2), (3), (4), (6), and (16) as amended shall read as follows:

- (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.state.tn.us/the.c.
- (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 United States Department of Education.
- (6) All advertisements, except for radio, placed by an 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.
- (16) Classified advertising seeking prospective students must appear under "instruction," "education," "training," or a similarly titled classification and shall not be published under any "help wanted" or "employment" classification. (See special school section 1540-1-2-.08 (6) for truck driving)

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

1540-1-2-.21 Authorization Status, is amended by deleting subparagraph (1) (c) and paragraph (2) in their entirety and substituting the following language so that subparagraph (1) (c) and paragraph (2) as amended shall read as follows:

- (1) (c) 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 with-

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drawn. 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.

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

1540-1-2-.22 Causes for Adverse Action, is amended by deleting subparagraph (1) (e) in its entirety and substituting the following language so that subparagraph (1) (e) shall read as follows:

- (1) (e) failure to provide or maintain premises and/or equipment in a safe and sanitary condition as required by laws, regulations, or ordinances applicable at the location of the institution;

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

1540-1-2-.23 Institutional Closure, is amended by deleting paragraph (1), part (5) (a) 2., and paragraph (6) in their entirety and substituting the following language so that as amended paragraph (1), part (5) (a) 2., and paragraph (6) shall read as follows:

- (1) When an authorized postsecondary educational institution proposes to discontinue its operation, such institution shall notify the Commission staff within 24 hours 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.
 - (j) Demonstration that current educational obligations by the institution will be met on behalf of the presently enrolled students.

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- (5) (a) 2. exist or be provided in the same or reasonable geographic area as that in which the closed institution existed;
- (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 Tennessee Higher Education Commission, such academic records, shall be sorted and separated by year, in alphabetical order, and physically contained in boxes 15 inches long, 12 inches wide, 10 inches high with tops and with handles, consistent with State of Tennessee Archives regulations.
 - (c) Financial aid records shall be sorted and separated by year, in alphabetical order, and physically contained in boxes 15 inches long, 12 inches wide, 10 inches high with tops and with handles, consistent with State of Tennessee Archives regulations.

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

1540-1-2-.24 Tuition Guarantee Fund (TGF), is amended by deleting the rule in its entirety and substituting a new the following rule so that as amended the rule shall read as follows:

- (1) 'Tuition guaranty fund' or 'TGF' or 'fund' means the tuition guaranty fund created by TCA 49-7-2018.
- (2) All institutions authorized prior to July 1, 2006, shall pay into the Tuition Guaranty Fund for four consecutive years.
- (3) All institutions authorized on or after July 1, 2006, shall pay into the Tuition Guaranty Fund for six consecutive years.

Authority: T.C.A. §49-7-2005, 49-7-2018, Public Chapter 766, Acts of 2006.

1540-1-2-.25 Fees, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read as follows:

- (1) All fees collected pursuant to the provisions of this part shall be deposited in the state treasury as a special agency account to administer the provisions of this part.
- (2) The Commission is authorized to adjust fees annually hereafter based on the intent to collect revenues sufficient to cover the cost of this regulatory function (e.g. travel, employee costs, legal costs, expert fees).
- (3) The fees to be collected by the Commission hereunder shall accompany an application for authorization to operate an institution or an application for an agent's permit, or other application required by these rules in accordance with the following schedule:

- (a) Initial Authorization Application \$2,500
 Each Proposed Program \$300
- (b) Authority to Grant Degrees \$1,000

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- (c) New Programs \$300
- (d) Agent Fee In-State \$100
- (e) Agent Fee Out-of-State \$200
- (f) Change of Address \$300
- (g) Change of Institutional Name \$300
- (h) Non-compliance Fines (per day, per violation) \$500
- (i) Late Renewal Fees (in addition to base renewal fee) \$500

- (4) Reauthorization fees for in-state institutions are based upon an institution's annual gross tuition revenue collected from July 1st to June 30th of the previous year. Reauthorization fees for out-of-state institutions are based on an institution's annual gross tuitions collected from Tennessee students from July 1st to June 30 of the previous year. In each instance the reauthorization fee shall be assessed according to the following schedule: –

1.	\$0	\$100,000	\$350
2.	100,001	200,000	700
3.	200,001	300,000	1,050
4.	300,001	400,000	1,400
5.	400,001	500,000	1,750
6.	500,001	600,000	2,100
7.	600,001	700,000	2,450
8.	700,001	800,000	2,800
9.	800,001	900,000	3,150
10.	900,001	1,000,000	3,500
11.	1,000,001	1,100,000	3,850
12.	1,100,001	1,200,000	4,200
13.	1,200,001	1,300,000	4,350
14.	1,300,001	1,400,000	4,500
15.	1,400,001	1,500,000	4,650
16.	1,500,001	1,600,000	4,800
17.	1,600,001	1,700,000	4,970
18.	1,700,001	1,800,000	5,140
19.	1,800,001	1,900,000	5,310
20.	1,900,001	2,000,000	5,480
21.	2,000,001	2,100,000	5,650
22.	2,100,001	2,200,000	5,820

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23.	2,200,001	2,300,000	5,990
24.	2,300,001	2,400,000	6,160
25.	2,400,001	2,500,000	6,330
26.	2,500,001	2,600,000	6,500
27.	2,600,001	2,700,000	6,570
28.	2,700,001	2,800,000	6,640
29.	2,800,001	2,900,000	6,710
30.	2,900,001	3,000,000	6,780
31.	3,000,001	3,100,000	6,850
32.	3,100,001	3,200,000	6,920
33.	3,200,001	3,300,000	6,990
34.	3,300,001	3,400,000	7,060
35.	3,400,001	3,500,000	7,130
36.	3,500,001	3,600,000	7,200
37.	3,600,001	3,700,000	7,400
38.	3,700,001	3,800,000	7,600
39.	3,800,001	3,900,000	7,800
40.	3,900,001	4,000,000	8,000
41.		>4,000,000	8,000 + .0001 of gross tuition over \$ 4,000,000

- (5) 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 institutions making initial application, the Commission may retain 50 percent of the assessed fees if staff has reviewed the submitted materials. Once the site visit has been conducted no refund of assessed fees is possible.
 - (b) For out-of-state institutions making initial application, the Commission may retain 100 percent of the assessed fees if staff has reviewed the submitted materials.
 - (c) Any institution that voluntarily or involuntarily defers an application before the Committee and fails 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 had performed the associated review or work related to that fee.