

STATEMENT OF EMERGENCY

13 KAR 2:130E.

This emergency administrative regulation is being promulgated to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute, specifically KRS 164.092(10) and SB 191 (2024 Regular Session), signed into law on April 17, 2024, and containing an emergency clause. In particular, Section 4 of SB 191 directs the Council on Postsecondary Education to make certain changes to the operation of the performance funding model created in KRS 164.092 that impact the 2024-2025 funding distribution. KRS 164.092(10)(a) requires that by May 1st of each year, the Council on Postsecondary Education certify to the Office of State Budget Director the amount of performance funding allocations to be distributed to each public university and KCTCS institution for the forthcoming fiscal year. All required changes require amendments to 13 KAR 2:120 and 13 KAR 2:130 and the normal administrative regulation amendment process would not conclude in nearly enough time for those changes to become effective for the 2024-2025 funding distribution. The emergency administrative regulation will be replaced by an ordinary administrative regulation and the ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
MADISON SILVERT, Chair

GENERAL GOVERNMENT CABINET
Council on Postsecondary Education
(Emergency Amendment)

13 KAR 2:130E. Comprehensive funding model for the allocation of state general fund appropriations to Kentucky Community and Technical College System institutions.

RELATES TO: KRS 48.600-48.630, 164.001, 164.092

STATUTORY AUTHORITY: KRS 164.092(12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system. This administrative regulation establishes the formula by which general fund appropriations shall be distributed in the Kentucky Community and Technical College System sector.

Section 1. Definitions.

- (1) "Academic year" means the Summer, Fall, and Spring terms.
- (2) "Credentials" means the total number of certificates, diplomas, and associate degrees awarded during the academic year.
- (3) "Council" is defined by KRS 164.092(1)(c).
- (4) "Equity adjustment" means ten (10) percent of total KCTCS institution allocable resources divided by sixteen (16) and allocated to each institution using the Community Needs Index.
- (5) "FAFSA form" means the free application for federal student aid form completed by students to determine eligibility for federal student financial aid.
- (6) "First-generation college students" means students who report on the FAFSA that neither parent has earned a college degree or credential, or one (1) parent if the other parent's education level is unknown.
- (7) "Formula base amount" is defined by KRS 164.092(1)(e) and includes a deduction for mandated programs.
- (8) "Full-time equivalent student enrollment" means the total academic year credit hours taken divided by thirty (30).
- (9) "Hold-harmless provision" is defined by KRS 164.092(1)(f).
- (10) "Institution" means a college in the Kentucky Community and Technical College System.
- (11) "KCTCS" is defined by KRS 164.092(1)(h).
- (12) "KCTCS institution allocable resources" is defined by KRS 164.092(1)(i).
- (13) "Low-income student" means a student who has received a Federal Pell Grant at any time since 2005-2006 at KCTCS.
- (14) "Mandated program" means a research or public service activity not integral to the instructional mission of the institution that is:
 - (a) Funded with greater than \$200,000 of state appropriations; and
 - (b) Directed by statute, resolution, executive branch budget bill, executive order, or other legal mandate.
- (15) "Non-traditional college students" is defined by KRS 164.092(1)(k).
- (16) "Stop-loss provision" is defined by KRS 164.092(1)(n).
- (17) "Underprepared students" means students who tested into developmental English, math, or reading upon entering KCTCS since the 2010-11 academic year.
- (18) "Underrepresented students" means first-generation college students.

Section 2. Allocable Resources. The council shall determine total KCTCS institution allocable resources for any given year by calculating each institution's formula base amount and subtracting the equity adjustment and any amount protected by a hold harmless

provision. These amounts shall then be combined along with any applicable increase or decrease in general fund appropriation.

Section 3. Data Sets. Unless indicated otherwise, each metric, except facilities square footage, shall be calculated using a three (3) year rolling average.

Section 4. Student Success Outcomes. Thirty-five (35) percent of total KCTCS institution allocable resources shall be certified for distribution to each institution based on its share of the total volume of student success outcomes as established in KRS 164.092(8)(a)1. through 7., and in the following denominations:

(1) Eight (8) percent based on the credentials awarded in an academic year weighted to provide a premium for credentials that are aligned with the economic needs of the state;

(2) One (1) percent based on degrees awarded to underrepresented students in an academic year;

(3) Five (5) percent based on credentials awarded to low-income students in an academic year;

(4) Four (4) percent based on credentials awarded to underprepared students in an academic year;

(5) Six (6) percent based on credentials awarded to non-traditional college students in an academic year;

(6) Four (4) percent based on the number of students in the cohort who transferred to a baccalaureate degree granting college or university after the last term a student was enrolled at a KCTCS institution in the academic year;

(7) One (1) percent based on the number of full-time and part-time undergraduate students reaching or surpassing fifteen (15) cumulative earned credit hours in an academic year;

(8) Two (2) percent based on the number of full-time and part-time undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in an academic year; and

(9) Four (4) percent based on the number of full-time and part-time undergraduate students reaching or surpassing forty-five (45) cumulative earned credit hours in an academic year.

Section 5. Student Credit Hour Production. Thirty-five (35) percent of total KCTCS allocable resources shall be certified for distribution to each institution based on its share of total volume of weighted student credit hours earned during an academic year as established in KRS 164.092(8)(b). Credit hour weighting by course discipline shall be in accordance with the KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors Index.

Section 6. Operational Support. Thirty (30) percent of total KCTCS allocable resources shall be certified for distribution to each institution in support of vital campus operations as established in KRS 164.092(8)(c)1. through 3.

(1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the council and as established in KRS 164.092(8)(c)1.

(2) Ten (10) percent shall be allocated based on direct instruction and student services costs as reported to The Integrated Postsecondary Education Data System (IPEDS) and as established in KRS 164.092(8)(c)2.

(3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as established in KRS 164.092(8)(c)3.

Section 7. Stop-loss and Hold-Harmless Provisions.

- (1) Any final amounts certified for distribution to any institution shall account for any hold-harmless or stop-loss provisions established in KRS 164.092(9).
- (2) The council shall determine hold-harmless amounts for institutions through application of the formula established in this administrative regulation.
- (3) If the formula total amount generated for an institution is less than its initial allocable resources, the amount of that difference shall be certified to KCTCS as that institution's hold-harmless allocation.

Section 8. Incorporation by Reference.

- (1) The following material is incorporate by reference:
 - (a) "KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors Index", June 2017;
 - (b) "Community Needs Index (CNI)", April 2024; and
 - (c) "Credentials tied to the Economy", April 2024.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and <https://cpe.ky.gov/>.

MADISON SILVERT, Chair

APPROVED BY AGENCY: April 30, 2024

FILED WITH LRC: April 30, 2024 at 3:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 25, 2024 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601 in Conference Room A. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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