



**Kentucky Council on
Postsecondary Education**



Andy Beshear
Governor

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Aaron Thompson, Ph.D.
President

November 20, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.
13 KAR 2:130. Comprehensive funding model for the allocation of state general fund appropriations to Kentucky Community and Technical College institutions.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 13 KAR 2:120 and 13 KAR 2:130, the Council on Postsecondary Education proposes the attached amendment to 13 KAR 2:120 and 13 KAR 2:130

Sincerely,

A handwritten signature in blue ink that reads "Travis Powell".

Travis Powell
Senior Vice President and General Counsel

SUGGESTED SUBSTITUTE – ORDINARY ONLY

Final Version: 11/01/24 at 4:07 p.m.

**GENERAL GOVERNMENT CABINET
Council on Postsecondary Education**

13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.

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 public university sector.

Section 1. Definitions.

- (1) "Academic year" means July 1st through June 30th and all terms completed therein.
- (2) "Bachelor's degrees" means the total number of bachelor's degrees awarded during the academic year, including degrees conferred to resident and non-resident students.
- (3) "Comprehensive university" is defined by KRS 164.001(7).
- (4) "Council" is defined by KRS 164.092(1)(c).
- (5) "FAFSA form" means the free application for federal student aid form completed by students to determine eligibility to receive federal student financial aid.
- (6) "First-generation college students" means students who report on the FAFSA form 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)~~[(6)] "Hold-harmless provision" is defined by KRS 164.092(1)(f).
- ~~(9)~~[(7)] "Institution" means a public university.
- ~~(10)~~[(8)] "Low-income student" means a student who received a Federal Pell Grant after the 2005-2006 academic year for attendance at the institution from which the student received a bachelor's degree.
- ~~(11)~~[(9)] "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 \$450,000 of state appropriations at research universities and \$200,000 at comprehensive universities; and
 - (b) Directed by statute, resolution, executive branch budget bill, executive order, or other legal mandate.
- (12) "Non-traditional age students" is defined ~~by~~**[in]** KRS 164.092(1)(k).
- ~~(13)~~[(10)] "Non-resident student" means a student who does not meet the requirements for Kentucky residency for purposes of tuition ~~established~~**[set forth]** in 13 KAR 2:045.
- ~~(14)~~[(11)] "Research university" is defined by KRS 164.092(1)(m)~~(j)~~.
- ~~(15)~~[(12)] "Resident student" means a student certified as a Kentucky resident for purposes of tuition pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a state tuition reciprocity agreement entered into by the council.

(16)[(13)] "Small school adjustment" means a one (1)-time calculation made using the formula base amounts in 2017-2018 and equals:

(a) For a research university, ten (10) percent of the respective formula base amount for each institution; ~~and~~

(b) For a comprehensive university, ten (10) percent of the total formula base amount for all comprehensive universities divided by six (6); ~~and~~;

(c) For institutions that have a hold-harmless **provision** amount in fiscal year 2023-2024, an additional amount equaling the institution's 2023-2024 hold-harmless **provision** amount.

(17)[(14)] "STEM+H **bachelor's** degrees" means degrees in the fields of science, technology, engineering, math, and health sciences as determined by the council ***based on the U.S. Department of Homeland Security STEM Designated Degree Program List, as well as all programs in CIP 51.***

(18)[(15)] "Stop-loss provision" is defined by KRS 164.092(1)(n)[(k)].

(19)[(16)] "Underrepresented ~~minority~~ students" means first-generation college students ~~students who categorize themselves as Hispanic or Latino, American Indian or Alaska Native, Black or African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races].~~

(20)[(17)] "University allocable resources" is defined by KRS 164.092(1)(o)[(f)].

Section 2. Allocable Resources. The council shall determine total university allocable resources for any given year by calculating each institution's formula base amount and subtracting the small school 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. Metric Weighting. For purposes of Sections 5, 6, and 7 of this administrative regulation, bachelor's degrees, student progression, earned credit hours, facilities' square feet, instruction and student services costs, and full-time equivalent student enrollment shall be calculated with differential weights for research and comprehensive universities in accordance with the Public University Funding Model Metric Weighting Chart.

Section 4. Three (3)-year Rolling Average. Each metric shall be calculated by averaging the most recent three (3) years of finalized data.

Section 5. Student Success Outcomes. Forty (40) ~~Thirty-five (35)]~~ percent of total university allocable resources shall be certified for distribution to each institution based on its share of the total volume of student success outcomes related to bachelor's degree production and student progression as established in KRS 164.092(6)(a)1. through 4.[5.], and in the following denominations:

(1) Nine (9) percent based on the ~~normalized~~ bachelor's degrees awarded in an academic year as ***established*** ~~described~~ in the Public University Sector Funding Model Formula Chart;

(2) Five (5) percent based on STEM+H bachelor's degrees awarded in an academic year;

~~[(3)] [Three (3) percent based on bachelor's degrees awarded to underrepresented minority students in an academic year;]~~

(3)[(4)] Nine and a half (9.5) ~~Three (3)]~~ percent based on bachelor's degrees awarded to low-income students in an academic year;

(4)[(5)] Three (3) percent based on the number of full-time and part-time undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in any term completed from August 1st to July 31st;

~~(5)[(6)]~~ Five (5) percent based on the number of full-time and part-time undergraduate students reaching or surpassing sixty (60) cumulative earned credit hours in any term completed from August 1st to July 31st; ~~and~~

~~(6)[(7)]~~ Seven (7) percent based on the number of full-time and part-time undergraduate students reaching or surpassing ninety (90) cumulative earned credit hours in any term completed from August 1st to July 31st; ~~and~~;

(7) One and a half (1.5) percent based on the number of bachelor's degrees awarded to first generation students in an academic year.

Section 6. Student Credit Hour Production. Thirty (30)~~Thirty-five (35)~~ percent of total university 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(6)(b).

(1) Credit hour weighting by course level and discipline shall be in accordance with the Public University Funding Model Earned Credit Hour Production Weighting Index.

(a) Credit hours earned by non-resident students shall be given one-half (0.5) the weight of those earned by resident students in comparable programs of study.

(b) Beginning fiscal year 2024-2025:

1.[.] Credit hours earned by non-resident students shall be given three-quarters (.75) the weight of those earned by resident students in comparable programs of study; ~~and~~

2. Resident undergraduate non-traditional age students shall be given twice the weight of those earned by traditional age students in comparable programs of study. ~~and~~

(2) The calculation in subsection (1) of this section shall not include credit hours earned by high school students taking courses for college credit.

Section 7. Operational Support. Thirty (30) percent of total university allocable resources shall be certified for distribution to each institution in support of vital campus operations as established in KRS 164.092(6)(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(6)(c)1.

(2) Ten (10) percent shall be allocated based on direct instruction and student services costs as reported on each institution's annual audited financial statement and as established in KRS 164.092(6)(c)2.

(3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as established in KRS 164.092(6)(c)3 and using the formula established in the Public University Sector Funding Model Formula Chart.

Section 8. Hold-harmless and Stop-loss 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 ~~[in fiscal year 2018-2019]~~ through application of the formula established in this administrative regulation.

(a) If the formula total amount generated for an institution is less than its initial allocable resources, the amount of that difference shall be designated as the institution's hold-harmless allocation.

(b) If applied, an institution maintaining a hold-harmless allocation shall not receive additional distributions of funding through the model until the hold-harmless allocation balance is brought to zero through improved institutional performance, additional appropriations, or some combination thereof.

~~[(c)] [The council shall apply these hold-harmless allocations, with any applicable credit adjustments as determined annually by the formula, to all applicable institutions in 2018-2019, 2019-2020, 2020-2021, and in any subsequent years as directed by the General Assembly.]~~

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Public University **Sector** Funding Model Formula Chart," April 2024~~[June 2017]~~;

(b) "Public University Funding Model Metric Weighting Chart," April 2024~~[June 2017]~~; and

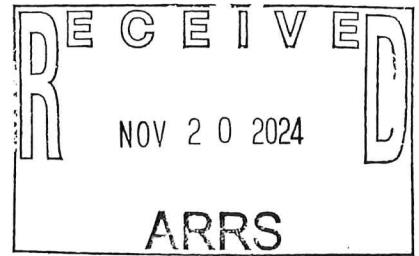
(c) "Public University Funding Model Earned Credit Hour Production Weighting Index," June 2017.

(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~~[1024 Capital Center Drive, Suite 320]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and <https://cpe.ky.gov/>.

***General Reviewer's Note:** File one (1) copy of the Public University Sector Funding Model Formula Chart with the April 2024 edition date. File this copy in conjunction with filing this suggested substitute.



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Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 13 KAR 2:120 and 13 KAR 2:130, the Council on Postsecondary Education proposes the attached amendment to 13 KAR 2:120 and 13 KAR 2:130

Sincerely,

Travis Powell
Senior Vice President and General Counsel

SUGGESTED SUBSTITUTE

Final Version: 11/01/24 at 3:08 p.m.

**GENERAL GOVERNMENT CABINET
Council on Postsecondary Education**

13 KAR 2:130. 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~~[means July 1 through June 30 and all terms completed therein].

(2) **"Council" is defined by KRS 164.092(1)(c).**

(3) **"Credentials" means the total number of certificates, diplomas, and associate degrees awarded during the academic year**[~~"Associate degree" means total number of associate degrees awarded during the academic year, including degrees conferred to resident and non-resident students~~].

[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)~~**(5)** "Formula base amount" is defined by KRS 164.092(1)(e) and includes a deduction for mandated programs.

~~(8)~~**(6)** "Full-[]time equivalent student enrollment" means the total academic year credit hours taken divided by thirty (30)[~~fall semester credit hours earned divided by fifteen (15)~~].

~~(7)~~ [~~"High-wage, high-demand credentials" means credentials tied to occupations identified in the Kentucky Office of Employment and Training's Kentucky Occupational Outlooks and annual Occupational Employment statistics wage data that meet the following criteria:~~]

~~[(a)] [Have a median annual wage that is greater than or equal to the wage at the 75th percentile for all occupations in the state of Kentucky;]~~

~~[(b)] [Show growth greater than or equal to the projected percent change for all Kentucky occupations; or]~~

~~[(c)] [Have 100 or more average annual job openings.]~~

~~(9)~~**(8)** "Hold-harmless provision" is defined by KRS 164.092(1)(f).

~~(10)~~**(9)** "Institution" means a college in the Kentucky Community and Technical College System.

~~(11)~~**(10)** "KCTCS" is defined by KRS 164.092(1)(h).

~~(12)~~**(11)** "KCTCS institution allocable resources" is defined by KRS 164.092(1)(i).

~~(13)~~~~(12)~~ "Low-income student~~[students]~~" means a student who has received a Federal Pell Grant at any time since 2005-2006 at KCTCS~~[the graduating institution]~~.

~~(14)~~~~(13)~~ "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 age~~[college]~~ students" is defined by KRS 164.092(1)(k).

~~(16)~~~~(14)~~ [~~"Non-resident student" means a student who does not meet the requirements for Kentucky residency for purposes of tuition set forth in 13-KAR 2:045.~~]

~~(15)~~ [~~"Resident student" means a student certified as a Kentucky resident for purposes of tuition pursuant to 13-KAR 2:045 and any non-resident student attending an institution under a state tuition reciprocity agreement entered into by the council.~~]

~~(16)~~ [~~"STEM+H degrees" mean degrees in the fields of science, technology, engineering, math, and health sciences as identified to annually by KCTCS.~~]

~~(17)~~ "Stop-loss provision" is defined by KRS 164.092(1)(n)~~(k)~~.

~~(18)~~ [~~"Targeted industry credentials" means credentials awarded in Classification of Instructional Programs (CIP) codes developed by the U.S. Department of Education's National Center for Education Statistics that crosswalk to occupations with education or training requirements of an associate degree or below in targeted industry sectors as identified in a targeted industry CIPs index provided annually by KCTCS.~~]

~~(17)~~~~(19)~~ "Underprepared students" means~~[mean]~~ students who tested into developmental English, math, or reading upon entering KCTCS~~[at any period of enrollment]~~ since the 2010-11 academic year.

~~(18)~~~~(20)~~ "Underrepresented ~~[minority]~~ students" means first-generation college students~~[mean students who categorized themselves as Hispanic or Latino, American Indian or Alaska Native, Black or African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races].~~

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~~[the most recent set of finalized data]~~.

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 ~~4.7~~, and in the following denominations:

- (1) Eight (8)~~[Ten (10)]~~ 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 **using the Credentials Tied to the Economy**~~[using an average of the most recent three (3) years of finalized data and weighted in the following manner:]~~

[1.0]	[for an undergraduate certificate or diploma which a student can complete in less than one (1) academic year;]
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[2.0]	[for an undergraduate certificate or diploma which a student can complete in at least one (1), but less than two (2) academic years; and]
[4.0]	[for an associate degree.]

- ~~[(2)] Two (2) percent based on STEM+H credentials awarded in an academic year;~~
- ~~(2)[(3)] One (1)[Two (2)] percent based on degrees[credentials] awarded to underrepresented [minority] students in an academic year;~~
- ~~(3)[(4)] Five (5)[Two (2)] percent based on credentials awarded to low-income students in an academic year;~~
- ~~(4)[(5)] Four (4)[Two (2)] percent based on credentials awarded to underprepared students in an academic year;~~
- ~~(5) Six (6) percent based on credentials awarded to non-traditional **age[college]** students in an academic year;~~
- ~~(6) Four (4)[Two (2)] 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)] Two (2) percent based on targeted industry credentials awarded in an academic year;~~
- ~~[(8)] [One (1) percent based on high-wage, high-demand credentials awarded in an academic year;]~~
- ~~(7)[(9)] One (1)[Two (2)] 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)[(10)] Two (2)[Four (4)] 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)[(11)] Four (4)[Six (6)] 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 **provision** amounts for institutions [~~in fiscal year 2018-2019~~] 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 **provision** allocation.

~~[(4)] [The council shall apply these hold-harmless allocations to all applicable institutions in 2018-2019 and in any subsequent years as directed by the General Assembly.]~~

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.~~[, is hereby incorporated by reference.]~~

(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~~[1024 Capital Center Drive, Suite 320]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and <https://cpe.ky.gov/>.

***General Reviewer's Note:** File one (1) copy of the Community Needs Index (CNI) AND the Credentials Tied to the Economy, with both having the April 2024 edition date. File these copies in conjunction with filing this suggested substitute.

Community Needs Index (CNI) – (April 2024)

- **Definition:** The Community Needs Index (CNI) is a normalized measure of community economic disadvantage based on U.S. Census data measuring unemployment, labor force participation, and individual poverty. The metric has a mean of zero and values represent standard deviations above and below the mean.
- **Purpose:** To identify KCTCS college areas that may need additional resources due to regional economic disadvantage.
- **Data:**
 - Based on 5-Year ACS Estimates
 - Collected using "getcensus" function in Stata
 - Collected at the county level
 - The enrollment cluster crosswalk is used to link counties to college areas
 - Main variables: unemployment, labor force participation, poverty
- **Method:**
 - Principal Component Analysis (PCA)
 - Statistical method used to combine variables into composite values that are based on shared variability between the variables.
 - The three measures load onto a single variable that we call the CNI
 - The values for the CNI are z-scores which describes how many standard deviations each college is away from the average CNI value.
 - Negative scores indicate the college has lower than average CNI and positive scores indicate the college has higher than average CNI.
 - The colleges are split into quartiles after being rank ordered based on the CNI.

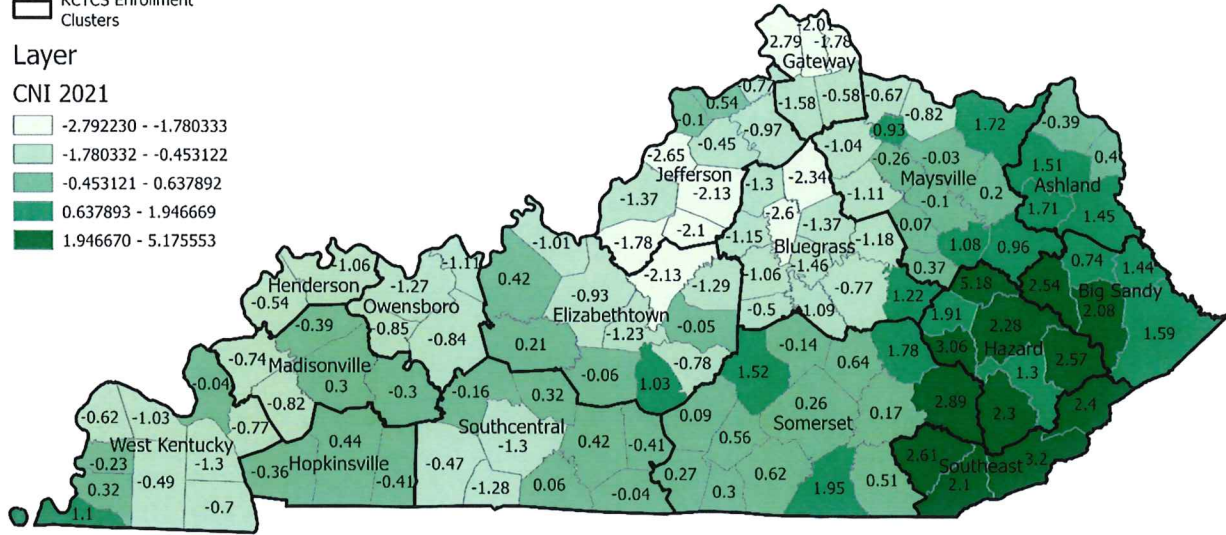
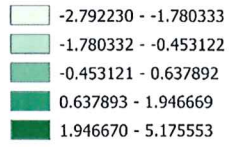
Community Need Index (CNI)								
2019-20			2020-21			2021-22		
College	CNI	Quartile	College	CNI	Quartile	College	CNI	Quartile
Hazard	3.25	1	Hazard	2.93	1	Southeast	3.08	1
Southeast	2.94	1	Southeast	2.91	1	Hazard	3.00	1
Big Sandy	2.09	1	Big Sandy	1.98	1	Big Sandy	1.87	1
Somerset	0.82	1	Somerset	0.87	1	Somerset	0.79	1
Hopkinsville	0.50	2	Hopkinsville	0.69	2	Ashland	0.66	2
Ashland	0.43	2	Ashland	0.38	2	Hopkinsville	0.34	2
Maysville	-0.32	2	Maysville	-0.22	2	Madisonville	-0.06	2
Henderson	-0.62	2	Madisonville	-0.30	2	Maysville	-0.15	2
Madisonville	-0.64	3	Southcentral	-0.47	3	Southcentral	-0.51	3
Owensboro	-0.74	3	Elizabethtown	-0.83	3	Elizabethtown	-0.70	3
Southcentral	-0.75	3	Bluegrass	-0.94	3	West Kentucky	-0.97	3
Elizabethtown	-0.84	3	Henderson	-1.06	3	Bluegrass	-1.17	3
Bluegrass	-1.08	4	West Kentucky	-1.11	4	Owensboro	-1.28	4
West Kentucky	-1.14	4	Owensboro	-1.13	4	Jefferson	-1.30	4
Jefferson	-1.48	4	Jefferson	-1.32	4	Henderson	-1.37	4
Gateway	-2.43	4	Gateway	-2.37	4	Gateway	-2.23	4

Community Need Index by County and KCTCS Enrollment Cluster

KCTCS Enrollment Clusters

Layer

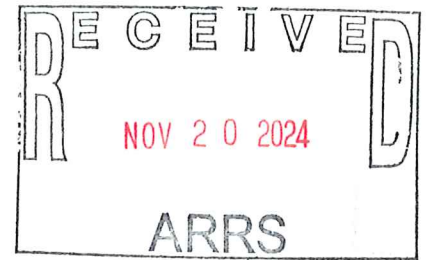
CNI 2021





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Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 13 KAR 6:010. Aviation training scholarships.
13 KAR 6:020. Aviation equipment grants.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 13 KAR 6:010 and 13 KAR 6:020, the Council on Postsecondary Education proposes the attached amendment to 13 KAR 6:010 and 13 KAR 6:200.

Sincerely,

Travis Powell
Senior Vice President and General Counsel

SUGGESTED SUBSTITUTE

COUNCIL ON POSTSECONDARY EDUCATION

13 KAR 6:010. Aviation training scholarships.

RELATES TO: KRS ~~164.020(8)(a)~~, 164.7011, 164.7013, 164.7015

STATUTORY AUTHORITY: KRS 164.7013~~(8)(a)~~, 164.7015~~(2)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7013(8)(a) requires the Council on Postsecondary Education to promulgate administrative regulations to administer the Kentucky aerospace, aviation, and defense investment fund. KRS 164.7015~~(2)~~ requires the council to **establish[set forth]** the requirements for partnership proposals between aviation programs and aviation industry partners to provide aviation training scholarships to Kentucky residents enrolled in aviation programs. **This administrative regulation establishes provisions for aviation training scholarships.**

Section 1. Definitions.

- (1) "Advisory committee" is defined by KRS 164.7011(1).
- (2) "Aviation" is defined by KRS 164.7011(2).
- (3) "Aviation industry partner" is defined by KRS 164.7011(3).
- (4) "Aviation program" is defined by KRS 164.7011(4).
- (5) "Council" is defined by KRS 164.001~~(5)~~~~(8)~~.
- (6) "Dedicated money" is defined by KRS 164.7011(6).
- (7) "Eligible aviation credential" is defined by KRS 164.7011(7).
- (8) "Fund" is defined by KRS 164.7011(8).
- (9) "Kentucky resident" is defined by KRS 164.020(8)~~(a)~~.
- (10) "Match" means general fund appropriation **moneys[monies]** from the fund provided to the institution, **depending on availability of funds and[-subject to funds availability,]** based on at least a dollar-for-dollar contribution from the aviation industry partner pursuant to KRS 164.7015(3)(a).

Section 2. Notice of Funding Opportunities.

- (1) Each year that general fund appropriations are available for distribution through the aerospace, aviation, and defense investment fund, the council shall publish notice of availability of funding opportunities for partnerships and issue a request for partnership proposals.
- (2) The notice and request for partnership proposals shall include:
 - (a) The funding period;
 - (b) The date by which to submit a partnership proposal;
 - (c) The dollar amount of available matching funds;
 - (d) A list of priority eligible aviation credentials with high workforce demand as determined by the advisory committee **based on data derived from the Kentucky Center for Statistics and aviation-related workforce organizations;**
 - (e) The partnership proposal evaluation criteria and relative weighting of each criterion;
 - (f) How to submit a partnership proposal; and
 - (g) The targeted date for making awards.

Section 3. Partnership Proposals. To be eligible for funding, a partnership proposal shall include:

- (1) The participating aviation industry partners and aviation programs certified by the signature of ~~the~~**[their]** respective chief executive officers and a designated point of contact and contact information for each partner;
- (2) Certification that the "aviation program" meets the definition in KRS 164.7011(4);
- (3) The total proposed budget for the program, which **shall include**~~[includes]~~ the aviation industry partner contribution and the amount of aerospace, aviation, and defense investment funds requested for match~~[-in accordance with requirements established]~~**[set forth] by the council**;
- (4) A narrative explaining how the aviation program plans to use the aviation industry partner contribution and match from the fund to award aviation training scholarships in eligible aviation credentials;
- (5) A description of the aviation program's plan for student recruitment, scholarship award criteria, and selection process;
- (6) An explanation of how the aviation program shall increase student enrollment in eligible aviation or aerospace credentials, program completion, and meet local, regional, or state workforce demands;
- (7) If using dedicated moneys, an explanation of how the aviation industry partner shall onboard and retain graduates;
- (8) An explanation of how graduates shall be supported through their service obligations;
- (9) A description of how the partnership proposal shall meet the priorities **established**~~[set forth]~~ in KRS 164.7015(2);
- (10) A response to any other partnership proposal criteria~~[-as determined by the advisory committee]~~;
- (11) A statement of assurances that both the aviation industry partner and the aviation program shall adhere to the statutory requirements in any written partnership contract as **established**~~[set forth]~~ in KRS 164.7015(3); and
- (12) The amount of the aviation industry partner's contribution certified by its chief financial officer and supported by appropriate documentation.

Section 4. Evaluation Process.

- ~~[(1)]~~The advisory committee shall **evaluate**~~[review]~~ and rank each ~~[timely submitted and]~~complete proposal **submitted on or before the due date**, giving priority for proposals targeted to eligible aviation credentials with high workforce demand~~[-as determined by the advisory committee]~~.
- ~~[(2) Each proposal shall be evaluated based on any other objective criterion developed by the advisory committee.]~~

Section 5. Partnership Awards.

- (1) Upon award, the council, the aviation industry partner, and aviation program shall enter into a partnership contract in accordance with ~~[the terms set forth in]~~KRS 164.7015(3).
- (2) Once the partnership contract is finalized, the council shall disburse from the fund **moneys**~~[monies]~~ deposited by the aviation industry partner and the matching funds appropriated by the General Assembly to the aviation program.

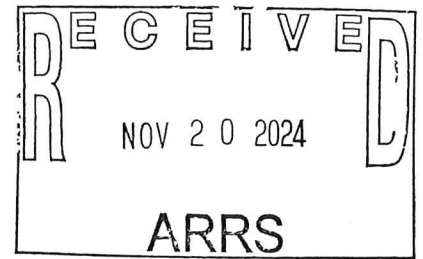
Section 6. Responsibilities of the Aviation Program. After an award is made and a partnership contract is finalized, the aviation program shall:

- (1) Establish and enforce an aviation training scholarship application and process for solicitation, acceptance, and review of scholarship applications from students who are Kentucky residents in collaboration with the aviation industry partner;
- (2) Require aviation training scholarship applicants to complete the Free Application for Federal Student Aid, if applicable;

- (3) Establish aviation training scholarship deadlines;
- (4) Award aviation training scholarships;
- (5) Develop and administer a scholarship contract between the recipient and the aviation program in accordance with KRS 164.7015(6) and (7); and
- (6) Meet any reporting requirements **agreed to[set forth]** in the partnership contract.



**Kentucky Council on
Postsecondary Education**



Andy Beshear
Governor

100 Airport Road, 2nd Floor
Frankfort, Kentucky 40601
Phone: 502-573-1555
<http://www.cpe.ky.gov>

Aaron Thompson, Ph.D.
President

November 20, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 13 KAR 6:010. Aviation training scholarships.
13 KAR 6:020. Aviation equipment grants.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 13 KAR 6:010 and 13 KAR 6:020, the Council on Postsecondary Education proposes the attached amendment to 13 KAR 6:010 and 13 KAR 6:200.

Sincerely,

A handwritten signature in cursive script that reads "Travis Powell".

Travis Powell
Senior Vice President and General Counsel

SUGGESTED SUBSTITUTE

COUNCIL ON POSTSECONDARY EDUCATION

13 KAR 6:020. Aviation equipment grants.

RELATES TO: KRS 164.7011, 164.7013, 164.7017

STATUTORY AUTHORITY: KRS 164.7013~~(8)(a)~~, 164.7017

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7013(8) requires the Council on Postsecondary Education to promulgate administrative regulations to administer the Kentucky aerospace, aviation, and defense investment fund. KRS 164.7017 requires the council to **establish[set forth]** the requirements for partnership proposals between aviation programs and aviation industry partners to provide aviation or aviation equipment grants for a public high school vocational program or public postsecondary education institution to maintain, acquire, or lease aviation or aviation equipment. **This administrative regulation establishes requirements for aviation equipment grants.**

Section 1. Definitions.

(1) "Advisory committee" is defined by KRS 164.7011(1).

(2) "Aviation" is defined by KRS 164.7011(2).

(3) "Aviation industry partner" is defined by KRS 164.7011(3).

(4) "Aviation program" is defined by KRS 164.7011(4).

(5) "Council" is defined by KRS 164.001~~(5)~~~~(8)~~.

~~(6) ["Dedicated money" is defined by KRS 164.7011(6).~~

~~(7)]~~"Eligible aviation credential" is defined by KRS 164.7011(7).

~~(7)~~~~(8)]~~ "Fund" is defined by KRS 164.7011(8).

~~(8)~~~~(9)]~~ "Match" means general fund appropriation **moneys[monies]** from the fund provided to the institution, **depending on availability of funds and**~~[subject to funds availability,]~~ based on at least a dollar-for-dollar contribution from the aviation industry partner pursuant to KRS 164.7017(2)(a).

~~(9)~~~~(10)]~~ "Public aviation program" is defined by KRS 164.7011(12).

Section 2. Notice of Funding Opportunities.

(1) Each year that general fund appropriations are available for distribution through the fund, the council shall publish notice of availability of funding opportunities for partnerships and issue a request for partnership proposals.

(2) The notice and request for partnership proposals shall include:

(a) The funding period;

(b) The date by which to submit a partnership proposal;

(c) The dollar amount of available matching funds;

(d) The partnership proposal evaluation criteria and relative weighting of each criterion;

(e) How to submit a partnership proposal; and

(f) The targeted date for making awards.

Section 3. Partnership Proposals. To be eligible for funding, a partnership proposal shall include:

(1) The participating aviation industry partners and aviation programs certified by the signature of **the[their]** respective chief executive officers and a designated point of contact and contact information for each partner;

- (2) Certification that the “public aviation program” meets the definition in KRS 164.7011(12);
- (3) The total proposed budget for the program, which ***shall include[includes]*** the aviation industry partner contribution and the amount of aerospace, aviation, and defense investment funds requested for match ***[in accordance with requirements established[set forth] by the council];***
- (4) A narrative explaining how the partnership would meet the criteria for prioritization ***established[set forth]*** in KRS 164.7017(3)(a);
- (5) A response to any other partnership proposal criteria ***[as determined by the advisory committee];*** and
- (6) The amount of the aviation industry partner's contribution certified by its chief financial officer and supported by appropriate documentation.

Section 4. Evaluation Process. The advisory committee shall review and rank each ***[timely submitted and]*** complete proposal ***submitted on or before the due date*** based on its published evaluation criteria, which shall include the priorities ***established[set forth]*** in KRS 164.7017(3)(a) ***[and any other objective criteria developed by the advisory committee].***

Section 5. Partnership Awards.

- (1) Upon award, the council, the aviation industry partner, and aviation program shall enter into a partnership contract in accordance with the terms ***established[set forth]*** in KRS 164.7017(2).
- (2) Once the partnership contract is finalized, the council shall disburse from the fund, ***monies[monies]*** deposited by the aviation industry partner and the matching funds appropriated by the General Assembly to the aviation program.

Section 6. Responsibilities of the Aviation Program. After an award is made and a partnership contract is finalized, the aviation program shall:

- (1) Submit proof that the entire amount of the aviation equipment grant is invested in accordance with KRS 164.7017(4); and
- (2) Meet any reporting requirements ***established[set forth]*** in the partnership contract.

Karen Sellers
Executive Director
karen.sellers@ky.gov

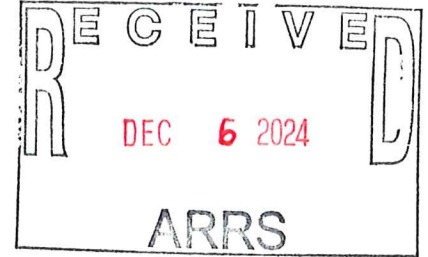


Richard House
Assistant Director
Richard.House@ky.gov

Taylor Brown
General Counsel
TaylorA.Brown@ky.gov

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

December 6, 2024



Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
Frankfort KY 40601

Re: 31 KAR 4:230, "Post-election audit procedures."

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 31 KAR 4:230, the State Board of Elections proposes the attached amendments to this ordinary administrative regulation.

Sincerely,

A handwritten signature in blue ink, appearing to read "TAB", with a horizontal line extending to the right.

Taylor Austin Brown
General Counsel
State Board of Elections
140 Walnut Street
Frankfort, Kentucky 40601

140 WALNUT STREET
FRANKFORT, KY 40601-3240

The word "Kentucky" in a stylized font with a horse head silhouette above it, and the tagline "UNBROKEN SPIRIT" below it.
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**Subcommittee Substitute
Final version**

**STATE BOARD OF ELECTIONS
(As Amended at ARRS)**

31 KAR 4:230. Post-election audit procedures.

RELATES TO: KRS 117.383(8)

STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.383(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1) establishes the State Board of Elections as the independent agency of state government which shall administer the election laws of the state. KRS 117.383(8) **requires [directs]** the State Board of Elections to promulgate an administrative regulation providing for the conducting and review of an election audit through a hand-to-eye recount. This administrative regulation establishes the post-election audit to be performed throughout the Commonwealth.

Section 1. Definitions.

- (1) "Ballot" is defined by KRS 117.001(3).
- (2) "Ballot **box [boxes]**" is defined by KRS 117.001(4).
- (3) "Ballot scanner" or "scanner" has the same definition as "automatic tabulating equipment" as defined **by [in]** KRS 117.001(2).
- (4) "Designated marking area" means the area in the near vicinity of the area containing the oval, box, or space designating a candidate on a ballot.
- (5) "Election" is defined **by [in]** KRS 117.001(6).
- (6) "Electronic or paper sign-in records" means the records contained in the signed voter rosters **established [described]** in KRS 117.025 and in Form SBE 25, "Supplemental Precinct Signature Roster".
- (7) "Hand-to-eye recount" means the procedures **established [found]** in KRS 117.383(8).
- (8) "Poll worker" means the same as "precinct election officer" **defined by [as found in]** KRS 117.045.
- (9) "Race" means a single decision or set of associated decisions being put before voters for candidates to elected office.
- (10) "Register tape" means the return sheets **established [described]** in KRS 117.275.
- (11) "Vote tallying equipment" has the same definition as "automatic tabulating equipment" **[as]** defined **by [in]** KRS 117.001(2).
- (12) "Voter intent" is defined through the uniform definition of a vote found in 31 KAR 6:030.

Section 2. Post-election Hand-to-eye Recount.

- (1) Following all elections for office in the Commonwealth there shall be a hand-to-eye recount of ballots, during which poll workers shall hand-tally ballots cast in the election on a Form SBE 90, "Post-election Hand-to-eye Recount Tally Sheet".
- (2) Determinations and findings made by a County Board of Elections following the hand-to-eye recount shall be recorded on a Form SBE 91, "Determinations and Findings Following Hand-to-

eye Recount", for reporting to the Attorney General and Secretary of State.

If [Should] a term used in KRS 117.383(8) **is** not **[be]** defined in this administrative regulation or in the procedures **established [found]** in KRS 117.383(8), the term **shall [is-to]** be defined either through KRS 446.010 or by a vote of the County Board of Elections.

Section 3. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Supplemental Precinct Signature Roster", Form SBE 25, 09/2020;

(b) "Post-election Hand-to-eye Recount Tally Sheet", Form SBE 90, **12/2024 [09/2024]; and**

(c) "Determinations and Findings Following Hand-to-eye Recount", Form SBE 91, **12/2024 [09/2024].**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the State Board of Elections, 140 Walnut Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be obtained on the board's Web site at <https://elect.ky.gov>.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, phone (502) 782-9499, email TaylorA.Brown@ky.gov.

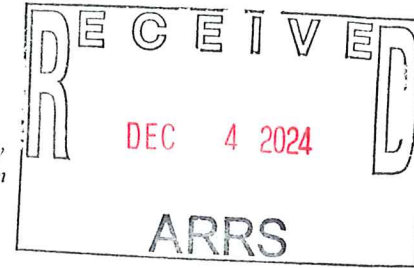


TEACHERS' RETIREMENT SYSTEM
of the State of Kentucky

GARY L. HARBIN, CPA
Executive Secretary

ROBERT B. BARNES, JD
Deputy Executive Secretary
Operations and General Counsel

ERIC WAMPLER, JD
Deputy Executive Secretary
Finance and Administration



December 4, 2024

Senator Stephen West, Co-Chair
Representative Derek Lewis, Co-Chair
Administrative Regulation Review Subcommittee
Legislative Research Commission
083, Capitol Annex
702 Capitol Avenue
Frankfort, Kentucky 40601

Dear Co-Chairs:

After consideration of the issues raised by 102 KAR 1:380, and pursuant to the directives of KRS 13A.320, Teachers' Retirement System of the State of Kentucky (TRS) proposes the attached amendment to this ordinary administrative regulation.

If you have any questions, please advise.

Sincerely,

Robert, B. Barnes
Deputy Executive Secretary of Operations
& General Counsel

SUGGESTED SUBSTITUTE

**FINANCE AND ADMINISTRATION CABINET
TEACHER'S RETIREMENT SYSTEM**

102 KAR 1:380. Qualified domestic relations orders for TRS 4 members.

RELATES TO: KRS 161.220, 161.605, 161.633, 161.634, 161.635, 161.636, 161.640, 161.600, 161.700, 161.716, 403.190, 26 U.S.C. 414(P)

STATUTORY AUTHORITY: KRS 161.310(1), 161.700(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310(1) requires the Board of Trustees of the Teachers' Retirement System of the State of Kentucky (TRS) to promulgate administrative regulations for the administration of the funds of the retirement system. KRS 161.700(4) requires the Board of Trustees of TRS to promulgate administrative regulations setting forth the requirements, procedures, and forms for the approval and processing of qualified domestic relations orders impacting the benefits of participants in the retirement system. This administrative regulation establishes these requirements for TRS 4 members in lieu of the provisions of 102 KAR 1:320.

Section 1. Definitions.

- (1) "Alternate payee" is defined by KRS 161.220(26).
- (2) "Benefits" means a monthly service or disability retirement allowance provided from the foundational benefit component established pursuant to[under] KRS 161.633 or 161.634 (foundational benefit), annuities or disbursements from the supplemental benefit component established pursuant to[under] KRS 161.635 or 161.636 (supplemental benefit), or refund payable at the request of a participant covered by TRS who terminates employment in a TRS covered position prior to becoming eligible to receive a retirement allowance.
- (3) "Member" is defined by KRS 161.220(4).
- (4) "Participant" is defined by KRS 161.220(24).
- (5) "Qualified domestic relations order" or "QDRO" is defined by KRS 161.220(25).
- (6) "TRS 4 members" means those individuals whose earliest effective date of membership in the retirement system begins on or after January 1, 2022.

Section 2. **Applicability, QDRO Information, and TRS Approval. The provisions of this administrative regulation shall apply to a QDRO for TRS 4 members.**

- (1) A QDRO shall state [the following]:
 - (a) The participant's name, TRS participant identification number, and last-known mailing address;
 - (b) The alternate payee's name and last-known mailing address;
 - (c) The date of the marriage;
 - (d) The date of the decree of dissolution of marriage;
 - (e) That the order is for the purpose of property division;
 - (f) Whether the order applies to:
 1. An active account from which the participant is not currently receiving a retirement allowance;
 2. A retired account from which the participant is currently receiving a retirement allowance and the date on which the participant retired the account;

3. The participant's foundational benefit; **or**

4. The participant's supplemental benefit;

(g) Whether the alternate payee shall receive:

1. Recurring monthly payments from the participant's foundational benefit under Option A, Option B, or Option C; and

2. For an account that has not yet been retired, a share of a termination refund of the contributions posted to the participant's foundational benefit account as either:

a. A fixed dollar amount; or

b. A percentage calculated under Section 7(2) of this administrative regulation or as determined by either the court or the parties;

(h) Whether the alternate payee shall receive from the supplemental benefit of an account that has not yet been retired a disbursement of a one (1) time fixed dollar amount ~~[, with or without interest, with interest to be awarded as of the date of dissolution of the marriage, the one (1) time fixed dollar amount]~~ being payable:

1. Upon execution of and receipt by TRS of a valid QDRO;

2. ~~Within and within~~ sixty (60) days following the active participant's effective retirement date with TRS; **and**

3. With or without interest, with interest to be awarded as of the date of dissolution of the marriage;

(i) Whether the alternate payee shall receive from the supplemental benefit of an account that has not yet been retired, a share of a termination refund of the contributions posted to that account as either:

1. A fixed dollar amount; or

2. A percentage calculated under Section 7(2) of this administrative regulation or as determined by either the court or the parties;

(j) Whether the alternate payee shall receive from a supplemental benefit of an account that was retired prior to entry of the decree of dissolution of marriage, a monthly annuity or a one (1) time disbursement from the participant's remaining supplemental benefit balance as:

1. A one (1) time fixed dollar amount; or

2. A percentage calculated under Section 7(2) of this administrative regulation or as determined by either the court or the parties;

(k) When payments shall begin if an annuity;

(l) When payments shall cease if an annuity;

(m) That the alternate payee shall be paid in the same form as the participant, except that the alternate payee shall be entitled to only a one (1) time distribution from the supplemental benefit if the account has not been retired prior to entry of the decree of dissolution;

(n) If the alternate payee shall share in the participant's cost of living adjustments if the QDRO awards a fixed dollar amount of the foundational benefit to the alternate payee;

(o) Who shall be responsible for payment of the TRS processing fee; and

(p) All information required on the Qualified Domestic Relations Order to Divide TRS 4 Member's Benefits.

(2) A QDRO shall be:

(a) Approved by TRS as to enforceability and compliance with the requirements of KRS 161.700 and this administrative regulation;

(b) Approved and submitted by the participant and alternate payee or their legal counsel;

(c) Signed by the judge of a court of competent jurisdiction;

(d) Filed with the clerk of the court; and

(e) Certified by the clerk of the court.

Section 3. Administrative Provisions.

(1) Upon entry of a final divorce decree, the participant shall forward a copy of the decree to TRS and:

(a) If the participant is a retired member, request:

1. A Change of Option Following Termination of Marriage form, if the participant wants to change his or her retirement option, which shall be filed with TRS within sixty (60) days of the entry of the final divorce decree;
 2. A Change of Beneficiary for Retired Member form, if the participant had chosen retirement Option I or Option II and does not want to change his or her retirement option, but wants to name a new beneficiary;
 3. A Designation of Beneficiary for TRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate; or
 4. A W-4P Withholding Certificate for Periodic Pension or Annuity Payments or "W-4P", if the participant wants to change the amount of federal tax withheld from his or her retirement benefit;
- or

(b) If the participant is an active member, he or she shall request:

1. TRS 4 Active Member Account Beneficiary Designations form, if the participant wants to designate a beneficiary other than his or her estate; or
2. A Designation of Beneficiary for TRS Life Insurance Benefit form, if the participant wants to designate a beneficiary other than his or her estate.

(2) Thirty (30) days prior to filing the QDRO with TRS, the participant or alternate payee shall present a written request for benefits information for divorce purposes. The participant, alternate payee, or third party, including party's legal counsel, shall provide a completed TRS Authorization for Release of Information form with the request.

(3) For a QDRO directed to an active account from which a participant is not currently receiving a retirement allowance, TRS may, for the current fiscal year, provide the unaudited salary information electronically submitted to TRS by the participant's employer upon receipt of the written request and release.

(4) If the QDRO is directed to an account from which the participant is not currently receiving a retirement allowance, TRS shall not project future earnings or future service, provide an actuarial opinion of present value of the participant's benefits, ~~or~~ calculate the value of the Social Security benefit the member would have received if he or she had contributed for purposes of offset under KRS 403.190. TRS shall provide:

(a) The participant's total accrued service credit, including service credit purchased during the marriage, and the participant's account balance, including the total amount of accrued contributions and interest, as posted at the end of each fiscal year during the marriage and for which an employer annual report has been received by TRS and for which the participant has not received a refund; ~~and~~

(b) An estimate of the monthly retirement allowance the participant would receive from the foundational benefit if the participant retired without a statutory reduction of the basic retirement allowance based upon the participant's final compensation and total accrued service credit as of the date of the dissolution of marriage or receipt of the request for the information; ~~and~~

(c) The balance in the supplemental benefit.

(5) If the QDRO is directed to an account that has been retired, TRS shall provide the participant's monthly retirement allowance received from the foundational benefit, ~~and~~ any annuity received by the participant from the supplemental benefit, any remaining accumulated account balance at

retirement~~[r]~~ in the supplemental benefit, the total retirement allowance or annuity received to date, and the participant's total accrued service credit, including any service credit purchased during the marriage. The parties, their legal counsel, or the court may use the information to decide which, if any, portion of the participant's foundational benefit and supplemental benefit are marital. TRS shall not decide whether, or if, any portion of the participant's foundational benefit and supplemental benefit are marital and potentially subject to division.

(6) The participant, alternate payee, or legal counsel shall submit a Qualified Domestic Relations Order to Divide Teachers' Retirement System 4 Member's Benefits form to TRS for review forty-five (45) days prior to filing the QDRO with the court. The draft QDRO shall be approved by the participant and alternate payee or their legal counsel. If more than one (1) of the participant's accounts is subject to classification and division as marital property, a separate QDRO shall be issued for each TRS account. The draft QDRO may be sent **by[via]** U.S. Mail or scanned and electronically mailed to TRS for review.

(7) TRS shall not review the draft QDRO until the following **have been[are]** received:

(a) A \$300 nonrefundable processing fee, by money order, certified check or on the attorney's trust account, made payable to the Kentucky State Treasurer, except that a processing fee shall not be charged for a QDRO issued solely for child support;

(b) The TRS Confidential Information form, which shall include the participant's and alternate payee's address, Social Security number, and date of birth;

(c) Copies of the participant's and alternate payee's signed Social Security cards;

(d) If the QDRO is directed to an account that has been retired, a TRS Authorization for Direct Deposit form completed by the alternate payee and his or her financial institution; and

(e) Any other documents that are required to confirm additional service credit purchased, or sought to be purchased, for retirement calculation purposes **pursuant to[under]** KRS 161.220 through 161.716, including TRS Military Service Certification and Affidavit form, with a copy of the discharge papers.

(8) Within twenty (20) days of receipt of the QDRO, TRS shall notify the participant and alternate payee in writing whether the QDRO meets TRS requirements. If the QDRO meets TRS requirements, TRS shall approve the QDRO and return a fully executed hard copy **by[via]** U.S. Mail for submission to the court. If the participant or alternate payee are represented by legal counsel, the approved QDRO shall instead be provided to **the[their]** legal counsel **who submitted the draft** by hard copy **by[via]** U.S. Mail or electronic mail **with notice to the other party or their legal counsel** for submission to the court. If the participant is a retired member, TRS shall forward tax withholding forms to the alternate payee.

(9) If the QDRO does not meet TRS requirements, TRS shall notify the participant and alternate payee, in writing, identifying those provisions which are not in compliance and the amendments needed to bring the QDRO into compliance. If the participant or alternate payee is represented by legal counsel, this notice shall be provided to their legal counsel. The amended QDRO shall be submitted to TRS for review and approval prior to filing with the court.

(10) TRS shall reject any QDRO entered by a court that has not been reviewed or approved by TRS prior to its submission to the court. TRS shall notify the participant, alternate payee, or their legal counsel, and the court in writing, identifying those provisions that are not in compliance and the amendments needed to bring the QDRO into compliance before it shall be accepted by TRS.

(11) If the QDRO is subsequently amended before filing with the court, the amended QDRO shall be resubmitted to TRS with a \$150 nonrefundable processing fee for review and approval.

(12) Following approval by the court, the participant, alternate payee, or legal counsel shall file a certified copy of the QDRO with TRS.

(a) The QDRO shall not become effective until the certified copy is received by TRS.

(b) Upon receipt of the certified copy, TRS shall designate the participant's account for implementation of the QDRO.

(c) While a separate account balance shall not be maintained for the alternate payee, a separate payroll account shall be established.

(d) If the participant is a retired member, payments to the alternate payee shall commence in the calendar month following the date that a certified copy of the QDRO is received by TRS, if the alternate payee has supplied correctly executed tax withholding forms. If the alternate payee either fails to return the tax withholding forms or does not correctly execute the forms, TRS shall apply the IRS default option in effect on the date the forms are received. If the alternate payee chooses a different option and then provides correctly executed tax withholding forms, future payments shall be adjusted. Retroactive payments shall not be paid for periods between entry of the parties' decree of dissolution and entry and acceptance of the QDRO by TRS.

(e) If the QDRO is directed to an account that has not yet been retired, payments to the alternate payee shall commence in the calendar month in which the participant begins to receive a monthly annuity. Upon receipt of an active member's retirement application, a TRS Authorization for Direct Deposit form and tax withholding documents shall be mailed to the alternate payee's last known address. Pursuant to KRS 161.640(3)(a), TRS cannot begin electronic fund transfers to the alternate payee until receipt of a fully executed TRS Authorization for Direct Deposit form. If the alternate payee either fails to return the tax withholding forms or does not correctly execute the forms, TRS shall proceed in the same manner as described in paragraph (d) of this subsection.

(f) If the participant is an active member who withdraws from service prior to eligibility for retirement and requests a refund of his or her accumulated foundational benefit or supplemental benefit, the provisions of 102 KAR 1:060, setting forth the requirements for processing payment of the refund to the participant or alternate payee, shall be followed. If the parties fail to designate the alternate payee's share of a refund in the QDRO, TRS shall refund the participant's entire foundational benefit and supplemental benefit to the participant in accordance with the provision of this administrative regulation and 102 KAR 1:060, and TRS and its staff shall have no liability for making the refund in this manner.

(13) If TRS is enforcing a QDRO that is subsequently amended or terminated by the court, then either the participant, alternate payee, or legal counsel shall submit a certified copy of the amended QDRO or order of termination to TRS for processing.

(14) The participant, alternate payee, or legal counsel shall not submit a QDRO that is not final and under consideration by an appellate court.

(15) The alternate payee shall be responsible for notifying TRS of any change in name, mailing address, or banking information.

(a) TRS shall provide a Name or Change of Address form or Authorization for Direct Deposit form upon request.

(b) TRS shall contact the alternate payee at the last known mailing address on file to notify the alternate payee when a retirement benefit subject to the QDRO becomes payable.

(c) Other than sending a notice as established in paragraph (b) of this subsection, TRS shall have no duty or responsibility to search for, or locate, the alternate payee.

(d) If the notification sent to the alternate payee's last known address is returned due to the alternate payee's failure to notify TRS of an address change or if the bank notifies TRS that the alternate payee's account has been closed, within sixty (60) days of the return of the notification to the alternate payee or receipt of notification from the bank, the amounts otherwise payable to the alternate payee shall

be paid to the participant until a new address or bank account information is provided by the alternate payee.

(e) TRS shall have no liability to the alternate payee with respect to amounts paid to the participant.

(16) The participant shall be responsible for notifying TRS in writing of an event that causes benefit payments to alternate payee spouse, child, or other dependent to cease.

(a) The participant shall provide TRS with a certified copy of the alternate payee's death certificate or marriage certificate. TRS shall suspend payments due to the alternate payee provided that submission of proof of the death or marriage of the alternate payee, if marriage terminates payments under the QDRO, is received by TRS before the beginning of the month following receipt of the participant's written notification.

(b) The alternate payee shall also be responsible for notifying TRS in writing of the alternate payee's remarriage if, under the terms of the QDRO, that is an event that terminates the alternate payee's right to receive any payments.

(c) TRS shall not be responsible for payments made to the alternate payee until it is given timely written notice and documentation of any event terminating those payments.

Section 4. ***TRS Benefits Subject to a QDRO.*** A QDRO may apply to a participant's:

- (1) Retirement allowance from the foundational benefit;
- (2) Disability retirement allowance from the foundational benefit;
- (3) Disbursements, and if the participant is retired and receiving a retirement allowance, any annuity from the supplemental benefit; or
- (4) Termination refund.

Section 5. ***TRS Benefits Not Subject to a QDRO.*** A QDRO shall not apply to a participant's:

- (1) Survivor annuity that becomes payable after the participant's death;
- (2) Survivor benefits that become payable after an active contributing participant's death;
- (3) Accounts that are not vested at the time of the dissolution of marriage;
- (4) Life insurance benefit;
- (5) Refund as a result of an error;
- (6) Refund of an active or retired account in response to a participant's death;
- (7) Health insurance; and
- (8) Any other payment or benefit not described in Section 4 of this administrative regulation.

Section 6. ***Effect of Alternate Payee's Death on QDRO.*** *Under the terms of the QDRO,* if an alternate payee has ~~[, under the terms of the QDRO,]~~ been awarded a share of the participant's annuity benefits and dies before the participant dies, retires, or withdraws his or her account, the entire remaining account value shall be restored to the participant.

Section 7. Calculation and Payment.

(1)(a) If the QDRO is directed to an account that has been retired, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance, disability retirement allowance, annuities or disbursements from the supplemental benefit component, or refundable account balance, accrued through the date of dissolution of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable TRS service earned during the marriage, including service credit purchased during the marriage; and

2. The denominator of which shall be the participant's total full and fractional years of TRS service credit through the date of retirement.

(b) The resulting fraction shall be converted to a percentage that shall be divided by two (2).

(c) Option C may be utilized if the duration of the retired participant and the alternate payee's marriage was less than the participant's total full and fractional years of TRS service at the date of retirement.

The parties or their legal counsel shall report the marital years in Option C of the QDRO.

(2)(a) If the QDRO is directed to an account that has not yet been retired, the portion of the participant's benefits payable to the alternate payee as a percentage of the participant's total service retirement allowance or disability retirement allowance payable from the foundational benefit or one (1) time disbursement from the supplemental benefit, or refundable account balance, accrued through the date of dissolution of marriage, that is in excess of the retirement benefits of the alternate payee as provided under KRS 403.190(4), shall be calculated by the following fraction:

1. The numerator of which shall be the participant's total full and fractional years of creditable TRS service earned during the marriage, including service credit purchased during the marriage, as reported by the parties or their legal counsel in Option C of the QDRO; and

2. The denominator of which shall be the participant's total full and fractional years of TRS service credit as determined by TRS at the time that the participant retires either by service retirement or disability retirement or requests a refund of his or her account balance.

(b) The resulting fraction shall be converted to a percentage that shall be divided by two (2).

(3) If an alternate payee has, under the terms of the QDRO, been awarded a share of the participant's disability retirement allowance that is subsequently discontinued, the alternate payee shall not receive a benefit.

(4) If the QDRO is directed to an account that has not yet been retired, the participant's total annuity from the foundational benefit shall be calculated without inclusion of the discounts required under KRS 161.600(2)(d).

(a) If at retirement the participant is subject to discounts required under KRS 161.600(2)(d), and if the QDRO establishes a set dollar amount to be withheld from the retirement benefits that are payable to the participant and to be paid to the alternate payee, TRS shall reduce the amount to be paid to the alternate payee under the QDRO by the amount of the discounts.

(b) TRS shall increase the amount paid to the alternate payee in amount equal to any discounts that are subsequently eliminated as the result of the participant's return to work after retirement under the provisions of KRS 161.605(11), upon the participant's resumption of receipt of retirement benefits.

Section 8. ***TRS Costs and Legal Fees.*** Any person who attempts to make TRS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the annuity benefits payable to the participant shall be liable to TRS for its costs and legal fees.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Teachers' Retirement System Authorization for Release of Information", July 2016;

(b) "Qualified Domestic Relations Order to Divide Teachers' Retirement System 4 Member's Benefits", July 2024;

(c) "Teachers' Retirement System Confidential Information", July 2016;

(d) "Teachers' Retirement System Authorization for Direct Deposit", July 2016;

(e) "Teachers' Retirement System Military Service Certification and Affidavit", July 2016;

(f) "Teachers' Retirement System Name or Change of Address", July 2016;

(g) "Change of Option Following Termination of Marriage", July 2016;

- (h) "Change of Beneficiary for Retired Member", July 2016;
- (i) "Designation of Beneficiary for TRS Life Insurance Benefit", July 2016;
- (j) "TRS 4 Active Member Account Beneficiary **Designations**[Designation]", April 2023;
- (k) "Kentucky Resident State Tax Withholding Election". January 2023; and
- (l) "Withholding Certificate for **Periodic** Pension or Annuity Payments" or "W-4P", 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m.

(3) **This material may also be obtained from the TRS Web site at <https://trs.ky.gov/active-members>. The W-4P may also be obtained at www.irs.gov/pub/irs-pdf/fw4p.pdf.**