

STATEMENT OF EMERGENCY
922 KAR 1:450E

This emergency administrative regulation is necessary in order to immediately implement legislation that passed in Regular Session 2020 that expanded eligibility for the Kentucky public postsecondary tuition waiver for adopted and former foster youth. This amendment is deemed to be an emergency pursuant to KRS 13A.190(1)(a)3. Senate Bill 115 amendments to KRS 164.2847 become effective July 15, 2020; therefore necessitating the emergency filing of this administrative regulation amendment. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Emergency Amendment)

922 KAR 1:450E. Eligibility confirmation for tuition waiver.

EFFECTIVE: July 10, 2020

RELATES TO: KRS Chapter 13B, 164.001(12), 164.2847, 199.570, 620.050(5)

STATUTORY AUTHORITY: KRS 194A.050(1), 164.2847(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires~~authorizes~~ the secretary of the Cabinet for Health and Family Services to adopt and administer administrative regulations necessary under state laws to protect, develop, and maintain the welfare and sufficiency of individual citizens of the Commonwealth. KRS 164.2847(3) requires the Cabinet for Health and Family Services, upon the request of a public postsecondary education institution, to confirm the eligibility status under KRS 164.2847(1), of a student seeking to participate in the tuition waiver program. This administrative regulation establishes a procedure for administrative hearings and criteria pertaining to the release of foster or adoption status information.

Section 1. Definitions. (1) "Institution" is defined by ~~in~~ KRS 164.001(12).

(2) "Student" means an individual who meets the requirements of KRS 164.2847(1).

Section 2. Confirmation of Eligibility. (1) A student shall request a tuition waiver by:

- (a) Completing ~~a form,~~ the DPP-333, Tuition Waiver for Foster and Adopted Children; and
- (b) Presenting the DPP-333 to a public postsecondary institution.

(2) Upon the request of a public postsecondary institution, designated cabinet staff shall return the completed DPP-333 to the requesting institution within thirty (30) working days from the date of receipt.

(3) The confidentiality of information shall be maintained in accordance with KRS 199.570 and 620.050 regarding the release of information.

(4) The cabinet shall maintain an active file of a student's completed DPP-333 for ten (10) ~~five (5)~~ years from the date of the student's initial request.

(5) A student who transfers to another institution, or who has not been enrolled continuously at the same institution, shall complete a new DPP-333.

Section 3. Service Appeal. An applicant who is determined ineligible for a tuition waiver by the cabinet shall have access to an administrative hearing in accordance with 922 KAR 1:320.

Section 4. Incorporation by Reference. (1) "DPP-333, Tuition Waiver for Foster and Adopted Children", 07/20 [~~edition 6/43~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services [~~Cabinet for Health and Family Services, Division of Policy Development~~], 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: July 7, 2020

FILED WITH LRC: July 10, 2020 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be September 28, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by September 21, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends 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 this proposed administrative regulation until September 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Laura Begin or Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the process of determining an applicant's eligibility to receive a tuition waiver at a Kentucky public postsecondary institution.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure compliance with statute and eligibility criteria for students who seek the tuition waiver.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the authorizing statutes by establishing procedure and criteria pertaining to the release of foster or adoption status information as confirmation of eligibility for the tuition waiver.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation assists in the effective administration of

the statutes by establishing a procedure and criteria for eligibility confirmation of a student seeking to participate in the tuition waiver program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment changes the period of time the cabinet shall maintain an active file of a student's completed DPP-333 form for compliance with amendments made in the foster or adopted tuition waiver program, KRS 164.2847, per Senate Bill 115 from Regular Session 2020 (Ky. Acts ch. 111). The amendment also clarifies instructions for completing the tuition waiver form and makes conforming updates in the material incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: Senate Bill 115, passed in Regular Session 2020, extended the tuition waiver eligibility period from a five year period to 150 consecutive or nonconsecutive credit hours up to age twenty-eight and included tuition and student fees for graduate programs in addition to undergraduate programs. Conforming amendment was necessary in this administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The amended administrative regulation conforms to the authorizing statutes by increasing the period of time the cabinet maintains an active file of a student's completed DPP-333 form for the tuition waiver program.

(d) How the amendment will assist in the effective administration of the statutes: The amended administrative regulation will assist in the effective administration of the statutes by ensuring eligibility is consistent with the authorizing statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There were 600 verified eligible applicants for the tuition waiver in 2018 and 639 in 2019. Pursuant to KRS 164.2847, those eligible include families who receive state-funded adoption assistance, students currently committed to the cabinet, students in an independent living program placement funded by the cabinet, students who were placed in adopted placements by the cabinet, or students in the legal custody of the cabinet on his or her eighteenth birthday. Kentucky public postsecondary institutions are also affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amended administrative regulation will require designated cabinet staff to maintain records for ten years, rather than five. Senate Bill 115 expanded the eligibility for the public postsecondary institution tuition waiver available to former foster and adopted youth in Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not have a cost to the entities identified, but Senate Bill 115 did have a cost to Kentucky public postsecondary institutions.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amended administrative regulation will benefit youth who were in foster care or who were adopted prior to their eighteenth birthday by extending the period of time they may utilize the tuition waiver program.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The amendment to this administrative regulation is not projected to have a fiscal impact on the administrative body.

(b) On a continuing basis: The amendment to this administrative regulation is not projected to have a fiscal impact on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General Funds are the source of funding used for the implementation and enforcement of this administrative regulation. Overall costs are minimal for this administrative agency.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amended administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation is applied in a like manner statewide for all students eligible pursuant to KRS 164.2847.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. None.

2. State compliance standards. KRS 194A.050(1).

3. Minimum or uniform standards contained in the federal mandate. None.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter requirements or responsibilities.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. None.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services is impacted by this administrative regulation. Kentucky public postsecondary institutions are impacted by Senate Bill 115, to which this amendment conforms.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 164.2847(3).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no additional costs in administering this program.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs in administering this program.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: