

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Commission on Proprietary Education
(Amendment)

791 KAR 1:020. Standards for licensure.

RELATES TO: KRS 165A.310(5), 165A.330, 165A.340, 165A.350, 165A.360, 165A.370(1), 165A.390, 165A.450

STATUTORY AUTHORITY: KRS 165A.340(6), 165A.360(2), (7), 165A.400

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.340(6) and 165A.400 authorize the Kentucky Commission on Proprietary Education to promulgate administrative regulations to administer the provisions of KRS Chapter 165A. KRS 165A.360(2) requires the commission to establish application forms and fees. KRS 165.360(7) authorizes the commission to promulgate administrative regulations requiring supporting documentation to accompany application. This administrative regulation establishes the application requirements and incorporates forms by reference.

Section 1. A school shall meet the requirements and standards established in this section in order to be licensed.

(1) Financial requirements. The school shall adhere to generally accepted accounting practices and present evidence of financial stability, including the following:

- (a) Financial statements required by 791 KAR 1:010;
- (b) The name and contact information of the bank or other financial institution used by the school as a reference;
- (c) Good standing with the Kentucky Higher Education Assistance Authority related to programs administered by that agency and from the U.S. Department of Education related to programs administered by that department; and
- (d) A school surety bond or other collateral, in accordance with KRS 165A.360 and 791 KAR 1:150, and agent surety bond or other collateral, in accordance with KRS 165A.350 and 791 KAR 1:150.

(2) Accreditation.

- (a) If a school is accredited by an accrediting agency recognized by the U.S. Department of Education, it shall furnish information regarding its accreditation status.
- (b) If a school is not accredited by an accrediting agency recognized by the U.S. Department of Education, it shall furnish a statement indicating if, when, and from whom the school will seek accreditation.

(c) A school shall not:

1. Be the subject of an interim action by a state agency potentially leading to the suspension, revocation, or termination of the institution's legal authority to provide postsecondary education;
2. Have had its state license suspended, revoked, or terminated, even if the required due process procedures have not been completed;
3. Have been denied candidacy or accreditation by an accrediting agency;
4. Have voluntarily withdrawn its candidacy or accreditation while not in good standing from an accrediting agency;
5. Have had its candidacy or accreditation withdrawn or been placed on public probation by an accrediting agency;
6. Be the subject of an interim action by an accrediting agency potentially leading to the suspension, revocation, or withdrawal of candidacy or accreditation; or
7. Have been notified of the loss of any agency's accreditation even if the due process procedures have not been completed.

(3) Agents. A school shall be responsible for the actions of its agent when the agent is acting on behalf of the school. An agent shall have an agent permit and agent bond, in accordance with KRS 165A.350 and 791 KAR 1:150 and shall comply with KRS 165A.330.

(4) Personnel requirements.

(a) The school shall furnish information regarding the administrative officer, the directors, the owners, and the instructors on the Form PE-11, Form for Instructional Staff and Key Administrative Personnel, incorporated by reference in 791 KAR 1:010.

(b) The chief administrator shall be qualified pursuant to KRS 165A.370(1)(d).

(c) Each qualifying degree possessed by personnel shall be from an institution accredited by an accrediting agency recognized by the U.S. Department of Education or the Council for Higher Education Accreditation.

(d) Verification of credentials. A school shall maintain official transcripts for credentials that qualify instructors to teach their assigned courses and for those credentials that are listed in the catalog. All these credentials shall be on file in the administrative offices at the campus location nearest to where the instructor is primarily employed.

(e) A principal party, owner, or administrator involved with the school shall not have had a felony conviction involving moral turpitude, fraud, or a capital crime.

(f) Instructor qualifications. To teach, an instructor shall comply with KRS 165A.370(1)(e). Appropriate training or experience related to the responsibilities of the position shall include a high school diploma or GED along with one (1) or more of the following:

1. Completed a training or degree program in the applicable occupational area;
2. Demonstrated outstanding professional experience;
3. Demonstrated outstanding professional contributions to the discipline being taught; or
4. Professional licensure or certification in the field.

(g) Teaching loads of instructors shall be consistent with recognized educational practices and shall be appropriate to the field, the variety of courses assigned, class size, and other related factors.

(h) Instructor development.

1. A school shall establish instructor development plans including both in-service and professional growth activities to enhance instructor expertise.
2. There shall be documented evidence on an annual basis of these development plans and their implementation.
3. A school shall establish plans that are appropriate given each instructor's training, education, and related work experience and that provide the proper mix of in-service training and professional growth based on the academic and experiential background of the instructor.

(5) Facilities and equipment.

(a) Enrollment shall not exceed the design characteristics of the facilities.

(b) A school shall have facilities and equipment that are:

1. Maintained and operated in compliance with the safety and health requirements set forth in local, city, and county ordinances, and federal and state law; and
2. Adequate and appropriate for instruction in classrooms and laboratories.

(c) If a school has an expansion of a school facility, it shall comply with 791 KAR 1:160.

(d) If a school has multiple campuses, it shall comply with 791 KAR 1:150.

(e) If a school is only seeking licensure with the commission to offer a course or courses not for college credit, and it will not conduct its course or courses at a

permanent location but rather will utilize the facilities of hotels or other public buildings, it shall:

1. Notify the commission in writing, at least thirty (30) days in advance of the location where any course will be offered;
2. Receive prior approval of the Kentucky Real Estate Commission, the Kentucky Insurance Commission, the Kentucky Bar Association, or other appropriate official agency or group authorized to approve the course or courses; and
3. Not advertise or promote the course or courses until the commission has received in writing the course content, name and qualification of the instructor, and a copy of the approval to offer the course from an authorizing agency.

(6) Library resources. The library shall be appropriate to support the programs offered by the school in accordance with this subsection.

(a) A school, through ownership or formal agreements, shall provide and support student and instructor access to adequate library collections, and to other learning and information resources where courses and programs are offered. Library resources shall be appropriate to the program level offered by the school, and shall be sufficient to support all educational, research, and public service programs at the school.

(b) A school that does not provide its own library facilities, but instead relies on another institution, shall demonstrate that it has permission to utilize the resources of the other institution, by providing a copy of the written agreement to the commission with the license application, and prior to the offering of any courses.

(c) A school that is dependent on another school or library for library resources shall make the extent of the dependence and the details of the agreements clear both to the commission and to students and instructors.

(d) Library expenditures, expressed as a percentage of the total educational and general budget, shall be consistent with the percentage of library expenditures commonly observed in accredited schools of similar types.

(e) Library staff shall be qualified as required for accredited schools of similar types.

(f) The school shall have sufficient seating and work space for a reasonable proportion of the instructors and students to be accommodated at one (1) time.

(g) The physical environment of the library shall be conducive to reflective intellectual pursuits common to institutions of higher learning.

(7) Curriculum.

(a) A course offered in a degree program shall be consistent with a course that is generally transferable for credit among accredited schools if the program is at a corresponding degree level, or for credit toward the baccalaureate degree if a program is at the associate degree level. A course may be offered that is not transferable based on the uniqueness of a program that is occupational in nature.

(b) A school shall have a systematic program of curriculum revision in order to maintain the general standards of accredited schools with similar programs.

(c) A school shall have a program of evaluation that includes a periodic assessment of the changes in student achievement.

(d) A school shall offer with sufficient frequency the courses required for each program for the student to complete the program within publicized time frames.

(8) Program supervision and instructional support. Regardless of location, type of program, method of instruction, or other characteristics, an instructional program shall include:

(a) Adequate supervision by the school; and

(b) Other instructional support necessary to maintain the program.

(9) Truth in advertising. A school shall meet the requirements established in this subsection regarding advertising.

(a) Advertisements, announcements, or other materials produced by or on behalf of the school which are distributed in Kentucky shall not contain any statements that are untrue, deceptive, or misleading with respect to the school, its personnel, its services, the content, accreditation status, or transferability of its courses or degree programs.

(b) Advertisements, announcements, or other materials produced by or on behalf of the school shall not indicate that the school is "supervised", "recommended", "endorsed", or "accredited" by the Commonwealth of Kentucky, by the Kentucky Commission on Proprietary Education, or by any other state agency. A statement using the name of the Kentucky Commission on Proprietary Education, if any, shall be in exactly the following form: "(Name of School) is licensed by the Kentucky Commission on Proprietary Education."

(c) A school shall:

1. Publicly disclose, both in print and Web-based materials, information about its student enrollment, degrees conferred, and job placement rate of program graduates in the field of study as reported to the commission, in accordance with 791 KAR 1:010 and KRS 165A.340(6); and

2. Use numbers most recently reported to the commission in its advertising.

(d) A school shall publicly disclose information about articulation agreements and transfer of credits, in accordance with KRS 165A.340(6)(a)2.c., and shall furnish copies of the articulation agreements and rights and responsibilities of students regarding transfer of credits to the commission.

(e) The commission staff may require that a school furnish proof to the commission of any of its advertising claims. If proof cannot be furnished, a retraction of the advertising claims published in the same format as the claims themselves shall be published by the school and the continuation of the advertising shall be grounds for denial, suspension, or revocation of the school's license.

(10) Recruitment and enrollment procedures. A school shall furnish the following to each prospective student prior to enrollment, and shall require that the student sign and date the school's form to be placed in the student's file, which shall either be part of the enrollment contract or a pre-enrollment checklist verifying that the student received:

(a) The school's most recent catalog including policies on grades, attendance, and conduct;

(b) A description of the instructional program;

(c) A detailed schedule of all charges, rentals, and deposits;

(d) The schedule of refunds of all charges, rentals, and deposits;

(e) The complaint procedures available to students, including the process for filing a complaint with the commission;

(f) Notice of the existence of the student protection fund created in KRS 165A.450; and

(g) The student enrollment application, contract, or agreement.

(11) Student affairs.

(a) Students admitted to the school shall have completed a state-approved secondary school program or its equivalent.

(b) The school shall provide academic advising by instructors or staff to each student at the time of admission and throughout the program.

(c) The school shall make assistance and advising available to each student who completes a technical or vocational program for the purpose of assisting the student with relevant job placement or with transfer.

(d) The school shall maintain sufficient records for each student to provide an understanding of his or her background, to record progress through the instructional program, and for reference purposes.

(e) The school shall comply with recordkeeping requirements, in accordance with KRS 165A.370 and 791 KAR 1:027.

(f) Administrative officers of the school shall be knowledgeable of the federal and state laws and administrative regulations concerning the disclosure of student information and shall comply with those laws and administrative regulations.

(g) A school shall make provision for the maintenance of student records if the school ceases operations. The location of student records shall be approved in advance by the commission in accordance with KRS 165A.390(5). A school shall comply with KRS 165A.450.

(12) School policies.

(a) The school shall maintain records in an orderly manner and make them available for inspection by the commission or its designated representative.

(b) A catalog shall be published and distributed at least every two (2) years and shall include general information, administrative policies, and academic policies of the school including:

1. General information:

a. Official name and address of the school, name of the chief administrative officers, members of the governing body, and names of principal owners;

b. The school's calendar for the period covered by the catalog including beginning and ending dates of each term or semester, registration and examination dates, legal holidays, and other important dates;

c. Names of instructors, including relevant education and experience; and

d. Full disclosure of the philosophy and purpose of the school;

2. Administrative policies:

a. Admissions policies and procedures, applicable to the various programs, including policies regarding granting of credit for previous education;

b. Policies and procedures regarding student conduct and behavior and the process for dealing with cases which culminate in probation or dismissal;

c. Schedules for all tuition and instructional charges refund policy, and schedules for the tuition and instructional charges;

d. Statement of financial aid available to students; and

e. Procedures for obtaining transcripts in a timely fashion and at reasonable cost; and

3. Academic policies:

a. Policy on class attendance;

b. Description of grading system;

c. Description of the degree, diploma, certificate, or other programs, including the course requirements and the time normally required to complete each degree, diploma, certificate, or other program; and

d. Full description of the nature and objectives of all programs offered.

(13) Site visits.

(a) The commission shall conduct site visits in accordance with KRS 165A.370(1) and (2).

(b) The costs of the site visit shall be paid in accordance with 791 KAR 1:025.

(c) The commission may conduct an announced or unannounced site visit of a licensed school during reasonable business hours to inspect the files, facilities, and equipment, as well as conduct interviews to determine the school's compliance with this administrative regulation and KRS Chapter 165A.

(d) Within ninety (90) working days of receipt of a complete application or annual report, the commission may conduct a site visit.

(e) The purpose of a site visit shall be to make an assessment of a school using the standards for licensure as set forth in this administrative regulation.

(f) Failure to provide full access to the school's files, facilities, and equipment, or prevention of interviews, shall be grounds for:

1. Denial of a license; or
2. Suspension or revocation of an existing license.

Section 2. General Standards for Approval of Associate Degree Programs.

(1) In addition to meeting the requirements and standards in Section 1 of this administrative regulation, a school requesting consideration for approval to award an associate degree shall:

- (a) Have been in operation and licensed in Kentucky or in another jurisdiction whose standards substantially meet or exceed those contained in this administrative regulation, for a continuous period of at least two (2) years immediately preceding the application;
- (b) Be accredited by an accrediting agency recognized by the United States Department of Education;
- (c) Meet the standards set forth in KRS 165A.370 and this administrative regulation;
- (d) File with the commission a completed, signed, and dated Application to Award an Associate Degree (Form PE-10), incorporated by reference in 791 KAR 1:010;
- (e) Pay the fee for application to award an associate degree set forth in 791 KAR 1:025, Section 8;
- (f) Ensure that marketing techniques and advertisements shall not guarantee employment;
- (g) Not offer to the public, advertise, or enroll students in a new associate degree program until all necessary forms have been submitted to the commission office for review, and written approval of the application is received from the commission; and
- (h) Be inspected by a member of the commission, or commission designee, with prior notification to the school of the date and time of the inspection to determine compliance with KRS 165A.370 and this administrative regulation.

(2) A class in the program shall not commence before the inspection report evidences that the program is in compliance.

Section 3. Associate of Arts Degree or Associate of Science Degree.

(1) The granting of an associate of arts degree or associate of science degree shall be limited to a school accredited by an accrediting agency recognized by the U.S. Department of Education.

(2) The associate of arts degree or associate of science degree shall be awarded to a student who has successfully completed a degree program comprised of a minimum of sixty (60) semester credit hours or ninety (90) quarter credit hours of study.

(a) Of the total credit hours, a minimum of thirty (30) semester credit hours or forty-five (45) quarter credit hours, shall be in the appropriate business, technical, or other major field of study as indicated in the program title and description.

(b)

1. A minimum of fifteen (15) semester credit hours or twenty-two and one-half (22 1/2) quarter credit hours, shall be required in general education studies.
2. General education studies shall include courses other than the core major offering, including science, mathematics, social and behavioral sciences, and humanities, and shall offer balance to the total program.

Section 4. Specialized Associate Degree.

(1) The granting of a specialized associate degree designated as an associate of applied science degree or associate of occupational studies degree is limited to schools accredited by an accrediting agency recognized by the U.S. Department of Education, as a business or specialized school.

(2)

(a) The associate of applied science degree or associate of occupational studies degree shall be awarded to a student who has successfully completed a degree program comprised of a minimum of sixty (60) semester credit hours or ninety (90) quarter credit hours.

(b) The degrees shall have at least nine (9) semester hours, thirteen and one-half (13 ½) quarter hours, or its recognized clock hour equivalent in general education or applied general education studies. General education studies shall include courses other than the core major offering, including science, mathematics, social and behavioral sciences, and humanities. Applied general education studies shall include courses that apply to a specific occupation (e.g., technology, medication math, psychology for health professionals, and business math) and also satisfy general education requirements.

Section 5. Additional Standards.

(1) An associate degree granting school approved by this commission shall follow the additional standards established in this section.

(a) The library or learning resource center items shall include relevant periodical subscriptions or computer data bases and shall contain professionally accepted references in the field or fields of study which shall be appropriate for the program offered.

(b) The library or learning resource center shall be accessible for all students to use the items and shall provide access to materials at hours other than times classes are being taught.

(c)

1. A designated staff member shall be responsible for the library or learning resource center, and sufficient funds for support of the facility and acquisition of library or learning resource center items shall be provided.

2. In determining whether sufficient funds are provided, current student enrollment shall be considered.

(d) All equipment and training aids shall be relevant to the program offered and shall be in sufficient quality and quantity to accommodate the current student enrollment.

(e) The school shall provide a listing of the program requirements and prerequisites for the degrees offered.

(f)

1. A catalog shall be printed containing a description for each course that is required or which may be taken to meet the requirements for the degree.

2. The catalog shall include all prerequisites.

(g) All promotional literature and advertising shall appropriately identify the degree offered.

(h)

1. The school shall submit a completed Form for Instructional Staff and Key Administrative Personnel (Form PE-11) for each instructor, incorporated by reference in 791 KAR 1:010, to the commission before classes listed on the application begin.

2. Official transcripts, and if applicable, copies of certifications, licenses, and other designations for each instructor in the degree program shall be maintained on file at the school.

(i) The school shall maintain on file a current course syllabus for each course taught.

(j) The school shall maintain on file for the commission or its designee a copy of its last accreditation self-study and correspondence with accrediting agencies.

(2) The school shall make the following materials available to a member of the commission or its designee at the on-site visit:

- (a) Promotional literature;
- (b) School catalog;
- (c) Course syllabi;
- (d) Inventory of classroom equipment;
- (e) Student files;
- (f) Faculty files;
- (g) Staff files;
- (h) A list of all personnel by position indicating part-time and full-time employees; and
- (i) A current organizational chart.

(3) The school shall provide a Statement of Quality Assurance as determined by the Commission.

Section 6. Failure to Meet Standards for Licensure.

(1) A school's failure to meet the standards for licensure set forth in this administrative regulation shall be grounds for:

- (a) Denial of a license; or
- (b) Suspension or revocation of an existing license.

(2) The commission shall notify the school by registered mail, return receipt, of the denial, suspension, or revocation of the school's license.

MISTY N. EDWARDS, Executive Director
For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five 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 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 through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email kcpe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation (791 KAR 1:020) establishes the requirements and standards for proprietary schools.

(b) The necessity of this administrative regulation:

This administrative regulation (791 KAR 1:020) establishes the standards for licensure and application requirements for proprietary schools.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

The statute requires the commission to promulgate regulations requiring supporting documentation to accompany an application.

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

This administrative regulation provides guidelines to proprietary schools to assist in a more efficient application process.

(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:

The amendment provides guidance for accessing electronic applications and submitting supporting documentation.

(b) The necessity of the amendment to this administrative regulation:

Schools will submit documents electronically and complete a statement of quality assurance in a form and manner determined by the commission.

(c) How the amendment conforms to the content of the authorizing statutes:

The statute requires the commission to promulgate regulations regarding standards for licensure. The electronic data management systems allows for a controlled exchange of information among stakeholders while maximizing operational efficiencies.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment address the statement of quality assurance. A non-degree granting institution must attest to the institution meeting the minimum standard required for receiving and maintaining a license.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The Kentucky Commission on Proprietary Education, the 189 licensed proprietary schools, and any proprietary school requiring licensure pursuant to KRS 165A. (4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: All proprietary schools will be required to begin utilizing the electronic data management system. (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed

amendment. (c) As a result of compliance, what benefits will accrue to the entities: The electronic data management system will replace a paper based system, facilitate compliance, simply document version control and ultimately lead to a major efficiency.

(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:

No answer provided.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No answer provided.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

No answer provided.

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

(a) Initially:

There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis:

There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The commission is funded entirely through fees paid by licensed schools.

(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:

The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied?

Tiering is not applied because there is no change to the fee or application structure.

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 Kentucky Commission on Proprietary Education and the licensed proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 165A, KRS 165A.340(6), 165A.360(2), (7), 165A.400.

(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.

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

(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.

(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.

(c) How much will it cost to administer this program for the first year?

There is no cost associated with the amendment.

(d) How much will it cost to administer this program for subsequent years?

There is no cost associated with the amendment.

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

Revenues (+/-):This administrative regulation will have no fiscal impact on revenues.

Expenditures (+/-):This administrative regulation will have no fiscal impact on expenditures.

Other Explanation:

There is no fiscal impact associated with this amendment.