

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

791 KAR 1:035. Student protection fund.

RELATES TO: KRS 165A.450

STATUTORY AUTHORITY: KRS 165A.340(6), 165A.400, 165A.450

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.450 requires the commission to promulgate administrative regulations to ensure there is a renewable student protection fund, impose fees when the balance of the fund drops below the minimum, and establish other requirements related to the fund. This administrative regulation establishes standards for distribution of the funds.

Section 1. Definitions.

- (1) "Commission" means the Kentucky Commission on Proprietary Education.
- (2) "Schools" means all schools, resident and nonresident, licensed by the commission.
- (3) "Sponsor" means the original source of funds, whether student or entity, used to pay student charges for tuition, books, and fees.
- (4) "Student enrolled" means a student currently enrolled and attending classes on a regular basis.

Section 2. Student Protection Fund Notice. Schools shall include on the student enrollment agreement, in 14-point type font:

- (1) A statement notifying students of the existence of the student protection fund; and
- (2) The process for filing a claim against the fund.

Section 3. Standards for Fund Distribution.

- (1) The commission shall manage the student protection fund ("the fund"). The fund shall be used in accordance with KRS 165A.450.
- (2) Each fund distribution for restitution shall be made payable to the appropriate sponsor, as determined by the commission and shall be made upon the presentation of a signed Form for Claims Against the Student Protection Fund, Form PE-38, and supporting documentation, verifying the student's enrollment and regular attendance at the time of the school or program closure. The commission may require supporting documentation, such as canceled checks, loan documents, or other documentation that supports the student's entitlement to restitution.
- (3) The amount to be refunded shall equal the actual amount of loans and cash that have been applied to tuition, books, and fees on behalf of the student's attendance at the school. If the claims resulting from a school closing exceed the balance in the fund, the commission shall provide for a pro rata distribution of the fund balance.
- (4) If restitution is paid by the fund, the fund shall be subrogated to the amount of the restitution.
- (5) In order to be considered, a claim for restitution from the student protection fund shall be made within one (1) year of the date of the school or program closure.
- (6) An applicant for payment from the student protection fund who is dissatisfied with the decision of the commission may ask for reconsideration of the commission's determination regarding eligibility for restitution from the student protection fund.
- (7) The request for reconsideration shall be submitted by the applicant to the commission within thirty (30) calendar days of the mailing date of the commission's decision.

(8) The request for reconsideration shall be signed by the student and explain the reasons in support of a different decision.

(9) Within forty-five (45) days of receipt of the request for reconsideration, the commission shall make a final determination and provide notice to the applicant.

(10) Students eligible for reimbursement will receive funds from the surety bond or other collateral before filing a claim against the Student Protection Fund.

Section 4. Incorporation by Reference.

(1) "Form for Claims Against the Student Protection Fund", Form PE-38.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Commission on Proprietary Education, 500 Mero Street , Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

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.