

GENERAL GOVERNMENT CABINET
Council on Postsecondary Education
(Amendment)

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 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 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 amount in fiscal year 2023-2024, an additional amount equaling the institution's 2023-2024 hold-harmless amount.

~~(17) [(14)]~~ "STEM+H degrees" means degrees in the fields of science, technology, engineering, math, and health sciences as determined by the council.

~~(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)~~[(l)]~~.

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 5., and in the following denominations:

(1) Nine (9) percent based on the ~~[normalized]~~ bachelor's degrees awarded in an academic year as 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. 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. Beginning fiscal year 2024-2025, 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 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 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/>.

MADISON SILVERT, Chair

APPROVED BY AGENCY: April 30, 2024

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

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601 in Conference Room A. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Sterling Crayton, Attorney, Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone 502.892.3005, fax 502.573.1535, email sterling.crayton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sterling Crayton

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation implements a comprehensive funding model by which general fund appropriations shall be distributed in the public university sector.

(b) The necessity of this administrative regulation:

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.

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

The administrative regulation conforms explicitly to the authorizing statute.

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

This regulation allows the Council to determine total university allocable resources for any given year by calculating each institution's formula base amount, subtracting the small school adjustment and any amount protected by a hold harmless provision, and combining these amounts along with any applicable increase or decrease in general fund appropriation in accordance with KRS 164.092.

(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 increases the low-income degree production allocation, removes the underrepresented minority degree production allocation, adds a degree production allocation for first generation students, adds an adult learner earned credit hour premium, eliminates the degree efficiency index weighting, increases the small school adjustments at Kentucky State University and Morehead State University, and increases the nonresident credit hour weighting.

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

This amendment is necessary to implement changes as required by SB 191 (2024 Regular Session). In addition, this amendment constitutes incremental but constructive change to the funding model by creating financial incentives and leveraging the formula to advance state goals for postsecondary education.

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

The amendment conforms to the content of KRS 164.092 as amended by SB 191 (2024 Regular Session) by capturing changes required therein and makes other changes in areas delegated to the Council.

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

The amendment conforms to the content of KRS 164.092(12) by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger economy through its public college and university system.

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

This regulation impacts the 8 public universities in Kentucky.

(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 entities will not be required to take any action in order to comply with this amendment, although institutional strategies to achieve the performance incentivized by this regulation by change.

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

There is no additional cost to entities.

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

If the public universities increase performance in the areas identified in this regulation relative to other institutions their distribution of performance funding dollars will increase.

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

(a) Initially:

See 4(b) above.

(b) On a continuing basis:

See 4(b) above.

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

The postsecondary education performance fund established by KRS 164.092(13), an appropriation unit of the general fund used to support improvement in the operations of the public postsecondary institutions and achievement of the Commonwealth's education policy goals and workforce development priorities.

(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:

This regulation does not assess fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation does not assess fees.

(9) TIERING: Is tiering applied?

Yes, one hundred percent (100%) of public institution allocable resources among the public universities based on rational criteria, including each college's share of student success outcomes, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable. Weighting for various items in the regulation vary between research and comprehensive universities.

FISCAL IMPACT STATEMENT

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

KRS 48.600-48.630, 164.001, 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The Council on Postsecondary Education and the eight public universities across the state.

(a) Estimate the following for the first year:

Expenditures: Approximately \$200,000 per year for CPE to manage and run the model. No cost of implementation for postsecondary institutions.

Revenues: None for CPE. In and of itself, this regulation will not generate any revenue, however depending on campus performance and the overall general fund appropriation to higher education, institutions could see increases in general fund revenue.

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

N/A

(4) Identify additional regulated entities not listed in questions (2) or (3):

N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

Duties related to this regulation are generally assumed by Council staff members as part of their many other responsibilities. There are no additional costs of administration.

(b) Methodology and resources used to determine the fiscal impact:

General analysis.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

This regulation is not anticipated to have a major economic impact on state or local government or regulated entities. This regulation will provide financial incentives to public universities across the Commonwealth.

(b) The methodology and resources used to reach this conclusion:

General analysis.