

13 KAR 1:050. Licensed out-of-state college's eligibility for Kentucky tuition grant.

RELATES TO: KRS 164.020(37), 164.785, 164.945, 164.946, 164.947, 164.992

STATUTORY AUTHORITY: KRS 164.785(7)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.785(7)(c) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement the requirement that, beginning with the 2011-2012 academic year, programs or campuses of any out-of-state postsecondary education college that is licensed by the Council on Postsecondary Education to operate in Kentucky and whose institutional programs are not composed solely of sectarian instruction, but in which accreditation by the Southern Association of Colleges and Schools is not an option, be reviewed and approved by the Council on Postsecondary Education based on accreditation criteria that mirrors Southern Association of Colleges and Schools accreditation criteria in order to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant.

Section 1. Definitions.

- (1) "Accredited" means the approval of an accrediting agency.
- (2) "Accrediting agency" means a national or regional agency which evaluates colleges and is recognized by the United States Department of Education, the Council on Higher Education Accreditation, or the Council on Postsecondary Education.
- (3) "Agent" means any person employed by a college to act as a solicitor, broker, or independent contractor to procure students for the college by solicitation in any form made at any place other than the main campus of the college.
- (4) "College" is defined by KRS 164.945(1).
- (5) "Degree" is defined by KRS 164.945(2).
- (6) "Out-of-state college" means a college that is chartered, organized, or has its principal location outside of Kentucky.
- (7) "President" means the president of the Council on Postsecondary Education.
- (8) "Regional accrediting association" is defined by KRS 164.740(18).

Section 2. General Requirements.

- (1) If an out-of-state college licensed by the Council on Postsecondary Education is seeking to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant, and if accreditation by the Southern Association of Colleges and Schools is not an option for the college, the college shall apply with the Council on Postsecondary Education.
- (2)
 - (a) Approval by the Council on Postsecondary Education shall be for the sole purpose of qualifying a Kentucky campus or campuses of a college as an eligible institution in which a Kentucky student may enroll and receive a Kentucky tuition grant, and shall not mean that the college is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, the Council on Postsecondary Education, or any other agency.
 - (b) A college shall not represent its status as seeking or being accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, the Council on Postsecondary Education, or any other agency.
- (3)
 - (a) A college seeking eligibility shall submit the "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" for each licensed Kentucky program or instructional site to the president.
 - (b) A college seeking eligibility shall submit a complete and accurate "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR

1:050" by May 30 of the year prior to the first academic year for which it seeks to be eligible.

(4) The college shall pay a nonrefundable fee of \$10,000 to the Council on Postsecondary Education with the submission of the application. Review of the application shall not occur until the fee is paid by the college.

(5) The president shall review the application and documentation submitted by the applicant college.

Section 3. Integrity of College.

(1) The college shall operate with integrity in all matters.

(2) The college shall be responsible for any of its agents and any individual who reports to the president on behalf of a college, either by virtue of his or her office or as delegated by the chief executive officer of the college, in all matters regarding institutional integrity.

(3) Failure to respond appropriately to the president's decisions and requests or to make complete, accurate, and honest disclosure shall be grounds for the president to impose a sanction, including ineligibility under this administrative regulation.

Section 4. Core Requirements. A college applying for approval by the Council on Postsecondary Education shall meet the standards established in this section.

(1) The college shall have a clearly defined, comprehensive, and published mission specific to the college and appropriate for higher education. The mission shall address teaching and learning, and where, applicable, research and public service.

(2) The college shall:

(a) Have degree-granting authority from its home state authorization agency;

(b) Be licensed by the Council on Postsecondary Education in accordance with 13 KAR 1:020 prior to seeking eligibility under this administrative regulation; and

(c) Be accredited by a regional accrediting association.

(3) The college shall have a governing board of at least five (5) members that:

(a) Is the legal body with specific authority over the college;

(b) Exercises fiduciary oversight of the college;

(c) Ensures that both the presiding officer of the board and a majority of other voting members of the board are free of any contractual, employment, personal, or familial financial interest in the college;

(d) Is not controlled by a minority of board members or by organizations or colleges separate from it; and

(e) Defines and regularly evaluates its responsibilities and expectations.

(4) The college shall have a chief executive officer selected and evaluated by the college's board whose primary responsibility is to the college and has ultimate responsibility for, and exercises appropriate control over, the college's educational, administrative, and fiscal programs and services.

(5) The college shall employ and regularly evaluate administrative and academic officers with appropriate experience and qualifications to lead the college.

(6) The college shall employ an adequate number of full-time faculty members to support the mission and goals of the college.

(7) The college shall engage in ongoing, comprehensive, and integrated research-based planning and evaluation processes that:

(a) Focus on institutional quality and effectiveness; and

(b) Incorporate a systematic review of institutional goals and outcomes consistent with its mission.

(8) The college shall:

(a) Identify, evaluate, and publish goals and outcomes for student achievement appropriate to the college's mission, the nature of the students it serves, and the kinds

- of programs offered; and
 - (b) Use multiple measures to document student success.
- (9) The college shall identify expected outcomes, assess the extent to which it achieves those outcomes, and provide evidence of seeking improvement based on analysis of the results in:
- (a) Student learning outcomes for each of its educational programs;
 - (b) Student learning outcomes for collegiate-level general education competencies of its undergraduate degree programs; and
 - (c) Academic and student services that support student success.
- (10) The college shall have educational programs that embody a coherent course of study, are compatible with the stated mission and goals of the college, and are based on fields of study appropriate to higher education.
- (11) The college shall require the successful completion of a general education component at the undergraduate level that:
- (a) Is based on a coherent rationale;
 - (b) Is a substantial component of each undergraduate degree program; and
 - (c) Ensures breadth of knowledge by having at least one (1) course from each of the following areas: humanities and fine arts, social and behavioral sciences, and natural science and mathematics, and the courses do not narrowly focus on skills, techniques, and procedures specific to a particular occupation or profession.
- (12) The college shall:
- (a) Publish, implement, and disseminate academic policies that adhere to principles of good education practice and that accurately represent the programs and services of the college;
 - (b) Make available to students and the public current academic calendars, grading policies, cost of attendance, and refund policies;
 - (c) Ensure the availability of archived official catalogs with relevant information for course and degree requirements; and
 - (d) Publish and implement policies on the authority of faculty in academic and governance matters, and places primary responsibility for the content, quality, and effectiveness of the curriculum with its faculty.
- (13) The college shall:
- (a) Publish admissions policies consistent with its mission;
 - (b) Have recruitment materials and presentations that accurately represent the practices, policies, and accreditation status of the college; and
 - (c) Ensure that independent contractors or agents used for recruiting purposes and for admission activities are governed by the same principles and policies as institutional employees.
- (14) The institution shall publish policies for evaluating, awarding, and accepting credit not originating from the institution that ensure:
- (a) The academic quality of any credit or coursework recorded on its transcript;
 - (b) An approval process with oversight by persons academically qualified to make the necessary judgments; and
 - (c) The credit awarded is comparable to a designated credit experience and is consistent with the institution's mission.
- (15) The college shall:
- (a) Provide adequate and appropriate library and learning and information resources, services, and support for its mission;
 - (b) Ensure an adequate number of professional and other staff with appropriate education or experience in library or other learning or information resources to accomplish the mission of the college; and

(c) Provide students and faculty with access and user privileges to its library services, and access to regular and timely instruction in the use of the library and other learning or information resources.

(16) The college shall:

(a) Provide appropriate academic and student support programs, services, and activities consistent with its mission;

(b) Publish appropriate and clear procedures for addressing written student complaints, demonstrate that it follows the procedures when resolving student complaints, and maintain a record of its student complaints; and

(c) Provide information and guidance to help student borrowers understand how to manage their debt and repay their loans.

(17) The college shall have sound financial resources and a demonstrated, stable financial base to support the mission of the college and the scope of its programs and services.

(18) The college shall provide:

(a) An institutional audit for the most recent fiscal year prepared by an independent certified public accountant or appropriate governmental auditing agency employing the appropriate audit guide;

(b) A statement of financial position of unrestricted net assets, exclusive of plant assets and plant-related debt, which represents the change in unrestricted net assets attributable to operations for the most recent year; and

(c) An annual budget that is preceded by sound planning, is subject to sound fiscal procedures, and is approved by the governing board.

(19) The college shall:

(a) Be in compliance with its program responsibilities under Title IV of the most recent Higher Education Act as amended; and

(b) Audit financial aid programs as required by federal and state regulation.

(20) The college shall ensure adequate physical facilities and resources that appropriately serve the needs of the college's educational programs, support services, and other missions-related activities and take steps to provide a healthy, safe, and secure environment for all members of the campus community.

Section 5. Action on Application. Within six (6) months of the submission of an "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" the president shall do one (1) of the following:

(1) Approve the applicant college for status as an eligible institution in which a student may enroll and receive a Kentucky tuition grant for ten (10) years;

(2) Deny the applicant college for status as an eligible institution; or

(3) Notify the applicant college of deficiencies which shall be corrected before approval is granted.

Section 6. Renewal.

(1) Beginning with the 2022-2023 academic year, a college approved by the Council for eligibility for ten (10) years shall seek renewal of eligibility by submitting the "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" by May 30 of the year prior to its eligibility expiration, and shall pay a nonrefundable fee of \$10,000 to the Council on Postsecondary Education with the submission of the application. Review of the application shall not occur until the fee is paid by the college.

(2) A college that was previously approved by the Council for eligibility beginning with the 2011-2012 academic year shall seek renewal of eligibility by submitting the "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050" by May 30, 2021 in order to seek eligibility beyond the month and day of its initial eligibility for 2022, and shall pay a nonrefundable fee of \$10,000 to the

Council on Postsecondary Education with the submission of the application. Review of the application shall not occur until the fee is paid by the college.

Section 7. Substantive Change.

- (1) Approval pursuant to this administrative regulation shall be specific to a licensed college and based on conditions existing at the time of the most recent evaluation and shall not be transferable to other colleges or entities.
- (2) An approved college shall notify the president within thirty (30) days of action by an accrediting agency that results in the college being placed on probationary status, a college losing accreditation, or a college being denied accreditation.
- (3) The president shall be responsible for evaluating all substantive changes to assess the impact of the change on the college's compliance with this administrative regulation.
- (4) A college's failure to comply with this section shall be grounds for ineligibility under this administrative regulation.
- (5) If a college is unclear as to whether a change is substantive in nature, the college shall contact the Council on Postsecondary Education in writing for consultation.
- (6) A substantive change shall include:
 - (a) Action by an accrediting agency that results in the college being placed on probationary status, a college losing accreditation, or a college being denied accreditation;
 - (b) Initiating a merger or consolidation;
 - (c) Altering significantly the educational mission of the college;
 - (d) Relocating a licensed Kentucky instructional site or principal location of the college;
 - (e) Changing the college's governance, ownership, control, or legal status;
 - (f) Changing the name of the college;
 - (g) Altering significantly the length of a program;
 - (h) Adding a new instructional site or program licensed in accordance with 13 KAR 1:020;
 - (i) Denial, suspension, or revocation of licensure by the Council on Postsecondary Education pursuant to 13 KAR 1:020; or
 - (j) Closing the college, a Kentucky licensed instructional site, or a Kentucky licensed program and initiating teach out agreements.
- (7) Within six (6) months of notification by the college of a substantive change the president shall do one (1) of the following:
 - (a) Approve the substantive change and continue approval under this administrative regulation without changing the approval period;
 - (b) Deny the substantive change and require that the college abandon and not proceed with the substantive change or else lose approval under this administrative regulation;
 - (c) Notify the college of deficiencies which shall be corrected before the substantive change is approved, and suspend or revoke approval under this administrative regulation; or
 - (d) Suspend or revoke approval under this administrative regulation.

Section 8. Site Visits.

- (1) The president may conduct, or may have conducted, an announced or unannounced site visit of a licensed college during reasonable business hours to inspect the files, facilities, and equipment as well as conduct interviews to determine the college's eligibility under this administrative regulation.
- (2) Failure to provide full access to the college's files, facilities, and equipment or prevention of interviews shall be grounds for ineligibility.
- (3) All costs associated with a site visit and necessary subsequent visits, including travel, meals, lodging, and consultant honoraria shall be paid by the applicant college.

- (4) The estimated cost of the site visit shall be paid by the college prior to the site visit, and final settlement regarding actual expenses incurred shall be paid no later than thirty (30) days following the completion of the site visit.
- (5) Failure to pay these costs shall result in ineligibility.

Section 9. Hearings and Appeals.

- (1) If the president has determined that there are sufficient grounds for ineligibility under this administrative regulation, he or she may, for cause, require the chief administrative officer, or other officers, of a college to appear for a hearing, consistent with the provisions of KRS Chapter 13B, in order to determine the facts.
- (2) The chief administrative officer, or other officers, of the college may be accompanied at the hearing by counsel of their own choosing and at their expense.
- (3) Within thirty (30) working days after a hearing is held, the president shall reach a determination and shall issue findings, in writing, to the Council and to the chief administrative officer of the college.
- (4) A college may appeal the actions of the president regarding a college's ineligibility under this administrative regulation according to the following procedure:
 - (a) A college shall notify the president of the intent to appeal an action within fourteen (14) days of the receipt of the letter notifying the college of the action taken;
 - (b) The president shall request that the Office of Administrative Hearings appoint a hearing officer who shall conduct an administrative hearing consistent with the provisions of KRS Chapter 13B;
 - (c) The appeal shall be presented in writing no later than sixty (60) days following the receipt of notification of intent to appeal;
 - (d) The appeals officer shall review findings of fact, consider testimony, draw conclusions, and formulate a recommendation consistent with the facts and this administrative regulation;
 - (e) Within fourteen (14) days, the report of the appeals officer shall be forwarded to the college and to the president of the Council on Postsecondary Education; and
 - (f) Within thirty (30) working days of receipt of the report of the appeals officer, the president shall approve or not approve the college.

Section 10. Incorporation by Reference.

- (1) "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050", May 2020, is 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, 2nd Floor, Frankfort, Kentucky 40601.
- (36 Ky.R. 943; 1241; 1945; eff. 3-5-2010; 46 Ky.R. 2977, 47 Ky.R. 515; eff. 12-1-2020.)