

**165A.340 Kentucky Commission on Proprietary Education -- Membership -- Terms -- Duties of executive director -- Administrative regulations -- Meetings -- Powers and duties of commission -- Compensation -- Complaint committee -- Annual report.**

- (1) The Kentucky Commission on Proprietary Education is hereby created as an independent agency of the Commonwealth and shall be attached to the Education and Labor Cabinet for administrative purposes. The commission shall be composed of the following members:
  - (a) Two (2) members who are representative of privately owned postsecondary educational institutions licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;
  - (b) Two (2) members who are representative of privately owned postsecondary technical schools licensed by the commission and appointed by the Governor from a list of seven (7) names submitted by the Kentucky Association of Career Colleges and Schools;
  - (c) Four (4) members who are representative of the public at large with a background in education, business, or industry in Kentucky and appointed by the Governor;
  - (d) The secretary of the Education and Labor Cabinet, or the secretary's designee;
  - (e) The president of the Council on Postsecondary Education, or the president's designee; and
  - (f) The commissioner of education, or the commissioner's designee.
- (2) Terms of appointed members shall be four (4) years or until successors are duly appointed and qualified. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment. An appointed member shall not serve more than two (2) consecutive full terms, except that a member may be reappointed after a break in service of one (1) full term.
- (3) The commission shall employ and fix the compensation of an executive director, who shall be its secretary and principal executive officer. The executive director shall have a background in the regulation of commerce, business, or education, and shall be responsible for:
  - (a) Organizing and staffing meetings of the commission;
  - (b) Establishing policies to ensure retention of original licensing documentation;
  - (c) Ensuring that minutes and other financial, procedural, complaint, and operational records are securely maintained and archived;
  - (d) Internal and external correspondence and communication;
  - (e) Submitting reports and strategic agenda items for review and approval;
  - (f) Assisting the commission in the promulgation of administrative regulations;
  - (g) Carrying out policy and program directives of the commission;

- (h) Preparing budget submissions;
  - (i) Ensuring that formal complaints are provided to the complaint committee and arranging for independent investigations as needed;
  - (j) Ensuring that an independent audit of the commission's finances is conducted biennially;
  - (k) Ensuring that formal written agreements are executed for the procurement of administrative and legal services;
  - (l) Formalizing office policies and procedures relating to licensing and financial operations;
  - (m) Developing and implementing a process for monitoring expenditures and reconciling on a monthly basis commission and student protection fund receipts reported in the Enhanced Management Administrative Reporting System (EMARS); and
  - (n) Other activities necessary to ensure that the commission meets its designated duties and responsibilities.
- (4) The commission shall have full authority to employ and fix the compensation for any personnel, including counsel, as it may deem necessary to effectively administer and enforce the provisions of this chapter. The commission shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.
- (5) The commission shall annually elect a chairperson. The chairperson shall not be a school representative appointed pursuant to subsection (1)(a) or (b) of this section.
- (6) (a) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:
- 1. Commission operating and accountability procedures;
  - 2. Requirements for each licensed institution to publicly disclose according to standardized protocols, both in print and Web-based materials, information about:
    - a. Any information that the schools are required to report by the federal Higher Education Opportunity Act, Pub. L. No. 110-315, using the Integrated Postsecondary Education Data System (IPEDS) of the National Center for Educational Statistics as a condition of participating in Title IV federal financial aid programs;
    - b. The job placement rate of program graduates in the field of study and the types of jobs for which graduates are eligible;
    - c. Articulation agreements with other postsecondary educational institutions and the rights and responsibilities of students regarding transfer of credits;
    - d. The complaint procedures available to students; and
    - e. The existence of the student protection fund created in KRS 165A.450, and procedures for students to file a claim, including but not limited to the documentation required for submission of a claim;

3. Quality standards and compliance monitoring schedules of traditional programs, correspondence courses, and Web-based, distance learning courses offered over the Internet;
  4. Advertising requirements for schools issued a license, including no distribution of materials containing untrue, deceptive, or misleading statements and no representation that the commission is an accrediting agency for the school or its programs;
  5. A schedule for reviewing advertisements and recruitment materials and practices of member institutions to ensure compliance with this chapter;
  6. An equitable structure of licensure and renewal fees, to be paid by licensed schools, necessary to carry out the provisions and purposes of this chapter and to support adequate staffing of commission responsibilities. The fee structure shall be based on the gross revenue of licensed schools, number of students enrolled, and whether the school is located within the state or outside the state; and
  7. The method for calculating placement rates that are to be disclosed pursuant to this subsection.
- (b) The commission shall have the authority to promulgate other administrative regulations, in cooperation with the Kentucky Department of Education and the Council on Postsecondary Education, as it deems necessary for the proper administration of this chapter.
- (7) The commission shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places within this state as the commission may designate. The majority of the members shall constitute a quorum, and all meetings shall be conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.
  - (8) The commission may sue and be sued in its own name.
  - (9) Commission members shall receive a per diem of one hundred dollars (\$100) for attendance at each commission meeting and may be reimbursed for ordinary travel and other expenses while engaged in the business of the commission.
  - (10) The commission shall administer and enforce the provisions of this chapter pertaining to the conduct, operation, maintenance, and establishment of proprietary education institutions, and the activities of agents thereof when acting as such.
  - (11) The commission shall have the power to subpoena witnesses and school records as it deems necessary.
  - (12) The commission chairperson shall appoint a complaint committee and designate its chairperson. The chairperson of the complaint committee shall not be employed by, have ownership interest in, or be otherwise affiliated with a licensed institution. School representatives appointed pursuant to subsection (1)(a) or (b) of this section shall not constitute a majority of the committee's membership. A committee member shall not vote on a matter in which a conflict of interest exists. The committee shall review each formal complaint

and, if evidence supports an alleged violation of this chapter or any administrative regulation promulgated thereunder, the committee shall:

- (a) Authorize an investigative report;
  - (b) Participate in informal procedures to resolve complaints;
  - (c) Ensure timely correspondence to parties involved in complaints; and
  - (d) After review of all evidence and investigative reports, make recommendations for the disposition of complaints to the full commission.
- (13) No later than November 30, 2013, and annually thereafter, the commission shall provide a status report on the requirements of this section to the Interim Joint Committee on Licensing and Occupations and the Interim Joint Committee on Education. The report shall include a summary of the data, including school performance information, relating to the requirements of subsection (6)(a) of this section.

**Effective:** July 1, 2022

**History:** Amended 2022 Ky. Acts ch. 236, sec. 88, effective July 1, 2022. -- Amended 2019 Ky. Acts ch. 138, sec. 3, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 99, sec. 3, effective July 14, 2018. -- Repealed and reenacted 2012 Ky. Acts ch. 76, sec. 4, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 227, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 12, sec. 44, effective June 25, 2009. -- Amended 2005 Ky. Acts ch. 85, sec. 601, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 31, sec. 3, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 156, sec. 4, effective July 14, 2000. -- Amended 1990 Ky. Acts ch. 79, sec. 2, effective July 13, 1990; and ch. 470, sec. 59, effective July 1, 1990. -- Amended 1978 Ky. Acts ch. 154, sec. 10, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 363, sec. 4, effective July 1, 1976.