

**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**  
**Division of Student and Administrative Services**  
**(Amendment)**

**11 KAR 5:145. CAP grant award determination procedure.**

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535, 164.7889(3)

STATUTORY AUTHORITY: KRS 164.748(4), 164.753(4), 164.7889(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants. KRS 164.7889(3) requires the authority to promulgate an administrative regulation that ~~establishes~~~~[increases both]~~ the maximum amount available under the grant programs, and ~~[increases]~~ the average income level for qualification for the grant programs if sufficient funds are available. This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

Section 1. Each application submitted pursuant to 11 KAR 4:080 and 11 KAR 5:130 shall be reviewed for determination that all eligibility requirements established in 11 KAR 5:034 are met. To qualify for a CAP award based on financial need, the applicant's expected family contribution shall be \$5,846~~[5,576]~~ or less.

Section 2. CAP Grant Award.

(1) Except as provided in subsection (2) of this section, the maximum CAP grant in any semester for an applicant accepted for enrollment on a full-time basis as determined by the educational institution in an eligible program shall be the lesser of:

(a) \$1,100~~[1,000]~~ for an applicant enrolled in a two-year institution;~~[or]~~

(b) \$1,450 for an applicant enrolled in a four-year institution; or

(c) The amount of eligibility the student has remaining within the aggregate KHEAA grant limit.

(2) The maximum CAP grant in any semester for an applicant accepted for enrollment on less than a full-time basis as determined by the educational institution in an eligible program shall be:

(a) The amount specified in subsection (1)(a) or (b) of this section:

1. Divided by twelve (12); and

2. Multiplied by the number of credit hours in which the applicant is accepted for enrollment; and

(b) Not in excess of the maximum specified in subsection (1)(c) ~~[(b)]~~ of this section.

(3) For any academic year, a student shall not receive more than \$2,200 if enrolled in a two-year institution or \$2,900 if enrolled in a four-year institution~~[2,000]~~ for an aggregate CAP grant award.

Section 3.

(1) A KHEAA grant awarded to an incarcerated individual shall be considered an overaward to the extent that the KHEAA grant, in combination with financial assistance received from other sources, exceeds the student's actual cost for tuition, fees, and books.

(2) A KHEAA grant award shall not be made for a summer academic term.

Section 4.

(1) A KHEAA grant award shall not exceed the applicant's cost of education less expected family contribution and other anticipated student financial assistance.

(2) The authority shall reduce or revoke a KHEAA grant upon receipt of documentation that financial assistance from other sources in combination with the KHEAA grant

exceeds the determination of financial need for that student.

(3) The KHEAA Grant Program Officer (KGPO) and the grant recipient shall make every reasonable effort to provide the authority the information needed to prevent an overaward.

(4) If the applicant's expected family contribution, disbursed KHEAA grant amount, plus other student financial assistance exceeds his or her need, the excess shall be considered to be an overaward. If an overaward occurs, this amount shall be returned to the authority immediately.

#### Section 5.

(1) If the authority receives revised data that, upon recomputation, results in the student becoming ineligible for a KHEAA grant that has already been offered, but not disbursed, the grant shall be revoked.

(2) If the student is determined to be ineligible after the KHEAA grant has been disbursed, the student shall repay to the authority the entire amount of the KHEAA grant.

Section 6. If the educational institution receives revised data that, upon recomputation, necessitates reduction of the KHEAA grant, and:

(1) If the grant has not yet been disbursed for the fall academic term, the reduction shall be made to both the fall and spring disbursements and the educational institution shall notify the student of the reduction;

(2) If the grant for the fall academic term has already been disbursed and the student enrolls for the spring academic term, the reduction shall be made to the spring disbursement and the educational institution shall notify the student of the reduction;

(3) If the grant for the fall academic term has already been disbursed and the student does not enroll for the spring academic term, the educational institution shall notify the student of the fall overaward and the student shall repay the overaward to the authority; or

(4) If both the fall and spring disbursements have been made, the educational institution shall notify the student of the overaward and the student shall repay the overaward to the authority.

#### Section 7.

(1) Students requested by the institution to provide verification of data for any financial assistance program shall provide the verification before receiving disbursement of a KHEAA grant.

(2) Any student who is awarded a KHEAA grant who fails to provide verification requested by the participating institution shall be deemed ineligible, and the grant shall be revoked.

*CATHE DYKSTRA, Chair*

APPROVED BY AGENCY: March 17, 2022

FILED WITH LRC: March 25, 2022 at 11:25 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, June 22, 2022, at 10:00 a.m. Eastern Time at 100 Airport Road, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 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 attends 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 June 30,

2022. 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: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email [dbarber@kheaa.com](mailto:dbarber@kheaa.com).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Rebecca Gilpatrick**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

**(b) The necessity of this administrative regulation:**

KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.785. KRS 164.753(4) requires the authority to promulgate administrative regulations pertaining to grants.

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

This administrative regulation prescribes the award determination procedures for the CAP Grant Program.

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

This administrative regulation ensures that students applying for a CAP grant meet the required financial need criteria and that those applicants receive the maximum CAP grant allowed for any academic period.

**(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 to this administrative regulation will increase the maximum expected family contribution level necessary to demonstrate financial need for eligibility for the CAP grant program as well as increase the overall annual maximum award amount based on whether a recipient is attending a two-year or four-year institution.

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

The amendment conforms to the content of the authorizing statutes by establishing the maximum expected family contribution limit for participation in the CAP grant program as well as the maximum award amount.

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

The amendment conforms to the content of the authorizing statutes by both establishing the maximum expected family contribution limit and the maximum award amount under the CAP Grant program.

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

This amendment will assist in the effective administration of the statutes by providing notice to the public of the expected family contribution limit and maximum award amount for this program as required by the enabling statute.

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

Students at a total of fifty-four (54) Kentucky postsecondary institutions currently participate in the CAP grant program. In the academic year ending June 30, 2021, there

were 229,800 applicants for CAP grant awards. A total of 56,700 students met the eligibility criteria and received CAP grant awards during that period.

**(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 individuals are not required to take any actions in order to comply with the amendment to this administrative regulation.

**(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 cost to applicants to comply with this amendment.

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

Those individuals who seek to participate in the CAP grant program will benefit by the increase in the expected family contribution (EFC) limit. Specifically, students with a higher EFC will be eligible to participate in the program up to the maximum limit established in the amendment. Likewise, all applicants will benefit from an increase in the maximum award amount.

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

**(a) Initially:**

The amendment to this administrative regulation increases the maximum expected family contribution level necessary to demonstrate financial need, making grants potentially available to more students. Likewise, the award amount to each recipient would be increased to some extent depending upon the type of institution in which the recipient is enrolled. However, the funds available for grants, and, in general, the overall cost of administering the program will neither increase nor decrease.

**(b) On a continuing basis:**

See 5(a) above.

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

Grants for students under the College Access Program are funded from net lottery revenues transferred to the authority for grant and scholarship programs, while administrative costs have, to this point, been borne by the authority through agency receipts.

**(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:**

No increase in fees or funding will be necessary to implement the amendment to this administrative regulation.

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

This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

**(9) TIERING: Is tiering applied?**

Tiering was not applied. It is not applicable to this amendment. This administrative regulation is intended to provide equal opportunity to participate, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities. The “equal protection” and “due process” clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

## **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?**

Finance and Administration Cabinet, Kentucky Higher Education Assistance Authority.

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

KRS 164.748(4), 164.753(4), 164.7889(3).

**(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.**

The administrative regulation will result in no additional expenditures by or revenues to the Authority during the first full year of its effectiveness.

**(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 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 regulation will not generate any revenue.

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

No additional costs are associated with this regulation.

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

No additional costs are associated with this regulation.

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

**Revenues (+/-):**

**Expenditures (+/-):**

**Other Explanation:**