



**Division of Postsecondary School Authorization
Tennessee Higher Education Commission**

2009 Workshop / Roundtable Discussion

**Thursday, July 30, 2009
9:30am – 4:30pm**





The Reauthorization Process and Application



Outline



- The Reauthorization Process
- Changes to the Reauthorization Process
- Common Mistakes with Appendix 3
- Owner Filing Requirements
- Financial Statements and Disclosures



The Reauthorization Process



- Application distribution and deadline
 - Applications are e-mailed to the Director's e-mail address on file with our office.
 - If there is another contact responsible for the application and follow-up, please provide to Teresa Warren.
 - Please check this e-mail address and spam, junk mail, etc. to ensure timely receipt of application.
 - Applications will be mailed in August 2009 and the deadline for submission is October 15, 2009.
 - It is your responsibility to ensure receipt of and timely submission of the application.



Changes to the Reauthorization Application



- Changes have been made to the 2010-2011 Reauthorization Application
 - Ensure that you read the new application instructions carefully.
- Fee Changes:
 - Reauthorization fee shall be calculated as 0.75% of gross tuition collected in TN or from TN students, with a minimum fee of \$500 and a maximum fee (cap) of \$25,000.
- Key Changes:
 - The order of the appendices have changed.
 - Several of the appendices will now be submitted on a separate disk.
 - The information in the application pertaining to (Funding utilized by students) will now be in Appendix 26.
 - Please provide the director's direct phone number, cell phone number and direct email address.



Changes to the Reauthorization Application



- The following appendices will now be completed in an Excel spreadsheet and returned on a separate disk with the application:
 - Appendix 1—List of all current programs
 - Appendix 2—List of all discontinued programs
 - Appendix 5—Institutional Enrollment and Tuition Chart for Individual Classes
 - Appendix 6—Research Data for In-State Institutions
 - Appendix 7—Research Data for Out-of-State Institutions
 - Appendix 15—Master Student Registration List
 - Appendix 26—Funding Sources and Ownership Table
- DPSA will provide the electronic file, into which you will input this information.



Changes to the Reauthorization Application



- Summary List of Programs
 - List all programs currently offered in TN, as of the application deadline.
 - If licensure/board exam is required for employment, please indicate and list the license/board exam requirement.
 - Board/Licensure Passage Rates
 - For every program requiring licensure/board exam for employment, provide the following information:

Program	# of Students Completing Program	# of Students waiting to take exam	# of Students completing exam	# of Students who passed exam



Changes to the Reauthorization Application



- Summary List of Discontinued Programs
 - List all programs that have been discontinued between July 1, 2008 and June 30, 2009.
- Summary List of Administrative Staff, Faculty, Support Staff and Agents
 - List all personnel that were employed by your institution as of June 30, 2009.
- Summary List of Agents
 - List all agents that were employed by your institution as of June 30, 2009.



Changes to the Reauthorization Application



- **Enrollment Agreement**

- Incorporate the Transferability of Credit language on a separate page in 16-point font, and other requirements as prescribed by T.C.A. 49-7-144.

- **Master Student Registration List**

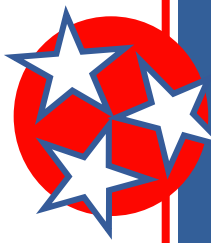
- There should be no blank fields. Type N/A if no information is available.

- **Fire Inspection Report**

- Shall be current reports prepared by the County, City, Volunteer Fire Departments or State Fire Marshal's office.
- Inspections by Private Sprinkler and Fire Extinguisher Companies will not be accepted.



Appendix 3 Discussion



- The student enrollment, graduation and placement report (Appendix 3) represents the demographics and status of the students enrolled in your institution for the fiscal year of July 1, 2008 - June 30, 2009.
- Please submit Appendix 3 on a disk all by itself. Appendix 3 should be separate from other disk submissions.
- Relevant Formulas:
 - Withdrawal Rate is Total Withdrawals (minus the number of withdrawals due to special circumstances, if applicable) as a percent of Total Enrollment.
 - Completion Rate is Total Completions as a percent of Total Exiters (minus the number of withdrawals due to special circumstances, if applicable).
 - Total Placeable is Total Completions minus the number of completers not placed due to special circumstances (if applicable), plus the number of withdrawals that placed (if applicable).
 - Placement Rate is Total Placed (Employed) as a percent of Total Placeable.
 - In-Field Placement Rate is Total Placed (Employed) In-Field as a percent of Total Placeable.



Appendix 3 Discussion



- What Records to Include?
 - Completions (graduations) occurring throughout the reporting fiscal year (July 1, 2008 - June 30, 2009).
 - Withdrawals taking place over the reporting fiscal year (July 1, 2008 - June 30, 2009).
 - Still Enrolled as of end of reporting fiscal year: records include students with valid entry date, and missing completion and withdrawal dates.
 - Entry date can occur prior to the beginning of the reporting fiscal year (July 1, 2008), for students who:
 - are still enrolled, complete, withdraw, or are placed during the reporting fiscal year.



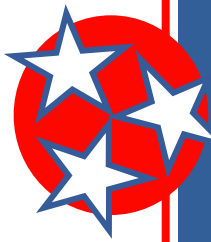
Appendix 3 Discussion



- What Records to Exclude?
 - Exclude students who completed (graduated) or withdrew prior to the beginning of the reporting fiscal year (July 1, 2008).
 - These records belong to the previous fiscal year reporting period.
 - Also exclude records of students whose entry date occurred after the end of the reporting fiscal year (June 30, 2009).
 - You may keep these records for the next fiscal year reporting.
 - If in doubt, please call us, and DPSA research staff will be glad to assist you.
- Special Circumstance Non-Placement
 - Add code 9 for students waiting to sit for a board or certifying examination that is required prior to placement (employment) in the field.
 - 9 = Pending fulfillment of licensure requirement.



Appendix 3 Discussion



- Common Mistakes
 - Please read instructions carefully
 - Student ID Number: Please use the same identification number maintained in your institution's records.
 - Race: There is no zero (0) code; it's a capital letter O. Also, do not use codes such as B for Black, W for White, I for Indian, etc. The accepted codes are: A for African-American (Black), C for Caucasian (White), H for Hispanic, and O for Other. Please place in the "Other" category Asian, Indian and any other race not classified in the other codes.
 - Gender: The accepted codes are M for Male, F for Female. Please do not use W for Women.
 - Date of Birth (DOB): Please check that DOB is within an acceptable range. No default date of 1/1/1900, etc.
 - Program Name: Program name must match what's in the reauthorization package. Abbreviations and acronyms are not acceptable program names. Please check spelling, and make sure that, within different records, the same program is listed with the same wording. Students must have separate records for every program enrolled.



Appendix 3 Discussion



- Common Mistakes (continued)
 - Credential (#): Please list all credentials, especially for program completers.
 - Date Entered: Please double-check for accuracy and make sure that the entry (start) date does not fall after the completion or withdrawal dates.
 - Date Completed: Please double-check for accuracy, and ensure that the date completed does not fall before the entry date.
 - Date Withdrew: Please double-check for accuracy, and ensure that the date withdrew does not fall before the entry date.
 - Special Circumstance Withdrew (#): Does not apply if the student completed the program.
 - Placed (Y/N): Please document if the student is employed. Make sure that you have documentation verifying the placement status of your withdrawals.
 - Placed In Field (Y/N): Please document if the student is employed in the field in which you trained him or her. Make sure that you have documentation verifying the placement status of your withdrawals . If a student is placed in field, then the student is also placed.
 - Special Circumstance Non-Placement (#): This is only applicable to non-placed students, but make sure you have documentation verifying the special circumstance.



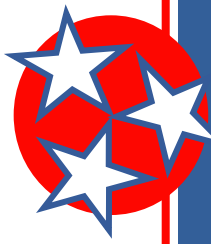
Owner Filing Requirements



- Corporate Charter or Business License
 - Provide original filings or amendments to those documents used to create your business structure in the state of Tennessee, i.e.:
 - Sole proprietorship—Not Applicable
 - General Partnership (GP)—Statement of Partnership Authority
 - Corporation—Charter, Articles of Incorporation
 - Limited Liability Corporation (LLC)—Articles of Organization, Certificate of Formation
 - Limited Partnership (LP)—Certificate of Limited Partnership
 - Limited Liability Partnership (LLP)—Application for Registration of Limited Partnership
- Corporate Annual Report
 - Shall be the most recent annual report filed with the Secretary of State
 - Not applicable to Sole Proprietorships and General Partnerships



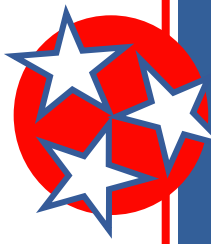
Financial Statements and Disclosures



- Institution Financial Statements shall:
 - Be prepared for the institutional fiscal year
 - Be filed annually during the reauthorization period
 - reflect the operations of the business entity (i.e. Sole Proprietorship, Partnership, Corporation, etc.), not individual owners
 - Include an Income Statement (Income less expenses)
 - Include a Balance Sheet (Assets, Liabilities, and Owner's Equity)
- Financial statements will be evaluated for liquidity based on the following criteria:
 - Current Assets/Current Liabilities shall be 1:1 or greater; or
 - Current Revenues/Current Expenditure shall be 1:1 or greater
- Institutions not meeting these standards shall provide an explanation as part of the reauthorization process.



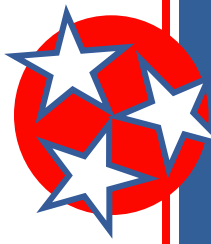
Financial Statements and Disclosures



- For multi-campus institutions owned by one parent company, consolidated financials may be submitted.
- Authorized institutions with gross tuition revenue of more than \$100,000 shall provide **audited** financial statements.
- Authorized institutions with gross tuition revenue of \$100,000 or less, may submit financial information on forms provided by the Commission.
- At any time, the Commission may require a certified audit of the institution when there are questions about the institution's financial stability.



Financial Statements and Disclosures



- Each institution shall provide an itemized list of all sources of student funding
- When the category “other sources” is used, please provide a list of all other sources.
- When “in house financing” is utilized, please refer to Appendix 29 instructions for disclosure requirements.

Funding Source	Dollar Amount ⁽¹⁾	Percent of All Funding Sources
FEDERAL LOANS	\$319,006,740	56.6%
FEDERAL PELL	\$65,976,991	11.7%
PRIVATE LOANS	\$63,939,746	11.3%
SELF PAY	\$55,638,337	9.9%
IN HOUSE FUNDING	\$31,291,435	5.5%
WORKFORCE INVESTMENT ACT (WIA)	\$6,725,228	1.2%
VETERANS AFFAIRS BENEFITS	\$5,061,564	0.9%
<u>FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT (FSEOG)</u>	\$4,286,375	0.8%
TENNESSEE STUDENT ASSISTANCE AWARD (TSAA)	\$2,864,319	0.5%
FEDERAL PERKINS LOANS	\$2,642,414	0.5%
VOCATIONAL REHABILITATION SERVICES	\$1,755,682	0.3%
FEDERAL WORK STUDY	\$1,418,350	0.3%
OTHER SOURCES	<u>\$3,389,468</u>	<u>0.6%</u>
Total	\$563,996,650	100.0%





Director's Responsibilities and Recordkeeping Requirements



Outline



- Director's Responsibilities
- Audit Procedures
- Recordkeeping Requirements
- Documenting Placement and Withdrawal Exceptions
- The Complaint Process
- DPSA Forms and Applications



Director's Responsibilities



- Institutional directors shall:
 - Be familiar with and adhere to Chapter 1540-1-2 of THEC and T.C.A. Title 49, Chapter 7, Part 20.
 - Be physically at the institutional site for a minimum of 50% of the week, each week.
 - Directors should also have a working knowledge of the following:
 - DPSA audit authority and recordkeeping requirements
 - DPSA Complaint Procedures
 - All DPSA applications, forms and applicable deadlines



Audit Procedures



- Notification:
 - Audits may be unannounced
 - Director will be primary contact
 - Letter and/or E-mail
- Audit Sample:
 - 30 Random files
 - If less than 30 students, 100% of files
 - 100% of placement and withdrawal exceptions
- Recordkeeping Requirements:
 - As prescribed by Rule 1540-1-2-.15
 - Documentation of all placement and withdrawal exceptions
 - Documentation of all students who have been placed (employed)



Record Keeping Requirements



- Institutional files shall be maintained according to Rule 1540-1-2-.15, including, but not limited to the following items:
 - Application
 - Transcripts
 - Official copy of high school transcript, G.E.D. scores, or Ability to Benefit (ATB) test scores.
 - Academic transcripts from previous institution, if applicable.
- Pre-enrollment checklist
- Enrollment agreement
- Disclosure about transferability of credits form
- Student Ledger Account
- Copy of student transcript or Certificate of Completion from your institution.



Record Keeping Requirements



- Students' files must be kept on-site for a minimum of three years, with the exception of transcripts, as they should be maintained permanently.
- Transcripts should be housed at the institutions' location and available to DPSA at all times upon request.
- If students' files and transcripts are maintained electronically, they shall be readily available to DPSA at all times upon request.



Record Keeping Requirements



- Student Change of Status Tracking Methods
 - Institutions must maintain documentation of the status of each enrolled student.
 - Information is subject to audit verification.
 - An official date should be recorded for all student withdrawals, probation, leave of absence, graduation or any other status changes.



Documenting Placement and Withdrawal Exceptions



- All placement and withdrawal exceptions must be documented
- Common exceptions (See Appendix 3- Re-Authorization)
 - Health Related Situation
 - Family Emergency
 - Death
 - Incarceration
 - (Example) Verification is available at the Montgomery County Sheriffs Department for the day of booking plus three days.
 - (Example)
www.montgomerycountyttn.org/county/sheriff/inquiry/booking.aspx



Documenting Placement and Withdrawal Exceptions



- Full Time Military Service
 - Verification is available at:
 - www.dmdc.osd.mil/scra/owa/home
- Job Relocated/Transferred
- Transferred to a different program at your institution (withdrawals)
- Continuing Education at your institution (placements)
- Continuing Education at a different institution (placements)



Student Complaints



- The investigation of complaints against schools is one of the most important functions performed by this agency.
- Site visit(s) may be used as part of the investigation process for determining the outcome of a complaint.
- Sources of complaints:
 - Student
 - Concerned Parents
 - Elected Officials
 - Better Business Bureau
 - Other State Agencies
 - Employees of an Institution



Student Complaints



- Most common complaints:
 - Instructor Turnover
 - Lack of Available Instructors
 - Financial Aid Issues
 - Billing Disputes
 - Failure to release transcripts
 - Inadequate Instructional Supplies
 - Lack of / Loss of Accreditation
 - Transferability of Credits
 - Recruiting Practices
- Students are encouraged to go through the institution's grievance process. Any grievances not resolved on the institutional level may be forwarded to the Tennessee Higher Education Commission, Nashville, TN 37243-0830, (615) 741-5293.



The Complaint Process



- **Step One**: Students are required to submit complaints to Postsecondary staff in writing. The complaint is then sent to the institution. The institution should conduct an investigation and send a response to our office.
- **Step Two**: An institution's response to Postsecondary staff should include thorough documentation and should address all aspects of the complaint. The response needs to be received by the Commission by the date specified in the correspondence.
- **Step Three**: After postsecondary staff receives the institution's reply the facts are reviewed, additional information is requested if necessary, a determination is made, and both parties are notified.
- **Step Four**: In the event that an institution or student is not satisfied with the determination made by postsecondary staff; said party may appeal to the Executive Director of THEC.



DPSA Forms and Applications



Directors shall have a working knowledge of all DPSA forms, deadlines and applicable fees. Required forms include, but are not limited, to the following:

- Initial Authorization Application
- Change of Ownership Application
- New Program Application
- School Personnel Report
- Reauthorization Application
- Agent Permit Application
- Change of Address Application
- Notification of Program Deletion
- Change of Institutional Name Application
- Institutional Surety / Agent Bond Form
- Program Revision Notification Form



DPSA Forms and Applications



- Forms are available upon request. Please ensure that your institution has the most recent version of each form.
 - Routine Forms and Common Mistakes
 - Program Revision Notification Form (Old version of form, Director's Signature)
 - Personnel Forms (Dates of Experience, Lack of Experience)
 - Agent Applications (Signature on the back of submitted pictures)



Tuition Revisions



- The rules and process regarding tuition increases have changed.
 - Tuition revisions are not automatic and must be approved.
 - Tennessee Code Annotated 49-7-207(e) requires that the cost of the program be reasonable to the expected earnings of the graduate.
 - DPSA rule 1540-1-2-.13(10) was implemented, effective 8/20/2008 to provide a mechanism for enforcement of this statute.
- When tuition revisions are submitted via the Program Revision Notification Form, the request is evaluated in the following five ways:



Tuition Revisions



- 1) Determine if the request is reasonable based upon the program type, including consideration of the employment climate at the time of the request.
 - If your institution is requesting a significant change in tuition go ahead and submit updated salary data for the program as we will request this information.
- 2) Verify that the institution is in good standing with the Tennessee Higher Education Commission
- 3) Evaluate the frequency at which the institution has requested other tuition increases.



Tuition Revisions



- 4) Ongoing institutions that make changes to an existing program(s) previously approved by the Commission must file a New Program Application if the changes exceed twenty-five (25%), or in the opinion of staff a significant change has occurred.
- 5) Determine whether there are any outstanding complaints or other issues that need to be resolved.



Other Program Revisions



- Changes to program hours, program length, or course content are still informational items as long as they do not exceed a 25% change in the program; or in the opinion of staff, represent a significant change in the program.
- Program changes are cumulative.
 - Institution XYZ submits a request for a change in tuition and contact hours.
 - Tuition increase requested - \$1,000 to \$1,100 (10% increase)
 - Contact hours increase requested - 200 to 220 (10% increase)
 - This is viewed as a 20% change in the program (10% increase in tuition and 10% increase in contact hours.)



Tuition and Program Revisions Best Practices



- Tuition and Program Revisions should be submitted at least 30, but not more than 90, days prior to the desired implementation date.
- Utilize updated Program Revision Notification Form.
- Thorough justification should be provided with any Program Revision Notification form submitted to DPSSA.
- Ensure that the campus Director has signed the Program Revision Notification Form before it is submitted.



Personnel Approval Forms

Unaccredited Institutions



- Form revised as of February 27, 2009
- Forms due ten (10) days after the date of hire
- Unaccredited Institutions submit forms for key personnel including:
 - All Instructors
 - Institutional Directors
 - Financial Aid Administrators
 - Directors of Admissions
 - Directors of Education
 - Business Officers or Managers
 - Directors of Student Services (including counseling and placement)
 - Schools must maintain an on-site personnel form for every employee. Each instructor's file should include at minimum, the personnel form submitted to THEC, a resume and other relevant documentation of qualifications, such as a transcript. Verification of instructor qualifications may be required at any time or as part of the Commission's site visit.



Personnel Approval Forms



- Please note, support and clerical staff are not considered administrative personnel; therefore, personnel forms for these positions are not necessary.
- All information placed on personnel report forms is subject to verification by postsecondary staff.



Personnel Approval Forms

Common Mistakes



Name of Company or Institution	Title of Position	Nature of Duties or Subjects Taught	Dates	
			From	To



Personnel Approval Forms

Common Mistakes



- Instructor Qualifications:
 - An instructor must be qualified by education and experience/background demonstrably higher than the level to be taught and must meet the minimum requirements prescribed by Rule 1540-1-2-.16.
 - i.e. for education outside of the subject area to be taught, specific experience requirements apply
 - Instructors must hold the appropriate certificate, license, or rating if the subject is a trade requiring certificate, license, or rating.



Personnel Approval Forms

Common Mistakes



Example: If the highest degree to be taught is associate level:

_____ holds an associate degree in the subject to be taught **and** one (1) year of practical experience

_____ holds an associate degree not in the subject area to be taught has a minimum of two (2) years of practical experience within the last five (5) years in the subject area to be taught

_____ has satisfactorily completed, in a postsecondary educational institution, nine (9) semester hours or twelve (12) quarter credit hours in the subject area to be taught

_____ Additional years of documented experience in the subject area may be substituted for semester/quarter hour requirements. If relying on such experience, the institution must provide on a separate sheet of paper a detailed explanation of the experience obtained and relevancy of the experience to the subject area to be taught.



Personnel Approval Forms

Best Practices



- List certification or license held
- Experience
 - List each position held within the last seven years
 - Add columns to the form or list on a separate sheet of paper if more space is needed
- List program/subject to be taught
- Qualifications
 - Place a check mark by applicable qualifications
 - Only mark qualifications for level to be taught (i.e. instructors for associate level programs need only to mark associate level qualifications)
- Signatures





Legal Refresher and Update





Outline

- Rule 1540-1-2-.25(3)
- Website Requirements
- Tuition Issues and Student Loans
- Agent Authorization
- High School Diplomas
- Admissions Standards
- Actionable Conduct



Rule 1540-1-2-.25(3)



(a)	Late Renewal Fee (in addition to base renewal fee)	\$1,000
(b)	Renewal Extension Fee	\$500
(c)	Initial New School Application	\$3,000
	Each Proposed Program	\$500
(d)	Associate Degree Granting Institutions (in addition to base initial application and program fee)	\$1,000
(e)	Bachelor Degree Granting Institutions (in addition to base initial application and program fee)	\$2,000
(f)	Masters Degree Granting Institutions (in addition to base initial application and program fee)	\$3,000
(g)	Doctoral Degree Granting Institutions (in addition to base initial application and program fee)	\$4,000
(h)	Authority to Grant Degrees – Unaccredited Institutions (in addition to base initial application, program, and degree level fees)	\$1,000
(i)	New Programs – Authorized Institutions	\$500
(j)	Degree Level Elevation – Authorized institutions	\$1,000
(k)	Agent Fee In-State – Initial Application	\$500
(l)	Agent Fee In-State – Renewal Application	\$250
(m)	Agent Fee Out-of-State – Initial Application	\$600
(n)	Agent Fee Out-of-State – Renewal Application	\$300
(o)	Institutional Name Change	\$500
(p)	Change of Address	\$500
(q)	Non-compliance Fines (per day, per violation)	\$500





Web Site Requirements: Tenn. Code Ann. §49-7-2019

WHAT DOES THIS STATUTE REQUIRE INSTITUTIONS TO POST?

- tuition cost information
- a statement concerning the availability of job placement and graduation data on the Tennessee Higher Education Commission's website
- a link to www.state.tn.us/thecc

49-7-2019. Notification and Internet posting of graduation, job placement and tuition information.

Information related to graduation, job placement and tuition costs required to be provided to the commission shall also be provided in writing to a prospective student for the specific field of study in which the student is considering enrolling. Tuition cost information shall also be posted on the institution's web site. Institutions subject to the provisions of this section shall post a link to the commission's web site, which will provide job placement and graduation information for each program offered by the institution. The institutions shall include a clear reference on their web sites of the availability of the data on the commission's web site and shall provide a link to the commission's web site directly below such reference.





Web Site Requirements: Rule 1540-1-2-.20(3)(a)

WHAT DOES THIS RULE REQUIRE INSTITUTIONS TO POST?

- the statement: “[name of school] is authorized for operation as a postsecondary educational institution by the Tennessee Higher Education Commission”
- a link to www.state.tn.us/thec embedded in the name “Tennessee Higher Education Commission”

1540-1-2-.20 ADVERTISING AND SOLICITATION

(3) Institutions authorized by the Commission that have presence, advertise or offer instruction via internet, world wide web or other electronic telecommunication means must state on the first ‘page’ (as registered with standard web/internet search engines) viewed by the consumer, “[name of school] is authorized for operation as a postsecondary educational institution by the Tennessee Higher Education Commission”.

(a) In the case of an internet site, within the required statement given above, “Tennessee Higher Education Commission” must be an electronic link to the agency’s web site at www.state.tn.us/thec.





Web Site Requirements: Putting Together Tenn. Code Ann. §49-7-2019 and Rule 1540-1-2-.20(3)(a)

WHAT STATEMENT TO POST?

- “[Name of School] is authorized for operation as a postsecondary education institution by the Tennessee Higher Education Commission. In order to view detailed job placement and graduation information on the programs offered by [Name of School], please visit www.state.tn.us/thec and click on the Authorized Institutions Data button”
- Within this sentence the phrase “Tennessee Higher Education Commission” must also be an electronic link to www.state.tn.us/thec.

WHERE SHOULD THE STATEMENT BE POSTED WITHIN THE WEBSITE?

- On the first page of the website or
- If the institution is located in more than one state, the first Tennessee-specific web page





Web Site Requirements: Tenn. Code Ann. §49-7-144

49-7-144. Disclosure about transferability of credits.

(b) (2) The disclosure on the transferability of credits shall be as follows:

Credits earned at [name of institutions giving disclosure] may not transfer to another educational institution. Credits earned at another educational institution may not be accepted by [name of institutions giving disclosure]. You should obtain confirmation that [name of institutions giving disclosure] will accept any credits you have earned at another educational institution before you execute an enrollment contract or agreement. You should also contact any educational institutions that you may want to transfer credits earned at [name of institutions giving disclosure] to determine if such institutions will accept credits earned at [name of institutions giving disclosure] prior to executing an enrollment contract or agreement. The ability to transfer credits from [name of institutions giving disclosure] to another educational institution may be very limited. Your credits may not transfer and you may have to repeat courses previously taken at [name of institutions giving disclosure] if you enroll in another educational institution. You should never assume that credits will transfer to or from any educational institution. It is highly recommended and you are advised to make certain that you know the transfer of credit policy of [name of institutions giving disclosure] and of any other educational institutions you may in the future want to transfer the credits earned at [name of institutions giving disclosure] before you execute an enrollment contract or agreement.





Web Site Requirements: Tenn. Code Ann. §49-7-144

WHAT ARE INSTITUTIONS REQUIRED TO POST AND WHERE?

- The transferability of credit statement as written in paragraph (b)(2) of Tenn. Code Ann. §49-7-144 must be posted.
- DPSA recommends posting this statement or a link thereto on the first page of the web site or the first Tennessee-specific web page.

49-7-144. Disclosure about transferability of credits.

....

(d) Information required under this section to be disclosed in writing to prospective students shall also be posted on the institution's web site.





Tuition Issues and Student Loans: Rule 1540-1-2-.19(1)

- This rule prevents institutions from offering discounts. While the rule specifically mentions discounts based on the method of payment the rule is not limited to this instance and will be given a broad interpretation by DPSA staff.
- Institutions may request a review of any offering that results in a reduced tuition amount (such as scholarships, waivers and grants) to ensure that the offering is not a prohibited discount.

1540-1-2-.19 FAIR CONSUMER PRACTICES AND STUDENT COMPLAINTS

(1) No discounting is allowed. All students must be charged the same price for all programs and classes regardless of their method of payment.





Tuition Issues and Student Loans: Rule 1540-1-2-.18(6)

1540-1-2-.18 PROHIBITED ACTS

- (6) Non-accredited institutions shall not accept funds for tuition prior to ten (10) business days of the scheduled start date of the class or program.





Tuition Issues and Student Loans: Tenn. Code Ann. §49-7-2015(a)

QUESTIONS FOR YOUR LEGAL COUNSEL:

- Does Tenn. Code Ann. § 49-7-2015 invalidate agreements within your enrollment agreement/contract?
- Specifically, does your enrollment agreement/contract constitute a contract relating to payment for educational services as that term is defined in Tenn. Code Ann. §49-7-2003(7)?

49-7-2015. Student loans.

(a) (1) If the person to whom educational services are to be rendered or furnished by a postsecondary educational institution is a resident of this state at the time any contract relating to payment for such services, or any note, instrument or other evidence of indebtedness relating thereto, is entered into, the provisions of this subsection shall govern the rights of the parties to such contract or evidence of indebtedness.

(2) In such event the following agreements entered into in connection with the contract or the giving of such evidence of indebtedness are invalid:

(A) That the law of another state shall apply;

(B) That the maker or any person liable on such contract or evidence of indebtedness consents to the jurisdiction of another state;

(C) That another person is authorized to confess judgment on such contract or evidence of indebtedness; or

(D) That fixes venue.





Tuition Issues and Student Loans: Rule 1540-1-2-.20(22)

1540-1-2-.20 ADVERTISING AND SOLICITATION

- (22) If student tuition loans are available at the institution, the school may advertise them only with the language “student tuition loans available” in type no larger than that used for the name of the school. This does not preclude disclosure of the institution’s eligibility under the various state and federal loan programs.





Agent Authorization: Rule 1540-1-2-.03

DEFINITION HIGHLIGHTS:

- The institution is compensating the person.
- The person is working outside the institution.
- An employee of the institution working at the instructional site is not an agent; however, a person working from a remote location or as part of a recruiting firm is an agent.

1540-1-2-.03 DEFINITIONS

- (f) “Agent” means any person owning any interest in, employed by or representing for remuneration a postsecondary educational institution, who, by solicitation in any form, outside of the institution, enrolls or seeks to enroll a student for education offered by an authorized institution, or offers to award educational credentials, for remuneration, on behalf of any such institution for any such purpose.





Agent Authorization: Rule 1540-1-2-.16(16)

WHAT IS REQUIRED BEFORE USING AN AGENT?

- All agents must (1) receive authorization and an agent permit and (2) secure an appropriate bond prior to any solicitation.
- Agent permits must be renewed every year.
- An agent must have a separate permit for each school represented.

WHO IS RESPONSIBLE FOR AGENT ACTIONS?

- Institutional Directors and the Institution

1540-1-2-.16 PERSONNEL AND INSTRUCTOR QUALIFICATIONS

(16) Agents and Recruiters:

- (a) Institutional agents as defined by the Act and these regulations must submit an application, on forms provided by the Commission, have authorization and an agent permit and secure the appropriate bond prior to any solicitation
-
- (e) Institutional directors, not marketing offices, are responsible for actions of agents.
- (f) The agent shall be under the control of the institution, and the institution is responsible for any representations or misrepresentations, expressed or implied, made by the agent.





Agent Authorization: Rule 1540-1-2-.16

WHY IS THIS IMPORTANT?

- Any student solicited or enrolled by a non-licensed agent may be entitled to a refund of all moneys paid and a release of all obligations by the institution.
- Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent may be unenforceable at the option of the student.
- The institution could be fined or the institution's authorization status changed to conditional or revoked.

1540-1-2-.16 PERSONNEL AND INSTRUCTOR QUALIFICATIONS

(16) Agents and Recruiters:

.....

- (g) Any student solicited or enrolled by a non-licensed agent is entitled to a refund of all moneys paid and a release of all obligations by the institution. Any contract signed by a prospective student as a result of solicitation or enrollment by a non-licensed agent shall be unenforceable at the option of the student. In cases where the institution is willing to honor the contract and the student wishes the contract enforced, it can be. However, in cases where the contract has been fully executed between the institution and the student, the student would not be entitled to a refund solely because he or she was solicited by a non-licensed agent.





High School Diplomas: Public Ch. 329

WHAT ARE THE SCHOOLS DEFINED BY TENN. CODE ANN. §§ 49-50-801 AND 49-6-3050?

- Home Schools
- Church-related Schools

Notwithstanding any rule, regulation, or other provision of law to the contrary, a high school diploma awarded by a school as defined by Section 49-50-801 or Section 49-6-3050 in recognition of completion of secondary educational requirements shall be considered by all departments, agencies, commissions or other such entities of state and local government as having all the rights and privileges of a high school diploma awarded by a public school system. This section shall not apply to state lottery proceeds as provided in Title 49, Chapter 4, Part 9.





High School Diplomas: Public Ch. 329

WHAT DOES THE PASSAGE OF PUBLIC CHAPTER 329 HAVE TO DO WITH DPSA?

- Admission Standards
 - THEC Standards
 - Institutional Standards
- Student Records

1540-1-2-.12 ADMISSIONS STANDARDS

- (4) Degree program admission policies must be at least the following:
- (a) undergraduate degrees must require a high school diploma or equivalency

1540-1-2-.15 INSTITUTIONAL AND STUDENT RECORDS

- (b) basis for admission (e.g., name and address of high school); if a high school diploma or the equivalent is required, for high school graduates or those with high school equivalency, the institution shall have on file an official copy of the high school transcript, or the equivalency certificate with scores which meet the state's minimum for passing; if an ability to benefit basis, the institution shall have on file official records of such; or if on an exception basis, documentation of such



Admission Standards: Rule 1540-1-2-.12



1540-1-2-.12 ADMISSIONS STANDARDS

- (1) The admissions policy for students must be based on the institution's objectives and must be publicly stated and administered as written. Institutions should not admit to programs leading to licensure students who the institution knows or, by the exercise of reasonable care should know, would be ineligible to obtain licensure in the occupation for which they are being trained (ex., certain prior legal convictions render one ineligible to hold certain licenses). If a student ineligible for licensure desires to enroll in such a program, regardless of license eligibility, the institution may admit such a student after the student submits, in writing for retention by the institution and review by Commission staff, a statement acknowledging such ineligibility. This provision, 1540-1-2-.12(1) is not intended to speak contrary to institutions' options to enroll students as non-credit students, auditing students or continuing education students.
- (2) Students without a high school diploma or a GED may be admitted as an ability-to-benefit student into non-degree programs that are customarily not accepted for college credit if the student has terminated secondary enrollment and is beyond the age of compulsory attendance
.....
.....
- (4) Degree program admission policies must be at least the following:
 - (a) undergraduate degrees must require a high school diploma or equivalency, and
 - (b) graduate degrees must require at least a baccalaureate degree from an institution judged to be appropriate by the Commission.





Admission Standards: Rule 1540-1-2-.12

HIGHLIGHTS:

- Institutions set their own admission standards subject to Rule 1540-1-2-.12.
 - Non-degree granting programs must require at a minimum a high school diploma, GED, or ability-to-benefit test.
 - Degree-granting programs must at a minimum require a high-school diploma or equivalency.
 - Additionally, graduate degree programs must require a baccalaureate degree from an institution judged to be appropriate by the Commission.
- Admission standards must be applied as written.
- Do not admit students that you know or should know are ineligible for licensure unless you get a written acknowledgement.





Actionable Conduct: Fair Consumer Practices

- Do you have:
 1. a provision in your enrollment agreement waiving all legal actions through the courts and/or providing for an exclusive remedy, such as binding arbitration **and**
 2. A statement concerning the ability of students to file a complaint with the Tennessee Higher Education Commission?
- **If you have 1 but not 2**, consider whether you are engaging in unfair consumer practices.

1540-1-2-.19 FAIR CONSUMER PRACTICES AND STUDENT COMPLAINTS

- (2) All institutions authorized by the Commission and their representatives shall be required to operate in accordance with fair consumer practices to ensure current and prospective students that nothing is hidden and verbal and written representations by the school are accurate, such that students can make appropriate decisions concerning their investment of time and money.
- (3) Fair consumer practices means honesty, fairness and disclosure to students in the areas of:
... admissions, contractual agreements





Actionable Conduct: Other Points

- Any violation of the rules or the statutes is considered actionable conduct. See Rule 1540-1-2-.22(1)(a).
- Specific actions that are actionable include:
 - advertising, recruiting or operating a group of classes or program that has not been authorized by the Commission
 - failure to provide and maintain adequate faculty and/or staff
 - conducting instruction at a site which has not been authorized by the Commission
 - failure to advise Commission about significant factors
 - failure to correct findings resulting from an on-site inspection or review of institutional materials
 - promoting an accreditation that is not recognized by the U.S. Department of Education
 - represent that educational credentials or credits may be obtained through an institution that is not authorized





Conclusion

RULES AND STATUTES TO REVIEW:

- Tennessee Code Annotated §49-7-2007 – Prohibited Acts
- Tennessee Code Annotated §49-7-2015 – Student Loans
- Tennessee Code Annotated § 49-7-2019 – Notification and Internet Posting of Graduation, Job Placement and Tuition Information
- Tennessee Code Annotated § 49-7-144 – Disclosure About Transferability of Credits
- Rule 1540-1-2-.12 – Admissions Standards
- Rule 1540-1-2-.16 – Personnel and Instructor Qualifications (Includes Agents)
- Rule 1540-1-2-.18 – Prohibited Acts
- Rule 1540-1-2-.19 – Fair Consumer Practices and Student Complaints
- Rule 1540-1-2-.20 – Advertising and Solicitation
- Rule 1540-1-2-.22 – Causes for Adverse Action

For the full text of all applicable statutes and regulations, bookmark the following website:

- <http://state.tn.us/thec/Divisions/LRA/PostsecondaryAuth/psa.html>

