

**Council on Postsecondary Education
September 10, 2009**

**New Regulation Regarding Licensed Out-of-State Colleges'
Eligibility for Kentucky Tuition Grants**

ACTION: The staff recommends that the Council approve the new administrative regulation 13 KAR 1:050 regarding licensed out-of-state colleges' eligibility for Kentucky tuition grants.

13 KAR 1:050 *Licensed out-of-state college's eligibility for Kentucky tuition grant* is a new administrative regulation promulgated pursuant to KRS 164.785, as revised effective July 15, 2008.

KRS 164.785(7)(c) provides that beginning with the 2011-12 academic year, in order to be eligible for Kentucky tuition grants, a licensed out-of-state school for which accreditation by the Southern Association of Colleges and Schools is not an option shall undergo a review by the Council on Postsecondary Education based upon SACS accreditation criteria.

Accordingly, 13 KAR 1:050 mirrors the core requirements and comprehensive standards of SACS. The application that will be used also mirrors the application used by SACS.

CPE staff plans to conduct site visits with consultants to assess a college's compliance with these requirements and standards.

In accordance with KRS 164.785, the applicant college will pay all costs associated with the reviews.

1 COUNCIL ON POSTSECONDARY EDUCATION

2 New Administrative Regulation

3 13 KAR 1:050. Licensed out-of-state college's eligibility for Kentucky tuition grant.

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

5 STATUTORY AUTHORITY: KRS 164.785

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

15 Section 1. General Requirements. (1) If an out-of-state college licensed by the Council on
16 Postsecondary Education is seeking to qualify as an eligible college in which a student may enroll
17 and receive a Kentucky tuition grant, and if accreditation by the Southern Association of Colleges
18 and Schools is not an option for the college, then the college shall apply with the Council on
19 Postsecondary Education per this regulation.

1 (2) (a) Approval by the Council on Postsecondary Education per this regulation shall be for
2 the sole purpose of qualifying a college as an eligible college in which a student may enroll and
3 receive a Kentucky tuition grant, and shall not mean that the college is accredited by the
4 Commission on Colleges of the Southern Association of Colleges and Schools, the Council on
5 Postsecondary Education, or any other agency.

6 (b) A college shall not represent its status under this regulation as seeking or being
7 accredited by the Commission on Colleges of the Southern Association of Colleges and Schools,
8 the Council on Postsecondary Education, or any other agency.

9 (3) (a) A college seeking eligibility under this regulation shall submit the “Application for
10 Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050” herein
11 incorporated by reference for each licensed Kentucky program and instructional site to the
12 president, and make available to the president the application and all documentation required via
13 an electronic data portal on the college’s website.

14 (b) A college that seeks to be eligible under this administrative regulation beginning with
15 the 2011-2012 academic year shall submit a complete and accurate “Application for Council on
16 Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050” by May 30, 2010.

17 (c) After May 30, 2010, a college that seeks to be eligible under this administrative
18 regulation shall submit a complete and accurate “Application for Council on Postsecondary
19 Education Approval for Eligibility Pursuant to 13 KAR 1:050” by May 30 of the year prior to the
20 first academic year for which it seeks to be eligible.

21 (4) The college shall pay a nonrefundable fee of \$1,000 to the Council on Postsecondary
22 Education with the submission of the application. Review of the application shall not occur until
23 the fee is paid by the college. This fee shall be in addition to any costs associated with a site visit.

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

3 (6) Site Visits.

4 (a) Within ninety (90) working days of the receipt of a full and complete “Application for
5 Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050” or
6 notification of a substantive change, the president may conduct, or may have conducted, a site
7 visit.

8 (b) Personnel conducting a site visit shall possess the expertise appropriate to the type of
9 college to be visited.

10 (c) The purpose of a site visit shall be to make an assessment of a college using the
11 standards as set forth in this administrative regulation.

12 (d) The president may conduct, or may have conducted, an announced or unannounced site
13 visit of a licensed college approved under this regulation during reasonable business hours to
14 inspect the files, facilities, and equipment as well as conduct interviews to determine the college’s
15 eligibility under this administrative regulation.

16 (e) Failure to provide full access to the college’s files, facilities, and equipment or
17 prevention of interviews shall be grounds for ineligibility under this administrative regulation.

18 (f) All costs associated with a site visit and subsequent visits as may be necessary, such as
19 travel, meals, lodging, and honoraria shall be paid by the applicant college. The estimated cost of
20 the site visit shall be paid by the college prior to the site visit, and final settlement regarding actual
21 expenses incurred shall be paid no later than thirty (30) days following the completion of the site
22 visit. Failure to pay these costs shall result in ineligibility under this administrative regulation.

23 Section 2. Integrity of college. (1) The college shall operate with integrity in all matters.

1 (2) The Council on Postsecondary Education reviews and approves colleges, not
2 individuals. Therefore, the college shall be responsible for any of its agents and any individual who
3 reports to the president on behalf of a college, either by virtue of his or her office or as delegated
4 by the chief executive officer of the college, in all matters regarding institutional integrity.

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

8 Section 3. Core requirements. A college applying for approval by the Council on
9 Postsecondary Education under this regulation shall meet the following requirements: (1) Degree-
10 granting authority. The college shall be licensed by the Council on Postsecondary Education in
11 accordance with 13 KAR 1:020 prior to seeking eligibility under this regulation.

12 (2) Accreditation. The college shall be accredited by a regional accrediting agency.

13 (3) Governing Board.

14 (a) The college shall have a governing board of at least five members which shall be the
15 legal body with specific authority over the college.

16 (b) The board shall be an active policy-making body for the college and shall ultimately be
17 responsible for ensuring that the financial resources of the college are adequate to provide a sound
18 educational program.

19 (c) The board shall not be controlled by a minority of board members or by organizations
20 or interests separate from it.

21 (d) Both the presiding officer of the board and a majority of other voting members of the
22 board shall be free of any contractual, employment, or personal or familial financial interest in the
23 college.

1 (e) A military college authorized and operated by the federal government to award degrees
2 shall have a public board on which both the presiding officer and a majority of the other members
3 are neither civilian employees of the military nor active or retired military.

4 1. The board shall have broad and significant influence upon the college's programs and
5 operations, play an active role in policy-making, and ensure that the financial resources of the
6 college are used to provide a sound educational program.

7 2. The board shall not be controlled by a minority of board members or by organizations or
8 interests separate from the board except as specified by the authorizing legislation.

9 3. Both the presiding officer of the board and a majority of other voting board members
10 shall be free of any contractual, employment, or personal or familial financial interest in the
11 college.

12 (4) Chief Executive Officer. The college shall have a chief executive officer whose
13 primary responsibility is to the college and who is not the presiding officer of the board.

14 (5) Institutional Mission. The college shall have a clearly defined, comprehensive, and
15 published mission statement that is specific to the college and appropriate for higher education.
16 The mission shall address teaching and learning and, where applicable, research and public service.

17 (6) Institutional Effectiveness. The college shall engage in ongoing, integrated, and
18 institution-wide research-based planning and evaluation processes that:

19 (a) incorporate a systematic review of institutional mission, goals, and outcomes;

20 (b) result in continuing improvement in institutional quality; and

21 (c) demonstrate the college is effectively accomplishing its mission.

22 (7) Continuous Operation. The college shall be in operation and shall have students
23 enrolled in degree programs.

1 (8) Program Length.

2 (a) The college shall offer one or more degree programs based on:

- 3 1. at least sixty (60) semester credit hours or the equivalent at the associate level;
- 4 2. at least 120 semester credit hours or the equivalent at the baccalaureate level; or
- 5 3. at least 30 semester credit hours or the equivalent at the post-baccalaureate, graduate, or
- 6 professional level.

7 (b) If a college uses a unit other than semester credit hours, then the college shall provide

8 an explanation for the equivalency.

9 (c) The college shall provide a justification for all degrees that include fewer than the

10 required number of semester credit hours or its equivalent unit.

11 (9) Program Content. The college shall offer degree programs that embody a coherent

12 course of study that shall be compatible with its stated mission and shall be based upon fields of

13 study appropriate to higher education.

14 (10) General Education.

15 (a) In each undergraduate degree program, the college shall require the successful

16 completion of a general education component at the collegiate level that is a substantial component

17 of each undergraduate degree, ensures breadth of knowledge, and is based on a coherent rationale.

18 (b) The component shall constitute a minimum of:

- 19 1. fifteen (15) semester hours or the equivalent for degree completion in associate
- 20 programs; or
- 21 2. thirty (30) semester hours or the equivalent for degree completion in baccalaureate
- 22 programs.

1 (c) These credit hours shall be drawn from and include at least one course from each of the
2 following areas: humanities and fine arts, social and behavioral sciences, and natural science and
3 mathematics.

4 (d) The courses shall not narrowly focus on those skills, techniques, and procedures
5 specific to a particular occupation or profession.

6 (e) If a college uses a unit other than semester credit hours, the college shall provide an
7 explanation for the equivalency.

8 (f) The college shall provide a justification if it allows for fewer than the required number
9 of semester credit hours or its equivalent unit of general education courses.

10 (11) Course Work for Degrees.

11 (a) The college shall provide instruction for all course work required for at least one degree
12 program at each level at which it awards degrees.

13 (b) If the college does not provide instruction for all course work and makes arrangements
14 for some instruction to be provided by other accredited colleges or entities through contracts or
15 consortia, or uses some other alternative approach to meeting this requirement, then the
16 arrangement or alternative approach shall be approved by the president.

17 (c) For either sub-section (10)(a) or (b) of this section, the college shall demonstrate that it
18 controls all aspects of its educational program.

19 (12) Faculty.

20 (a) The number of full-time faculty members shall be adequate to support the mission of
21 the college and to ensure the quality and integrity of its academic programs.

22 (b) Upon application for eligibility under this regulation, a college shall demonstrate that it
23 meets the required faculty qualifications.

1 (13) Learning Resources and Services.

2 (a) The college, through ownership or formal agreements, shall provide and support student
3 and faculty access and user privileges to adequate library collections and services and to other
4 learning and information resources consistent with the degrees offered.

5 (b) Collections, resources, and services shall be sufficient to support all its educational,
6 research, and public service programs.

7 (14) Student Support Services. The college shall provide student support programs,
8 services, and activities consistent with its mission that promote student learning and enhance the
9 development of its students.

10 (15) Financial Resources.

11 (a) The college shall have a sound financial base and demonstrated financial stability to
12 support the mission of the college and the scope of its programs and services.

13 (b) The college shall provide the following financial statements:

14 1. an institutional audit or Standard Review Report issued in accordance with Statements
15 on Standards for Accounting and Review Services issued by the AICPA for those colleges audited
16 as part of a systemwide or statewide audit;

17 2. written institutional management letter for the most recent fiscal year prepared by an
18 independent certified public accountant;

19 3. a statement of financial position of unrestricted net assets, exclusive of plant assets and
20 plant-related debt, which represents the change in unrestricted net assets attributable to operations
21 for the most recent year; and

22 4. an annual budget that shall be preceded by sound planning, subject to sound fiscal
23 procedures, and approved by the governing board.

1 (16) Physical Resources. The college shall have adequate physical resources to support the
2 mission of the college and the scope of its programs and services.

3 (17) Quality Enhancement Plan. The college shall have developed an acceptable Quality
4 Enhancement Plan (QEP) that:

5 (a) includes a broad-based institutional process identifying key issues emerging from
6 institutional assessment;

7 (b) focuses on learning outcomes and the environment supporting student learning and
8 accomplishing the mission of the college;

9 (c) demonstrates institutional capability for the initiation, implementation, and completion
10 of the QEP;

11 (d) includes broad-based involvement of institutional constituencies in the development
12 and proposed implementation of the QEP; and

13 (e) identifies goals and a plan to assess their achievement.

14 Section 4. Comprehensive Standards. A college applying for approval by the Council on
15 Postsecondary Education under this regulation shall meet the following standards: (1) Institutional
16 Mission. The college's mission statement shall be current and comprehensive, shall accurately
17 guide the college's operations, shall be periodically reviewed and updated, shall be approved by
18 the governing board, and shall be communicated to the college's constituencies.

19 (2) Governance and Administration.

20 (a) The governing board of the college shall be responsible for the selection and the
21 periodic evaluation of the chief executive officer.

22 (b) Governing board control. The legal authority and operating control of the college shall
23 be clearly defined for the following areas within the college's governance structure:

- 1 1. college's mission;
- 2 2. fiscal stability of the college;
- 3 3. collegeal policy, including policies concerning related and affiliated corporate entities
- 4 and all auxiliary services; and
- 5 4. related foundations for athletics, research, and other areas and other corporate entities
- 6 whose primary purpose is to support the college and its programs.

7 (c) Board conflict of interest. The board shall have a policy addressing conflict of interest
8 for its members.

9 (d) External influence. The governing board shall be free from undue influence from
10 political, religious, or other external bodies and shall protect the college from such influence.

11 (e) Board Dismissal. The governing board shall have a policy whereby members can be
12 dismissed only for appropriate reasons and by a fair process.

13 (f) Board and Administration Distinction. There shall be a clear and appropriate
14 distinction, in writing and practice, between the policy-making functions of the governing board
15 and the responsibility of the administration and faculty to administer and implement policy.

16 (g) Organizational Structure. The college shall have a clearly defined and published
17 organizational structure that delineates responsibility for the administration of policies.

18 (h) Qualified Administrative and Academic Officers. The college shall have qualified
19 administrative and academic officers with the experience, competence, and capacity to lead the
20 college.

21 (i) Faculty and Staff Appointment. The college shall define and publish policies regarding
22 appointment and employment of faculty and staff.

1 (j) Administrative Staff Evaluations. The college shall evaluate the effectiveness of its
2 administrators on a periodic basis.

3 (k) Control of Intercollegiate Athletics. The college's chief executive officer shall have
4 ultimate responsibility for, and exercises appropriate administrative and fiscal control over, the
5 college's intercollegiate athletics program.

6 (l) Fund-Raising Activities. The college's chief executive officer shall control the college's
7 fund-raising activities exclusive of institution-related foundations that are independent and
8 separately incorporated.

9 (m) Institution-related foundations.

10 1. Any institution-related foundation not controlled by the college shall have a contractual
11 or other formal agreement that accurately describes the relationship between the college and the
12 foundation, and describes any liability associated with that relationship.

13 2. The college shall ensure that the relationship is consistent with its mission.

14 (n) Intellectual Property Rights.

15 1. The college's policies shall be clear concerning ownership of materials, compensation,
16 copyright issues, and the use of revenue derived from the creation and production of all intellectual
17 property.

18 2. These policies shall apply to students, faculty, and staff.

19 (3) Institutional Effectiveness. The college shall identify expected outcomes, assess the
20 extent to which it achieves these outcomes, and provide evidence of improvement based on
21 analysis of the results in each of the following areas:

22 (a) educational programs, to include student learning outcomes;

23 (b) administrative support services;

- 1 (c) educational support services;
- 2 (d) research within its educational mission, if appropriate; and
- 3 (e) community and public service within its educational mission, if appropriate.

4 (4) All Educational Programs. For all educational programs including on-campus, off-
5 campus, and distance learning programs and course work, the college shall meet the following
6 standards:

7 (a) Academic Program Approval. The college shall demonstrate that each educational
8 program, including all on campus, off-campus, and distance learning programs and course work,
9 for which academic credit is awarded is approved by the faculty and the administration.

10 (b) Continuing Education and Service Programs. The college's continuing education,
11 outreach, and service programs shall be consistent with the college's mission.

12 (c) Admissions Policies. The college shall publish admissions policies that are consistent
13 with its mission.

14 (d) Acceptance of Academic Credit.

15 1. The college shall have a defined and published policy for evaluating, awarding, and
16 accepting credit for transfer, experiential learning, advanced placement, and professional
17 certificates that is consistent with its mission and ensures that course work and learning outcomes
18 are at the collegiate level and comparable to the college's own degree programs.

19 2. The college shall assume responsibility for the academic quality of any course work or
20 credit recorded on the college's transcript.

21 (e) Academic Policies.

22 1. The college shall publish academic policies that adhere to principles of good educational
23 practice.

1 2. The college’s academic policies shall be disseminated to students, faculty, and other
2 interested parties through publications that accurately represent the programs and services of the
3 college.

4 (f) Practices for Awarding Credit. The college shall employ sound and acceptable
5 practices for determining the amount and level of credit awarded for courses, regardless of format
6 or mode of delivery.

7 (g) Consortial Relationships and Contractual Agreements. The college shall ensure the
8 quality of educational programs and courses offered through consortial relationships or contractual
9 agreements, shall ensure ongoing compliance with the comprehensive requirements, and shall
10 evaluate the consortial relationship and agreement against the purpose of the college.

11 (h) Noncredit to Credit. The college shall award academic credit for course work taken on
12 a noncredit basis only when there is documentation that the noncredit course work is equivalent to
13 a designated credit experience.

14 (i) Academic Support Services. The college shall provide appropriate academic support
15 services.

16 (j) Responsibility for Curriculum. The college shall place primary responsibility for the
17 content, quality, and effectiveness of the curriculum with its faculty.

18 (k) Academic Program Coordination.

19 1. For each major in a degree program, the college shall assign responsibility for program
20 coordination, as well as for curriculum development and review, to persons academically qualified
21 in the field.

22 2. In those degree programs for which the college does not identify a major, this
23 requirement shall apply to a curricular area or concentration.

1 (l) Technology Use.

2 1. The college's use of technology shall enhance student learning and shall be appropriate
3 for meeting the objectives of its programs.

4 2. Students shall have access to and training in the use of technology.

5 (5) Undergraduate Educational Programs.

6 (a) College-level Competencies. The college shall identify college-level general education
7 competencies and the extent to which graduates have attained them.

8 (b) Institutional Credits for a Degree.

9 1. At least twenty (25) percent of the credit hours required for the degree shall be earned
10 through instruction offered by the college awarding the degree.

11 2. In the case of undergraduate degree programs offered through joint, cooperative, or
12 consortia arrangements, the student shall earn twenty (25) percent of the credits required for the
13 degree through instruction offered by the participating colleges.

14 (c) Undergraduate Program Requirements.

15 1. The college shall define and publish requirements for its undergraduate programs,
16 including its general education components.

17 2. These requirements shall conform to commonly accepted standards and practices for
18 degree programs.

19 (d) Terminal Degrees of Faculty. At least twenty (25) percent of the discipline course
20 hours in each major at the baccalaureate level shall be taught by faculty members holding the
21 terminal degree, usually the earned doctorate, in the discipline, or the equivalent of the terminal
22 degree.

23 (6) Graduate and Post-Baccalaureate Professional Educational Programs.

1 (a) Post-baccalaureate Program Rigor. The college's post-baccalaureate professional
2 degree programs, master's and doctoral degree programs, shall be progressively more advanced in
3 academic content than its undergraduate programs.

4 (b) Graduate Curriculum. The college shall structure its graduate curricula to include
5 knowledge of the literature of the discipline and to ensure ongoing student engagement in research
6 and appropriate professional practice and training experiences.

7 (c) Institutional Credits for a Degree. The majority of credits toward a graduate or a post-
8 baccalaureate professional degree shall be earned through instruction offered by the college
9 awarding the degree. In the case of graduate and postbaccalaureate professional degree programs
10 offered through joint, cooperative, or consortial arrangements, the student shall earn a majority of
11 credits through instruction offered by the participating colleges.

12 (d) Post-baccalaureate Program Requirements.

13 1. The college shall define and publish requirements for its graduate and post-baccalaureate
14 professional programs.

15 2. These requirements shall conform to commonly accepted standards and practices for
16 degree programs.

17 (7) Faculty.

18 (a) Faculty Competence.

19 1. The college shall employ competent faculty members qualified to accomplish the
20 mission and goals of the college.

21 2. When determining acceptable qualifications of its faculty, a college shall give primary
22 consideration to the highest earned degree in the discipline.

1 3. The college shall consider competence, effectiveness, and capacity, including, as
2 appropriate, undergraduate and graduate degrees, related work experiences in the field,
3 professional licensure and certifications, honors and awards, continuous documented excellence in
4 teaching, or other demonstrated competencies and achievements that contribute to effective
5 teaching and student learning outcomes.

6 4. For all cases, the college shall be responsible for justifying and documenting the
7 qualifications of its faculty.

8 (b) Faculty Evaluation. The college shall regularly evaluate the effectiveness of each
9 faculty member in accord with published criteria, regardless of contractual or tenured status.

10 (c) Faculty Development. The college shall provide ongoing professional development of
11 faculty as teachers, scholars, and practitioners.

12 (d) Academic Freedom. The college shall ensure adequate procedures for safeguarding
13 and protecting academic freedom.

14 (e) Faculty Role in Governance. The college shall publish policies on the responsibility
15 and authority of faculty in academic and governance matters.

16 (8) Library and Other Learning Resources.

17 (a) Learning and Information Resources. The college shall provide facilities and learning
18 and information resources that are appropriate to support its teaching, research, and service
19 mission.

20 (b) Instruction of Library Use. The college shall ensure that users have access to regular
21 and timely instruction in the use of the library and other learning and information resources.

1 (c) Qualified Staff. The college shall provide a sufficient number of qualified staff with
2 appropriate education or experiences in library and other learning and information resources to
3 accomplish the mission of the college.

4 (9) Student Affairs and Services.

5 (a) Student Rights. The college shall publish a clear and appropriate statement of student
6 rights and responsibilities and shall disseminate the statement to the campus community.

7 (b) Student Records. The college shall protect the security, confidentiality, and integrity of
8 student records and maintains special security measures to protect and back up data.

9 (c) Qualified Staff. The college shall employ qualified personnel to ensure the quality and
10 effectiveness of its student affairs programs.

11 (10) Financial Resources.

12 (a) Financial Stability. The college's recent financial history shall demonstrate financial
13 stability.

14 (b) Submission of Financial Statements.

15 1. The college shall provide financial profile information on an annual basis and other
16 measures of financial health as requested by the president.

17 2. All information shall be presented accurately and appropriately and shall represent the
18 total operation of the college.

19 (c) Financial Aid Audits. The college shall audit financial aid programs as required by
20 federal and state regulations.

21 (d) Control of Finances. The college shall exercise appropriate control over all its
22 financial resources.

1 (e) Control of Sponsored Research and External Funds. The college shall maintain
2 financial control over externally funded and sponsored research and programs.

3 (11) Physical Resources.

4 (a) Control of Physical Resources. The college shall exercise appropriate control over all
5 its physical resources.

6 (b) Institutional Environment. The college shall take reasonable steps to provide a healthy,
7 safe, and secure environment for all members of the campus community.

8 (c) Physical Facilities. The college shall operate and maintain physical facilities, both on
9 and off campus, that appropriately serve the needs of the college's educational programs, support
10 services, and other mission-related activities.

11 (12) Compliance with Federal Requirements.

12 (a) Student Achievement. The college shall evaluate success with respect to student
13 achievement including, as appropriate, consideration of course completion, state licensing
14 examinations, and job placement rates.

15 (b) Program Curriculum. The college's curriculum shall be directly related and
16 appropriate to the purpose and goals of the college and the diplomas, certificates, or degrees
17 awarded.

18 (c) Publication of Policies. The college shall make available to students and the public
19 current academic calendars, grading policies, and refund policies.

20 (d) Program Length. Program length shall be appropriate for each of the college's
21 educational programs.

1 (e) Student Complaints. The college shall have adequate procedures for addressing written
2 student complaints and shall be responsible for demonstrating that it follows those procedures
3 when resolving student complaints.

4 (f) Recruitment Materials. Recruitment materials and presentations shall accurately
5 represent the college's practices and policies.

6 (g) Title IV Program Responsibilities. The college shall be in compliance with its program
7 responsibilities under Title IV of the 1998 Higher Education Amendments.

8 Section 5. Action on Application. Within six (6) months of the submission of an
9 "Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR
10 1:050" where a site visit is not conducted, or within ninety (90) working days of the completion of
11 a site visit, the president shall do one (1) of the following: (1) Approve the applicant college for
12 status as an eligible college in which a student may enroll and receive a Kentucky tuition grant;
13 (2) Deny the applicant college for status as an eligible college; or
14 (3) Notify the applicant college of deficiencies which shall be corrected before approval
15 can be granted.

16 Section 6. Substantive Change. (1) Approval pursuant to this regulation shall be specific
17 to a licensed college and based on conditions existing at the time of the most recent evaluation and
18 shall not be transferable to other colleges or entities.

19 (2) An approved college shall notify the president within thirty (30) days of action by an
20 accrediting agency that results in that results in the college being placed on probationary status, a
21 college losing accreditation, or a college being denied accreditation.

22 (3) The president shall be responsible for evaluating all substantive changes to assess the
23 impact of the change on the college's compliance with this regulation. The president may conduct,

1 or may have conducted a site visit in accordance with sub-section (6) of section 1 of this
2 administrative regulation.

3 (4) A college's failure to follow the president's procedures for notification and approval of
4 substantive changes shall be grounds for ineligibility under this administrative regulation.

5 (6) If a college is unclear as to whether a change is substantive in nature, then the college
6 shall contact the Council on Postsecondary Education in writing for consultation.

7 (7) A substantive change shall include the following:

8 (a) Action by an accrediting agency that results in the college being placed on probationary
9 status, a college losing accreditation, or a college being denied accreditation;

10 (b) Initiating distance learning;

11 (c) Initiating a merger or consolidation;

12 (d) Altering significantly the educational mission of the college;

13 (e) Relocating a licensed Kentucky instructional site or principal location of the college;

14 (f) Changing the college's governance, ownership, control, or legal status;

15 (g) Changing the name of the college;

16 (h) Altering significantly the length of a program;

17 (i) Initiating degree completion programs;

18 (j) Adding a new instructional site or program licensed in accordance with 13 KAR 1:020;

19 (k) Denial, suspension, or revocation of licensure by the Council on Postsecondary

20 Education pursuant to 13 KAR 1:020; and

21 (l) Closing the college, a Kentucky licensed instructional site, or a Kentucky licensed

22 program and initiating teach out agreements.

1 (8) Within six (6) months of notification by the college of a substantive change where a site
2 visit is not conducted, or within ninety (90) working days of the completion of a site visit, the
3 president shall do one (1) of the following:

4 (a) approve the substantive change and continued approval under this administrative
5 regulation without changing the approval period;

6 (b) deny the substantive change and require that the college abandon and not proceed with
7 the substantive change or else lose approval under this administrative regulation;

8 (c) notify the college of deficiencies which must be corrected before the substantive change
9 can be approved, and may suspend or revoke approval under this administrative regulation; or

10 (d) suspend or revoke approval under this administrative regulation.

11 Section 7. Hearings and Appeals. (1) The president may, for cause, require the chief
12 administrative officer, or other officers, of a college to appear for a hearing consistent with the
13 provisions of KRS Chapter 13B.005 – 13B.170, in order to determine the facts if the president has
14 determined that there are sufficient grounds for ineligibility under this administrative regulation.

15 (2) The officer, or other officers, of the college may be accompanied at the hearing by
16 counsel of their own choosing and at their expense.

17 (3) Within thirty (30) working days after a hearing is held, the president shall reach a
18 determination and shall issue findings, in writing, to the Council and to the chief executive officer
19 of the college.

20 (4) A college may appeal the actions of the president regarding a college's ineligibility
21 under this administrative regulation according to the following procedure:

22 (a) A college shall notify the president of the intent to appeal an action within fourteen
23 (14) days of the receipt of the letter notifying the college of the action taken;

1 (b) The president shall request that the Office of Administrative Hearings appoint a
2 hearing officer who shall conduct an administrative hearing consistent with the provisions of KRS
3 13B.005 – 13B.170;

4 (c) The appeal shall be presented in writing no later than sixty (60) days following the
5 receipt of notification of intent to appeal;

6 (d) The appeals officer shall review findings of fact, consider testimony, draw conclusions,
7 and formulate a recommendation consistent with the facts and this administrative regulation;

8 (e) Within fourteen (14) days, the report of the appeals officer shall be forwarded to the
9 college and to the president of the Council on Postsecondary Education;

10 (f) The president shall act on the appeal at its next regular or special meeting; and

11 (g) Upon receipt of the report of the appeals officer, the president shall approve or not
12 approve the college.

13 Section 9. Incorporation by Reference. (1) “Application for Council on Postsecondary
14 Education Approval for Eligibility Pursuant to 13 KAR 1:050” is incorporated by reference.

15 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
16 law, at the Kentucky Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320,
17 Frankfort, Kentucky 40601.

APPROVED:

Paul Patton, Chair
Council on Postsecondary Education

Date

APPROVED AS TO FORM:

Dennis L. Taulbee, General Counsel
Council on Postsecondary Education

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 27, 2009 at 10:00 a.m. at the Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, 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.

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:

Sarah Levy
Council on Postsecondary Education
1024 Capital Center Dr.
Suite 350
Frankfort, Kentucky 40601
Phone: 502.573.1555 ext. 350
Fax: 502.573.1535
Email: sarah.levy@ky.gov

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

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

Contact person: Sarah Levy, Sr. Associate – Academic Affairs
Council on Postsecondary Education
1024 Capital Center Drive, Suite 320
Frankfort, KY 40601
502.573.1555 ext. 350
sarah.levy@ky.gov
FAX: 502.573.1535

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes the standards and requirements of licensed out-of-state colleges who seek to qualify as an eligible college in which a student may enroll and receive a Kentucky tuition grant.
 - (b) The necessity of this administrative regulation: KRS 164.785 requires 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, shall 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 college in which a student may enroll and receive a Kentucky tuition grant.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.785(7)(c) requires that the Council on Postsecondary Education shall promulgate administrative regulations in accordance with KRS Chapter 13 A to carry out the provisions of that paragraph.

- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation sets out the standards and requirements that out-of-state licensed colleges must meet in to be approved by the Council to be an eligible college in which a student may enroll and receive a Kentucky tuition grant.
- (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: N/A – this is a new regulation.
- (b) The necessity of the amendment to this administrative regulation: N/A – this is a new regulation.
- (c) How the amendment conforms to the content of the authorizing statutes: N/A – this is a new regulation.
- (d) How the amendment will assist in the effective administration of the statutes: N/A – this is a new regulation.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 3 out-of-state colleges currently licensed by the Council on Postsecondary Education for which SACS is not an option as they are accredited by another regional accrediting agency whose students have been receiving Kentucky tuition grants.
- (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The colleges would need to comply with the requirements and standards of this regulation in order to be an eligible college in which a student may enroll and receive a Kentucky tuition grant.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: There will be a cost to the Council anytime a college wants to seek to become an eligible college in which a student may enroll and receive a Kentucky tuition grant. We estimate needing at least one more additional staff person to review application materials, to arrange for site visit consultants, and to coordinate and attend site visits, plus travel costs.

(b) On a continuing basis: There will be a cost to the Council anytime a new college wants to seek become an eligible college in which a student may enroll and receive a Kentucky tuition grant. Also, there will be costs for Council whenever a college that is approved has a substantive change.

- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: KRS 164.785 provides that “[a]ll costs associated with the institutional reviews shall be the responsibility of the institution seeking approval by the council.” There will be an application fee of \$1,000. In addition, the regulation requires the college to pay for the cost of any site visit.
- (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: Yes, a fee will be necessary to implement this administrative regulation. This is a new regulation, and an application fee of \$1,000 is included.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this is a new regulation, and there is an application fee of \$1,000.
- (9) TIERING: Is tiering applied? Tiering is not appropriate under these circumstances.

Summary of Material Incorporated by Reference

The “Application for Council on Postsecondary Education Approval for Eligibility Pursuant to 13 KAR 1:050” is the 18-page application form that an out-of-state licensed college, for which accreditation by the Southern Association of Colleges and Schools is not an option, is required to submit in order to seek approval from the Council on Postsecondary Education to qualify as an eligible college in which a student may enroll and receive a Kentucky tuition grant.