

FILED WITH LRC
TIME: 3:30 PM
APR 30 2024
Emily B Caudill
REGULATIONS COMPILER

1 GENERAL GOVERNMENT CABINET

2 Council on Postsecondary Education

3 (Amendment)

4 13 KAR 2:130. Comprehensive funding model for the allocation of state general fund
5 appropriations to Kentucky Community and Technical College System institutions.

6 RELATES TO: KRS 48.600-48.630, 164.001, 164.092

7 STATUTORY AUTHORITY: KRS 164.092(12)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.092(12) requires the Council on
9 Postsecondary Education to promulgate an administrative regulation to implement a
10 comprehensive funding model for the public postsecondary education system. This administrative
11 regulation establishes the formula by which general fund appropriations shall be distributed in the
12 Kentucky Community and Technical College System sector.

13 Section 1. Definitions.

14 (1) "Academic year" means the Summer, Fall, and Spring terms~~[means July 1 through June 30~~
15 ~~and all terms completed therein].~~

16 (2) "Credentials" means the total number of certificates, diplomas, and associate degrees
17 awarded during the academic year~~["Associate degree" means total number of associate degrees~~
18 ~~awarded during the academic year, including degrees conferred to resident and non-resident~~
19 ~~students].~~

20 (3) "Council" is defined by KRS 164.092(1)(c).

1 (4) "Equity adjustment" means ten (10) percent of total KCTCS institution allocable resources
2 divided by sixteen (16) and allocated to each institution using the Community Needs Index.

3 (5) "FAFSA form" means the free application for federal student aid form completed by
4 students to determine eligibility for federal student financial aid.

5 (6) "First-generation college students" means students who report on the FAFSA that neither
6 parent has earned a college degree or credential, or one (1) parent if the other parent's education
7 level is unknown.

8 (7)~~(5)~~ "Formula base amount" is defined by KRS 164.092(1)(e) and includes a deduction for
9 mandated programs.

10 (8)~~(6)~~ "Full-time equivalent student enrollment" means the total academic year credit hours
11 taken divided by thirty (30)~~[fall semester credit hours earned divided by fifteen (15)].~~

12 ~~[(7) "High-wage, high-demand credentials" means credentials tied to occupations identified in~~
13 ~~the Kentucky Office of Employment and Training's Kentucky Occupational Outlooks and annual~~
14 ~~Occupational Employment statistics wage data that meet the following criteria:~~

15 ~~(a) Have a median annual wage that is greater than or equal to the wage at the 75th percentile for~~
16 ~~all occupations in the state of Kentucky;~~

17 ~~(b) Show growth greater than or equal to the projected percent change for all Kentucky~~
18 ~~occupations; or~~

19 ~~(c) Have 100 or more average annual job openings.]~~

20 (9)~~(8)~~ "Hold-harmless provision" is defined by KRS 164.092(1)(f).

21 (10)~~(9)~~ "Institution" means a college in the Kentucky Community and Technical College
22 System.

23 (11)~~(10)~~ "KCTCS" is defined by KRS 164.092(1)(h).

1 (12)[(11)] "KCTCS institution allocable resources" is defined by KRS 164.092(1)(i).

2 (13)[(12)] "Low-income student" means a student who has received a Federal Pell Grant at any
3 time since 2005-2006 at KCTCS[~~the graduating institution~~].

4 (14)[(13)] "Mandated program" means a research or public service activity not integral to the
5 instructional mission of the institution that is:

6 (a) Funded with greater than \$200,000 of state appropriations; and

7 (b) Directed by statute, resolution, executive branch budget bill, executive order, or other legal
8 mandate.

9 (15) "Non-traditional college students" is defined in KRS 164.092(1)(k).

10 ~~[(14) "Non-resident student" means a student who does not meet the requirements for Kentucky
11 residency for purposes of tuition set forth in 13 KAR 2:045.~~

12 ~~15) "Resident student" means a student certified as a Kentucky resident for purposes of tuition
13 pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a state
14 tuition reciprocity agreement entered into by the council.~~

15 ~~-(16) "STEM+H degrees" mean degrees in the fields of science, technology, engineering, math,
16 and health sciences as identified to annually by KCTCS.]~~

17 (16)[(17)] "Stop-loss provision" is defined by KRS 164.092(1)(n)[(k)].

18 ~~[(18) "Targeted industry credentials" means credentials awarded in Classification of
19 Instructional Programs (CIP) codes developed by the U.S. Department of Education's National
20 Center for Education Statistics that crosswalk to occupations with education or training
21 requirements of an associate degree or below in targeted industry sectors as identified in a targeted
22 industry CIPs index provided annually by KCTCS.]~~

1 ~~(17)~~~~(19)~~ "Underprepared students" means ~~[mean]~~ students who tested into developmental
2 English, math, or reading upon entering KCTCS~~[at any period of enrollment]~~ since the 2010-11
3 academic year.

4 ~~(18)~~~~(20)~~ "Underrepresented minority students" means students who categorized themselves
5 as Hispanic or Latino, American Indian or Alaska Native, Black or African American, Native
6 Hawaiian or Other Pacific Islander, or two (2) or more races.

7 (19) "Underrepresented students" is defined by Senate Bill 191, Section 4(1) of the 2024
8 Regular Session.

9 Section 2. Allocable Resources. The council shall determine total KCTCS institution allocable
10 resources for any given year by calculating each institution's formula base amount and subtracting
11 the equity adjustment and any amount protected by a hold harmless provision. These amounts shall
12 then be combined along with any applicable increase or decrease in general fund appropriation.

13 Section 3. Data Sets. Unless indicated otherwise, each metric, except facilities square footage,
14 shall be calculated using a three (3) year rolling average ~~[the most recent set of finalized data].~~

15 Section 4. Student Success Outcomes. Thirty-five (35) percent of total KCTCS institution
16 allocable resources shall be certified for distribution to each institution based on its share of the
17 total volume of student success outcomes as established in KRS 164.092(8)(a)1. through 7., and
18 in the following denominations:

19 (1) Eight (8)~~[Ten (10)]~~ percent based on the credentials awarded in an academic year weighted
20 to provide a premium for credentials that are aligned with the economic needs of the state~~[using~~
21 ~~an average of the most recent three (3) years of finalized data and weighted in the following~~
22 ~~manner];~~~~[:]~~

1.0	for an undergraduate certificate or diploma which a student can complete in less than one (1) academic year;
2.0	for an undergraduate certificate or diploma which a student can complete in at least one (1), but less than two (2) academic years; and
4.0	for an associate degree.

1 ~~(2) Two (2) percent based on STEM+H credentials awarded in an academic year;~~

2 ~~(2)[(3)] One (1)[Two (2)] percent based on degrees[credentials] awarded to underrepresented~~
3 ~~[minority] students in an academic year;~~

4 ~~(3)[(4)] Five (5)[Two (2)] percent based on credentials awarded to low-income students in an~~
5 ~~academic year;~~

6 ~~(4)[(5)] Four (4)[Two (2)] percent based on credentials awarded to underprepared students in~~
7 ~~an academic year;~~

8 ~~(5) Six (6) percent based on credentials awarded to non-traditional college students in an~~
9 ~~academic year;~~

10 ~~(6) Four (4)[Two (2)] percent based on the number of students in the cohort who transferred to~~
11 ~~a baccalaureate degree granting college or university after the last term a student was enrolled at a~~
12 ~~KCTCS institution in the academic year;~~

13 ~~(7) Two (2) percent based on targeted industry credentials awarded in an academic year;~~

14 ~~(8) One (1) percent based on high-wage, high-demand credentials awarded in an academic year;~~

15 ~~(7)[(9)] One (1)[Two (2)] percent based on the number of full-time and part-time undergraduate~~
16 ~~students reaching or surpassing fifteen (15) cumulative earned credit hours in an academic year;~~

1 ~~(8)~~~~(10)~~ Two ~~(2)~~~~(4)~~ percent based on the number of full-time and part-time
2 undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in an
3 academic year; and

4 ~~(9)~~~~(11)~~ Four ~~(4)~~~~(6)~~ percent based on the number of full-time and part-time undergraduate
5 students reaching or surpassing forty-five (45) cumulative earned credit hours in an academic year.

6 Section 5. Student Credit Hour Production. Thirty-five (35) percent of total KCTCS allocable
7 resources shall be certified for distribution to each institution based on its share of total volume of
8 weighted student credit hours earned during an academic year as established in KRS
9 164.092(8)(b). Credit hour weighting by course discipline shall be in accordance with the KCTCS
10 Funding Model Classification of Instructional Program (CIP) Cost Factors Index.

11 Section 6. Operational Support. Thirty (30) percent of total KCTCS allocable resources shall
12 be certified for distribution to each institution in support of vital campus operations as established
13 in KRS 164.092(8)(c)1. through 3.

14 (1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the
15 council and as established in KRS 164.092(8)(c)1.

16 (2) Ten (10) percent shall be allocated based on direct instruction and student services costs as
17 reported to The Integrated Postsecondary Education Data System (IPEDS) and as established in
18 KRS 164.092(8)(c)2.

19 (3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as
20 established in KRS 164.092(8)(c)3.

21 Section 7. Stop-loss and Hold-Harmless Provisions.

22 (1) Any final amounts certified for distribution to any institution shall account for any hold-
23 harmless or stop-loss provisions established in KRS 164.092(9).

1 (2) The council shall determine hold-harmless amounts for institutions [~~in fiscal year 2018-~~
2 ~~2019]~~ through application of the formula established in this administrative regulation.

3 (3) If the formula total amount generated for an institution is less than its initial allocable
4 resources, the amount of that difference shall be certified to KCTCS as that institution's hold-
5 harmless allocation.

6 [~~(4) The council shall apply these hold harmless allocations to all applicable institutions in~~
7 ~~2018-2019 and in any subsequent years as directed by the General Assembly.]~~

8 Section 8. Incorporation by Reference. (1) The following material is incorporate by reference:

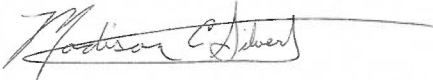
9 (a) "KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors
10 Index", June 2017;

11 (b) "Community Needs Index (CNI)", April 2024; and

12 (c) "Credentials tied to the Economy", April 2024.

13 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
14 the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor[~~1024 Capital~~
15 ~~Center Drive, Suite 320~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30
16 p.m. and <https://cpe.ky.gov/>.

APPROVED:



04/30/2024
Date

Madison C. Silvert, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:



04/30/24
Date

Sterling Crayton, Attorney
Council on Postsecondary Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on **July 23, 2024 at 10:00 a.m. EST** at the Council on Postsecondary Education, 100 Airport Road, Third Floor, 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. Written comments shall be accepted until **July 31, 2024**.

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: Sterling Crayton
Attorney
Council on Postsecondary Education
100 Airport Road, Third Floor, Frankfort, Kentucky 40601
Phone: 502.892.3005
Fax: 502.573.1535
Email: sterling.crayton@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation 13 KAR 2:130. Comprehensive funding model for the allocation of state general fund appropriations to Kentucky Community and Technical College System institutions.

Contact person: Sterling Crayton
Attorney
Council on Postsecondary Education
Phone: 502.892.3005
Email: sterling.crayton@ky.gov

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation implements a comprehensive funding model by which general fund appropriations shall be distributed in the Kentucky Community and Technical College System.
- (b) The necessity of this administrative regulation: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statute.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation allows the Council to determine total KCTCS institution allocable resources for any given year by calculating each institution's formula base amount, subtracting the equity adjustment and any amount protected by a hold harmless provision, and combining these amounts along with any applicable increase or decrease in general fund appropriation.

(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: This amendment adds an adult learner metric, reallocates the equity adjustment using the community needs index, increases weightings for targeted student populations, eliminates the underrepresented minority student credential metric and replaces it with an metric for degrees awarded to underrepresented student that is defined as first generation students, reduces weighting of progression metrics, merges overlapping credential metrics, and now uses three-year rolling average data.
- (b) The necessity of the amendment to this administrative regulation: This amendment conforms to changes made in SB 191 (2024 Regular Session) and constitutes incremental but constructive change to the funding model by creating financial incentives and leveraging the formula to advance state goals for postsecondary education.
- (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of KRS 164.092 by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger economy through its public college and university system.

- (d) How the amendment will assist in the effective administration of the statutes: The amendment assists in the effective administration of KRS 164.092 by outlining how resources should be allocated to KCTCS institutions in accordance with the provisions of the statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The 16 community and technical colleges in the Kentucky Community and Technical College System will be affected by this administrative regulation.

(4) Provide an analysis of how the entities referenced in section (3) of this subsection will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment, including:

- (a) A detailed explanation of the actions the entities referenced in paragraph (3) of this subsection will be required to undertake in order to comply with the proposed administrative regulation: The entities will not be required to take any new action in order to comply with this amendment, but may modify actions in order to best perform in the model.
- (b) An estimate of the costs imposed on entities referenced in paragraph (3) of this subsection in order to comply with the proposed administrative regulation: There is no additional cost to entities.
- (c) The benefits that may accrue to the entities referenced in paragraph (3) of this subsection as a result of compliance: The entities will not be required to take any action in order to comply with this amendment, but may modify actions in order to best perform in the model.

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

- (a) Initially: See 4(b) above.
- (b) On a continuing basis: See 4(b) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? CPE will use general fund dollars to implement and enforce this administrative regulation.

(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: This regulation does not assess fees.

(8) State whether this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not assess fees.

(9) TIERING: Is tiering applied? No. All regulated entities are of the same class, i.e. KCTCS institutions.

FISCAL IMPACT STATEMENT

Administrative Regulation 13 KAR 2:130. Comprehensive funding model for the allocation of state general fund appropriations to Kentucky Community and Technical College System institutions.

Contact person: Sterling Crayton
Attorney
Council on Postsecondary Education
Phone: 502.892.3005
Email: sterling.crayton@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Council on Postsecondary Education and the Kentucky Community and Technical College System.

(a) Estimate the following for the first year:

Expenditures: Approximately \$200,000 per year for CPE to manage and run the model.
No cost of implementation for postsecondary institutions.

Revenues: None for CPE. In and of itself, this regulation will not generate any revenue, however depending on campus performance and the overall general fund appropriation to higher education, institutions could see increases in general fund revenue.

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):
N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Duties related to this regulation are generally assumed by Council staff members as part of their many other responsibilities. There are no additional costs of administration.

(b) Methodology and resources used to determine the fiscal impact: General analysis.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate): This regulation is not anticipated to have a major economic impact on state or local government or regulated entities. This regulation will provide financial incentives to colleges across the Commonwealth overseen by the Kentucky Community and Technical College System.

(b) The methodology and resources used to reach this conclusion: General analysis.

SUMMARY OF MATERIALS INCORPORATED BY REFERENCE

(1) "Community Needs Index (CNI)", April 2024, is a two (2) page document that describes the normalized measure of community economic disadvantage based on U.S. Census data measuring unemployment, labor force participation, and individual poverty used to identify KCTCS college areas that may need additional resources due to regional economic disadvantage. The metric has a mean of zero and values represent standard deviations above and below the mean.

(2) "Credentials tied to the Economy", April 2024, is a one (1) page document that describes the calculation of this credentials-based metric, used by KCTCS, that determines the number of conferred credentials that are aligned to occupations identified as critical to the economic infrastructure of the United States.

Community Needs Index (CNI)

- **Definition:** The Community Needs Index (CNI) is a normalized measure of community economic disadvantage based on U.S. Census data measuring unemployment, labor force participation, and individual poverty. The metric has a mean of zero and values represent standard deviations above and below the mean.
- **Purpose:** To identify KCTCS college areas that may need additional resources due to regional economic disadvantage.
- **Data:**
 - Based on 5-Year ACS Estimates
 - Collected using "getcensus" function in Stata
 - Collected at the county level
 - The enrollment cluster crosswalk is used to link counties to college areas
 - Main variables: unemployment, labor force participation, poverty
- **Method:**
 - Principal Component Analysis (PCA)
 - Statistical method used to combine variables into composite values that are based on shared variability between the variables.
 - The three measures load onto a single variable that we call the CNI
 - The values for the CNI are z-scores which describes how many standard deviations each college is away from the average CNI value.
 - Negative scores indicate the college has lower than average CNI and positive scores indicate the college has higher than average CNI.
 - The colleges are split into quartiles after being rank ordered based on the CNI.

Community Need Index (CNI)								
2019-20			2020-21			2021-22		
College	CNI	Quartile	College	CNI	Quartile	College	CNI	Quartile
Hazard	3.25	1	Hazard	2.93	1	Southeast	3.08	1
Southeast	2.94	1	Southeast	2.91	1	Hazard	3.00	1
Big Sandy	2.09	1	Big Sandy	1.98	1	Big Sandy	1.87	1
Somerset	0.82	1	Somerset	0.87	1	Somerset	0.79	1
Hopkinsville	0.50	2	Hopkinsville	0.69	2	Ashland	0.66	2
Ashland	0.43	2	Ashland	0.38	2	Hopkinsville	0.34	2
Maysville	-0.32	2	Maysville	-0.22	2	Madisonville	-0.06	2
Henderson	-0.62	2	Madisonville	-0.30	2	Maysville	-0.15	2
Madisonville	-0.64	3	Southcentral	-0.47	3	Southcentral	-0.51	3
Owensboro	-0.74	3	Elizabethtown	-0.83	3	Elizabethtown	-0.70	3
Southcentral	-0.75	3	Bluegrass	-0.94	3	West Kentucky	-0.97	3
Elizabethtown	-0.84	3	Henderson	-1.06	3	Bluegrass	-1.17	3
Bluegrass	-1.08	4	West Kentucky	-1.11	4	Owensboro	-1.28	4
West Kentucky	-1.14	4	Owensboro	-1.13	4	Jefferson	-1.30	4
Jefferson	-1.48	4	Jefferson	-1.32	4	Henderson	-1.37	4
Gateway	-2.43	4	Gateway	-2.37	4	Gateway	-2.23	4

Credentials Tied to the Economy

- **Definition:** The CISA Credentials metric is a credentials-based metric that determines the number of conferred credentials that are aligned to occupations identified as critical to the economic infrastructure of the United States.
- **Purpose:** To determine the number credentials conferred by KCTCS that are aligned with occupations that have been determined by the federal government to be critical to the infrastructure of the United States.
- **Data:**
 - CPE Official (Type 5)
 - Used to determine the number of graduates per academic program.
 - Cybersecurity & Infrastructure Security Agency (CISA) Critical Infrastructure Workers
 - [Many U.S. Workers in Critical Occupations in the Fight Against COVID-19 \(Revised\) – LMI Institute \(lmiweb.org\)](#)
 - In an effort to help workforce and labor market information (LMI) professionals, as well as other state, community and economic researchers provide the best possible information to inform policymakers, the [LMI Institute](#) and [C2ER](#) has produced the following list of BLS Standard Occupation Classification (SOC) codes connected to critical infrastructure (e.g., essential) industries. The list is based on the Department of Homeland Security's guidance for identifying the critical infrastructure workforce during COVID-19 response.
 - [Guidance on the Essential Critical Infrastructure Workforce | CISA](#)
 - ***The list identifies workers who conduct a range of operations and services that may be essential to continued critical infrastructure operations, including staffing operations centers, maintaining and repairing critical infrastructure, operating public safety call centers, working construction, and performing operational functions, among others. It includes workers who support crucial supply chains and enable cyber and physical security functions for critical infrastructure. The industries that essential workers support represent, but are not limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, and law enforcement.***
 - The LMI Institute and C2ER used the DHS memo to identify the [Standard Occupational Classification \(SOC\) definitions](#) connected to medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works industries.
- **Method**
 - Download the data sources listed above.
 - Using the AP to SOC crosswalk, bring in the SOC codes for each KCTCS academic plan listed in the Type 5 file.
 - Use the CISA list of critical infrastructure SOC codes to flag the academic plans (based on the associated SOC code) that are considered critical to the infrastructure of the United States.
 - Pivot by college and year to get the counts of the CISA flagged programs.