

KENTUCKY COUNCIL ON POSTSECONDARY EDUCATION SPECIAL-CALLED BUSINESS MEETING



April 25, 2024 – 11:00 a.m. ET

Virtual meeting: <https://us02web.zoom.us/j/89129396618>

I. Call to Order and Roll Call

II. Action Items

- A. Amendment to 13 KAR 2:120. Comprehensive Funding Model for the 2
Allocation of State General Fund Appropriations to Public Universities

- B. Amendment to 13 KAR 2:130. Comprehensive Funding Model for the 52
Allocation of State General Fund Appropriations to Kentucky Community
and Technical College institutions

III. Adjournment

Next Meetings: June 20-21, 2024 @ Western Kentucky University

TITLE: Amendment 13 KAR 2:120. *Comprehensive Funding Model for the Allocation of State General Fund Appropriations to Public Universities*

DESCRIPTION: The staff recommends that the Council approve the emergency and regular amended administrative regulation titled 13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to the public universities. The action would authorize staff to file the proposed administrative regulation and the General Counsel, pursuant to KRS 13A.290(4) and KRS 13A.320(1)(b), to make such changes on behalf of the Council as necessary to comply with KRS Chapter 13A and obtain adoption of the new regulation by the Administrative Regulation Review Subcommittee and the Interim Joint Committee on Education.

PRESENTER: Travis Powell, Vice President and General Counsel

BACKGROUND INFORMATION

On April 17, 2024, Governor Beshear signed SB 191 amending the comprehensive funding model for the allocation of state general fund appropriations for postsecondary institution operations. The bill requires revisions to the public university sector formula, the KCTCS sector formula, and provides the Council with authority to promulgate emergency amended administrative regulations in order to implement the amended funding formulas. 13 KAR 2:120 implements the formula for the public university sector. SB 191 contains an emergency clause and therefore went into effect immediately, which put the performance funding regulations out of statutory compliance. Therefore, an emergency regulation filing is necessary to bring the regulations into compliance before the fiscal year 2024-2025 funding distributions are certified to the Office of State Budget Director by the May 1st statutory deadline.

SB 191 includes the changes recommended to the funding model by the Performance Funding Workgroup. In addition, SB 191 removes the underrepresented minority student metric from the model and requires that the 3% previously allocated to that metric be allocated equally to first generation college students and low-income students in fiscal year 2024-2025.

Highlights of the amendments to the regulation include:

- An increase to allocation to low-income bachelor's degree produced from 3% to 9.5%.

- The inclusion of an allocation of 1.5% to first-generation college students.
- The addition of a premium for credit hours earned by non-traditional adult learners.
- An increase to the small school adjustments at Kentucky State University and Morehead State University to increase their respective abilities to earn funding through the model.
- An increase to the nonresident student earned credit hour weighting from .5 to .75.

SB 191 creates a new “underrepresented student” metric that will be defined by the Performance Funding Workgroup on or before December 1, 2024. That revised definition will be brought to the Council for approval for incorporation into the amended regulation and will be final in anticipation of the fiscal year 2025-2026 performance funding distribution.

1 GENERAL GOVERNMENT CABINET

2 Council on Postsecondary Education

3 (Amendment)

4 **13 KAR 2:120. Comprehensive funding model for the allocation of state general fund**
5 **appropriations to public universities.**

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 public university sector.

13 Section 1. Definitions.

14 (1) "Academic year" means July 1st through June 30th and all terms completed therein.

15 (2) "Bachelor's degrees" means total number of bachelor's degrees awarded during the academic
16 year, including degrees conferred to resident and non-resident students.

17 (3) "Comprehensive university" is defined by KRS 164.001(7).

18 (4) "Council" is defined by KRS 164.092(1)(c).

19 **(5) "FAFSA form" means the free application for federal student aid form completed by**
20 **students to determine eligibility to receive federal student financial aid.**

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

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

3 (8) [~~(6)~~] "Hold-harmless provision" is defined by KRS 164.092(1)(f).

4 (9) [~~(7)~~] "Institution" means a public university.

5 (10) [~~(8)~~] "Low-income student" means a student who received a Federal Pell Grant after the
6 2005-2006 academic year for attendance at the institution from which the student received a
7 bachelor's degree.

8 (11) [~~(9)~~] "Mandated program" means a research or public service activity not integral to the
9 instructional mission of the institution that is:

10 (a) Funded with greater than \$450,000 of state appropriations at research universities and
11 \$200,000 at comprehensive universities; and

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

14 **(12) "Non-traditional students" is defined in KRS 164.092(1)(k).**

15 (13) [~~(10)~~] "Non-resident student" means a student who does not meet the requirements for
16 Kentucky residency for purposes of tuition set forth in 13 KAR 2:045.

17 (14) [~~(11)~~] "Research university" is defined by KRS 164.092(1)(j).

18 (15) [~~(12)~~] "Resident student" means a student certified as a Kentucky resident for purposes of
19 tuition pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a
20 state tuition reciprocity agreement entered into by the council.

21 (16) [~~(13)~~] "Small school adjustment" means a one (1)-time calculation made using the formula
22 base amounts in 2017-2018 and equals:

1 (a) For a research university, ten (10) percent of the respective formula base amount for each
2 institution; ~~and~~

3 (b) For a comprehensive university, ten (10) percent of the total formula base amount for all
4 comprehensive universities divided by six (6)~~[-];~~ **and**

5 **(c) For institutions that have a hold harmless amount in fiscal year 2023-2024, an additional**
6 **amount equaling the institution's 2023-2024 hold harmless amount.**

7 ~~(17)~~~~[(14)]~~ "STEM+H degrees" means degrees in the fields of science, technology, engineering,
8 math, and health sciences as determined by the council.

9 ~~(18)~~~~[(15)]~~ "Stop-loss provision" is defined by KRS 164.092(1)(k).

10 ~~(19)~~ ~~[(16)]~~ "Underrepresented [~~minority~~] students" means **first-generation college students.**
11 [~~students who categorize themselves as Hispanic or Latino, American Indian or Alaska Native,~~
12 ~~Black or African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races.]~~

13 ~~(20)~~~~[(17)]~~ "University allocable resources" is defined by KRS 164.092(1)(l).

14 Section 2. Allocable Resources. The council shall determine total university allocable resources
15 for any given year by calculating each institution's formula base amount and subtracting the small
16 school adjustment and any amount protected by a hold-harmless provision. These amounts shall
17 then be combined along with any applicable increase or decrease in general fund appropriation.

18 Section 3. Metric Weighting. For purposes of Sections 5, 6, and 7 of this administrative
19 regulation, bachelor's degrees, **student progression,** earned credit hours, facilities' square feet,
20 instruction and student services costs, and full-time equivalent student enrollment shall be
21 calculated with differential weights for research and comprehensive universities in accordance
22 with the Public University Funding Model Metric Weighting Chart.

1 Section 4. Three (3)-year Rolling Average. Each metric shall be calculated by averaging the
2 most recent three (3) years of finalized data.

3 Section 5. Student Success Outcomes. **Forty (40)**~~Thirty five (35)~~ percent of total university
4 allocable resources shall be certified for distribution to each institution based on its share of the
5 total volume of student success outcomes related to bachelor's degree production and student
6 progression as established in KRS 164.092(6)(a)1. through 5., and in the following denominations:

7 (1) Nine (9) percent based on the ~~normalized~~ bachelor's degrees awarded in an academic year
8 as described in the Public University Sector Funding Model Formula Chart;

9 (2) Five (5) percent based on STEM+H bachelor's degrees awarded in an academic year;

10 (3) ~~Three (3) percent based on bachelor's degrees awarded to underrepresented minority~~
11 ~~students in an academic year;~~

12 (4) **Nine and a half (9.5)** ~~Three (3)~~ percent based on bachelor's degrees awarded to low-
13 income students in an academic year;

14 (5) Three (3) percent based on the number of full-time and part-time undergraduate students
15 reaching or surpassing thirty (30) cumulative earned credit hours in any term completed from
16 August 1st to July 31st;

17 (6) Five (5) percent based on the number of full-time and part-time undergraduate students
18 reaching or surpassing sixty (60) cumulative earned credit hours in any term completed from
19 August 1st to July 31st; ~~and~~

20 (7) Seven (7) percent based on the number of full-time and part-time undergraduate students
21 reaching or surpassing ninety (90) cumulative earned credit hours in any term completed from
22 August 1st to July 31st~~[-]~~; **and**

1 **(8) One and a half (1.5) percent based on the number of bachelor's degrees awarded to first**
2 **generation students in an academic year.**

3 Section 6. Student Credit Hour Production. **Thirty (30)**~~[Thirty five (35)]~~ percent of total
4 university allocable resources shall be certified for distribution to each institution based on its share
5 of total volume of weighted student credit hours earned during an academic year as established in
6 KRS 164.092(6)(b).

7 (1) Credit hour weighting by course level and discipline shall be in accordance with the Public
8 University Funding Model Earned Credit Hour Production Weighting Index. Credit hours earned
9 by non-resident students shall be given one-half (0.5) the weight of those earned by resident
10 students in comparable programs of study. **Beginning fiscal year 2024-2025, credit hours earned**
11 **by non-resident students shall be given three-quarters (.75) the weight of those earned by**
12 **resident students in comparable programs of study and resident undergraduate non-traditional**
13 **age students shall be given twice the weight of those earned by traditional age students in**
14 **comparable programs of study;** and

15 (2) The calculation shall not include credit hours earned by high school students taking courses
16 for college credit.

17 Section 7. Operational Support. Thirty (30) percent of total university allocable resources shall
18 be certified for distribution to each institution in support of vital campus operations as established
19 in KRS 164.092(6)(c)1. through 3.

20 (1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the
21 council and as established in KRS 164.092(6)(c)1.

1 (2) Ten (10) percent shall be allocated based on direct instruction and student services costs as
2 reported on each institution's annual audited financial statement and as established in KRS
3 164.092(6)(c)2.

4 (3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as
5 established in KRS 164.092(6)(c)3 and using the formula established in the Public University
6 Sector Funding Model Formula Chart.

7 Section 8. Hold-harmless and Stop-loss Provisions.

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

10 (2) The council shall determine hold-harmless amounts for institutions [~~in fiscal year 2018-~~
11 ~~2019]~~ through application of the formula established in this administrative regulation.

12 (a) If the formula total amount generated for an institution is less than its initial allocable
13 resources, the amount of that difference shall be designated as the institution's hold-harmless
14 allocation.

15 (b) If applied, an institution maintaining a hold-harmless allocation shall not receive additional
16 distributions of funding through the model until the hold-harmless allocation balance is brought to
17 zero through improved institutional performance, additional appropriations, or some combination
18 thereof.

19 [~~(c) The council shall apply these hold-harmless allocations, with any applicable credit~~
20 ~~adjustments as determined annually by the formula, to all applicable institutions in 2018-2019,~~
21 ~~2019-2020, 2020-2021, and in any subsequent years as directed by the General Assembly.]~~

22 Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

23 (a) "Public University Funding Model Formula Chart," April 2024 [~~June 2017~~];

1 (b) "Public University Funding Model Metric Weighting Chart," April 2024 [~~June 2017~~]; and

2 (c) "Public University Funding Model Earned Credit Hour Production Weighting Index," June
3 2017.

4 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
5 the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor [~~1024 Capital
6 Center Drive, Suite 320~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

7

APPROVED:

Date

Madison Silvert, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:

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 **April 30, 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 **April 30, 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 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.*

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 public university sector.
- (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 university allocable resources for any given year by calculating each institution's formula base amount, subtracting the small school 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 in accordance with KRS 164.092.

(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 increases the low-income degree production allocation, removes the underrepresented minority degree production allocation, adds a degree production allocation for first generation students, adds an adult learner earned credit hour premium, eliminates the degree efficiency index weighting, increases the small school adjustments at Kentucky State University and Morehead State University, and increases the nonresident credit hour weighting.
- (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement changes as required by SB 191 (2024 Regular Session). In addition, this amendment 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 as amended by SB 191 (2024 Regular Session) by capturing changes required therein and makes other changes in areas delegated to the Council.
- (d) How the amendment will assist in the effective administration of the statutes: The amendment conforms to the content of KRS 164.092(12) by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger

economy through its public college and university system.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation impacts the 8 public universities in Kentucky.

(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 action in order to comply with this amendment, although institutional strategies to achieve the performance incentivized by this regulation by change.
- (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: If the public universities increase performance in the areas identified in this regulation relative to other institutions their distribution of performance funding dollars will increase.

(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? The postsecondary education performance fund established by KRS 164.092(13), an appropriation unit of the general fund used to support improvement in the operations of the public postsecondary institutions and achievement of the Commonwealth's education policy goals and workforce development priorities.

(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? Yes, one hundred percent (100%) of public institution allocable resources among the public universities based on rational criteria, including each college's share of student success outcomes, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable. Weighting for various items in the regulation vary between research and comprehensive universities.

FISCAL NOTE

Administrative Regulation *13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.*

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. KRS 48.600-48.630, 164.001, 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Council on Postsecondary Education and the eight public universities across the state.

(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 public universities across the Commonwealth.

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

SUMMARY OF CHANGES TO MATERIALS INCORPORATED BY REFERENCE

“Public University Sector Funding Model Formula Chart” has been amended to capture the phase in process beginning fiscal year 2024-2025 of calculating bachelor’s degrees produced from a normalized formula to a simple count of bachelor’s degrees produced.

"Public University Funding Model Metric Weighting Chart” has been amended to capture the removal of the “underrepresented minority student” bachelor degree production metric and inclusion of an “underrepresented students” metric defined as “first-generation college students” per SB 191 (2024 Regular Session). Changes also include the relevant weights between research and comprehensive universities. It has also been amended to capture the equal weighting between research and comprehensive universities for 1.5% of low income bachelor’s degrees conferred.

STATEMENT OF EMERGENCY

13 KAR 2:120E

This emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute, specifically KRS 164.092(10) and SB 191 (2024 Regular Session), signed into law on April 17, 2024, and containing an emergency clause. In particular, Section 4 of SB 191 directs the Council on Postsecondary Education to make certain changes to the operation of the performance funding model created in KRS 164.092 that impact the 2024-2025 funding distribution. KRS 164.092(10)(a) requires that by May 1st of each year, the Council on Postsecondary Education certify to the Office of State Budget Director the amount of performance funding allocations to be distributed to each public university and KCTCS institution for the forthcoming fiscal year. All required changes require amendments to 13 KAR 2:120 and 13 KAR 2:130 and the normal administrative regulation amendment process would not conclude in nearly enough time for those changes to become effective for the 2024-2025 funding distribution. The emergency regulation administration will be replaced by an ordinary regulation and the ordinary regulation is identical to this emergency regulation.

Andy Beshear, Governor

Aaron Thompson, President
Council on Postsecondary Education

1 GENERAL GOVERNMENT CABINET

2 Council on Postsecondary Education

3 (Emergency Amendment)

4 **13 KAR 2:120E. Comprehensive funding model for the allocation of state general fund**
5 **appropriations to public universities.**

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 public university sector.

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16 year, including degrees conferred to resident and non-resident students.

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20 **students to determine eligibility to receive federal student financial aid.**

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

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

3 (8) [~~(6)~~] "Hold-harmless provision" is defined by KRS 164.092(1)(f).

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6 2005-2006 academic year for attendance at the institution from which the student received a
7 bachelor's degree.

8 (11) [~~(9)~~] "Mandated program" means a research or public service activity not integral to the
9 instructional mission of the institution that is:

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11 \$200,000 at comprehensive universities; and

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13 mandate.

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16 Kentucky residency for purposes of tuition set forth in 13 KAR 2:045.

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19 tuition pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a
20 state tuition reciprocity agreement entered into by the council.

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22 base amounts in 2017-2018 and equals:

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2 institution; ~~and~~

3 (b) For a comprehensive university, ten (10) percent of the total formula base amount for all
4 comprehensive universities divided by six (6)~~];~~ **and**

5 **(c) For institutions that have a hold harmless amount in fiscal year 2023-2024, an additional**
6 **amount equaling the institution's 2023-2024 hold harmless amount.**

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8 math, and health sciences as determined by the council.

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10 ~~(19)~~ ~~(16)~~ "Underrepresented ~~[minority]~~ students" means **first-generation college students.**
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16 school adjustment and any amount protected by a hold-harmless provision. These amounts shall
17 then be combined along with any applicable increase or decrease in general fund appropriation.

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19 regulation, bachelor's degrees, **student progression,** earned credit hours, facilities' square feet,
20 instruction and student services costs, and full-time equivalent student enrollment shall be
21 calculated with differential weights for research and comprehensive universities in accordance
22 with the Public University Funding Model Metric Weighting Chart.

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2 most recent three (3) years of finalized data.

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5 total volume of student success outcomes related to bachelor's degree production and student
6 progression as established in KRS 164.092(6)(a)1. through 5., and in the following denominations:

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8 as described in the Public University Sector Funding Model Formula Chart;

9 (2) Five (5) percent based on STEM+H bachelor's degrees awarded in an academic year;

10 (3) ~~Three (3) percent based on bachelor's degrees awarded to underrepresented minority~~
11 ~~students in an academic year;~~

12 (4) ***Nine and a half (9.5)*** ~~Three (3)~~ percent based on bachelor's degrees awarded to low-
13 income students in an academic year;

14 (5) Three (3) percent based on the number of full-time and part-time undergraduate students
15 reaching or surpassing thirty (30) cumulative earned credit hours in any term completed from
16 August 1st to July 31st;

17 (6) Five (5) percent based on the number of full-time and part-time undergraduate students
18 reaching or surpassing sixty (60) cumulative earned credit hours in any term completed from
19 August 1st to July 31st; ~~and~~

20 (7) Seven (7) percent based on the number of full-time and part-time undergraduate students
21 reaching or surpassing ninety (90) cumulative earned credit hours in any term completed from
22 August 1st to July 31st~~[-]~~; ***and***

1 **(8) One and a half (1.5) percent based on the number of bachelor's degrees awarded to first**
2 **generation students in an academic year.**

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4 university allocable resources shall be certified for distribution to each institution based on its share
5 of total volume of weighted student credit hours earned during an academic year as established in
6 KRS 164.092(6)(b).

7 (1) Credit hour weighting by course level and discipline shall be in accordance with the Public
8 University Funding Model Earned Credit Hour Production Weighting Index. Credit hours earned
9 by non-resident students shall be given one-half (0.5) the weight of those earned by resident
10 students in comparable programs of study. **Beginning fiscal year 2024-2025, credit hours earned**
11 **by non-resident students shall be given three-quarters (.75) the weight of those earned by**
12 **resident students in comparable programs of study and resident undergraduate non-traditional**
13 **age students shall be given twice the weight of those earned by traditional age students in**
14 **comparable programs of study;** and

15 (2) The calculation shall not include credit hours earned by high school students taking courses
16 for college credit.

17 Section 7. Operational Support. Thirty (30) percent of total university allocable resources shall
18 be certified for distribution to each institution in support of vital campus operations as established
19 in KRS 164.092(6)(c)1. through 3.

20 (1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the
21 council and as established in KRS 164.092(6)(c)1.

1 (2) Ten (10) percent shall be allocated based on direct instruction and student services costs as
2 reported on each institution's annual audited financial statement and as established in KRS
3 164.092(6)(c)2.

4 (3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as
5 established in KRS 164.092(6)(c)3 and using the formula established in the Public University
6 Sector Funding Model Formula Chart.

7 Section 8. Hold-harmless and Stop-loss Provisions.

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

10 (2) The council shall determine hold-harmless amounts for institutions [~~in fiscal year 2018-~~
11 ~~2019]~~ through application of the formula established in this administrative regulation.

12 (a) If the formula total amount generated for an institution is less than its initial allocable
13 resources, the amount of that difference shall be designated as the institution's hold-harmless
14 allocation.

15 (b) If applied, an institution maintaining a hold-harmless allocation shall not receive additional
16 distributions of funding through the model until the hold-harmless allocation balance is brought to
17 zero through improved institutional performance, additional appropriations, or some combination
18 thereof.

19 [~~(c) The council shall apply these hold-harmless allocations, with any applicable credit~~
20 ~~adjustments as determined annually by the formula, to all applicable institutions in 2018-2019,~~
21 ~~2019-2020, 2020-2021, and in any subsequent years as directed by the General Assembly.]~~

22 Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

23 (a) "Public University Funding Model Formula Chart," April 2024 [~~June 2017~~];

1 (b) "Public University Funding Model Metric Weighting Chart," April 2024 [~~June 2017~~]; and

2 (c) "Public University Funding Model Earned Credit Hour Production Weighting Index," June
3 2017.

4 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
5 the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor [~~1024 Capital
6 Center Drive, Suite 320~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

7

APPROVED:

Date

Madison Silvert, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:

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 **April 30, 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 **April 30, 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 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.*

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 public university sector.
- (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 university allocable resources for any given year by calculating each institution's formula base amount, subtracting the small school 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 in accordance with KRS 164.092.

(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 increases the low-income degree production allocation, removes the underrepresented minority degree production allocation, adds a degree production allocation for first generation students, adds an adult learner earned credit hour premium, eliminates the degree efficiency index weighting, increases the small school adjustments at Kentucky State University and Morehead State University, and increases the nonresident credit hour weighting.
- (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement changes as required by SB 191 (2024 Regular Session). In addition, this amendment 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 as amended by SB 191 (2024 Regular Session) by capturing changes required therein and makes other changes in areas delegated to the Council.
- (d) How the amendment will assist in the effective administration of the statutes: The amendment conforms to the content of KRS 164.092(12) by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger

economy through its public college and university system.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation impacts the 8 public universities in Kentucky.

(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 action in order to comply with this amendment, although institutional strategies to achieve the performance incentivized by this regulation by change.
- (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: If the public universities increase performance in the areas identified in this regulation relative to other institutions their distribution of performance funding dollars will increase.

(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? The postsecondary education performance fund established by KRS 164.092(13), an appropriation unit of the general fund used to support improvement in the operations of the public postsecondary institutions and achievement of the Commonwealth's education policy goals and workforce development priorities.

(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? Yes, one hundred percent (100%) of public institution allocable resources among the public universities based on rational criteria, including each college's share of student success outcomes, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable. Weighting for various items in the regulation vary between research and comprehensive universities.

FISCAL NOTE

Administrative Regulation *13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.*

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. KRS 48.600-48.630, 164.001, 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Council on Postsecondary Education and the eight public universities across the state.

(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 public universities across the Commonwealth.

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

SUMMARY OF CHANGES TO MATERIALS INCORPORATED BY REFERENCE

“Public University Sector Funding Model Formula Chart” has been amended to capture the phase in process beginning fiscal year 2024-2025 of calculating bachelor’s degrees produced from a normalized formula to a simple count of bachelor’s degrees produced.

"Public University Funding Model Metric Weighting Chart” has been amended to capture the removal of the “underrepresented minority student” bachelor degree production metric and inclusion of an “underrepresented students” metric defined as “first-generation college students” per SB 191 (2024 Regular Session). Changes also include the relevant weights between research and comprehensive universities. It has also been amended to capture the equal weighting between research and comprehensive universities for 1.5% of low income bachelor’s degrees conferred.

13 KAR 2:120 - Public University Sector Funding Model Formula Chart

Total FTE students

Total fall semester full-time equivalent (FTE) student enrollment. Calculated as follows: (undergraduate student credit hours ÷ 15) + (graduate student credit hours ÷ 12) + (law student credit hours ÷ 12) + (headcount of medical, dental, and pharmacy students) + (headcount of doctoral dissertation students) + (headcount of post doctoral students) + (headcount of house staff). Includes credit hours attempted by full-time and part-time students, and resident, reciprocity, and nonresident students. Does not include credit hours attempted by high school students taking courses for college credit (i.e., dual enrollment and dual credit).

Bachelor's degrees

Each institution's bachelor's degrees produced multiplied by an index of that institution's bachelor's degrees per 100 FTE students divided by the sector average bachelor's degrees per 100 FTE students.

Bachelor's degrees per 100 FTE students is defined as total bachelor's degrees awarded during the academic year divided by total fall semester undergraduate full-time equivalent (FTE) student enrollment divided by 100.

Beginning in FY 2024-2025, this formula will be phased out over a three-year period with each subsequent year using a simple count bachelor degrees produced.

**Council on Postsecondary Education
Funding Model for the Public Universities
Metric Weighting Chart**

Funding Model Metrics	Percent of Formula	Research Universities	Comprehensive Universities
Bachelor's Degrees	9.0%	1.67345	1.00000
STEM+H Bachelor's Degrees	5.0%	1.54105	1.00000
Underrepresented Student Bachelor's Degrees	1.5%	1.00000	1.00000
Low Income Bachelor's Degrees	8.0%	2.35120	1.00000
Low Income Bachelor's Degrees	1.5%	1.00000	1.00000
Student Progression (@ 30 Credit Hours)	3.0%	1.49386	1.00000
Student Progression (@ 60 Credit Hours)	5.0%	1.45320	1.00000
Student Progression (@ 90 Credit Hours)	7.0%	1.56076	1.00000
Student Credit Hours Earned (Weighted)	30.0%	1.14208	1.00000
Facilities Square Feet	10.0%	1.36134	1.00000
Instruction and Student Services Costs	10.0%	0.90251	1.00000
FTE Student Enrollment	10.0%	1.34278	1.00000
	<u>100.0%</u>		

1 AN ACT relating to postsecondary education funding and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 164.092 is amended to read as follows:

4 (1) For purposes of this section:

5 (a) "Category I and Category II square feet" means square footage that falls under
6 space categories as defined by the Postsecondary Education Facilities
7 Inventory and Classification Manual published by the United States
8 Department of Education;

9 (b) "Comprehensive university" has the same meaning as in KRS 164.001;

10 (c) "Council" means the Council on Postsecondary Education;

11 (d) "Equilibrium" means a condition in which every institution has an
12 appropriately proportionate level of resources as determined by the
13 performance funding model established in this section given each institution's
14 level of productivity in achieving student success outcomes, course
15 completion outcomes, and other components included in the model;

16 (e) "Formula base amount" means an institution's enacted general fund
17 appropriation amount minus debt service on bonds and appropriations for
18 mandated programs;

19 (f) "Hold-harmless provision" means a provision included in the funding
20 formulas as described in subsection (9) of this section that prevents a
21 reduction of a designated portion of funding for an institution through
22 operation of the funding formula;

23 (g) "Institution" means a college in the Kentucky Community and Technical
24 College System or a public university;

25 (h) "KCTCS" means the Kentucky Community and Technical College System;

26 (i) "KCTCS institution allocable resources" means the formula base amount net
27 of any equity adjustment as described in subsection (7)(b) of this section, any

1 amount protected by a hold-harmless provision, and any applicable increase
2 or decrease in general fund appropriations;

3 (j) "Mandated program" means a research or public service activity that is not
4 integral to the instructional mission of the institution and is identified by the
5 General Assembly in the biennial budget;

6 (k) **"Nontraditional age students" means students between the ages of twenty-**
7 **five (25) and sixty-four (64);**

8 **(l)** "Performance fund" means the postsecondary education performance fund
9 established in subsection (13) of this section;[.]

10 **(m)**[~~(l)~~] "Research universities" means the University of Kentucky and the
11 University of Louisville;

12 **(n)**[~~(m)~~] "Stop-loss provision" means a provision included in the funding
13 formulas as described in subsection (9) of this section to limit reduction of an
14 institution's funding amount to a predetermined percentage, notwithstanding
15 the amounts calculated by operation of the formula; and

16 **(o)**[~~(n)~~] "University allocable resources" means the formula base amount net of
17 any small school adjustment as described in subsection (5)(c) of this section,
18 any amount protected by a hold-harmless provision, and any applicable
19 increase or decrease in general fund appropriations.

20 (2) The General Assembly hereby finds that improving opportunity for the
21 Commonwealth's citizens and building a stronger economy can be achieved by its
22 public college and university system focusing its efforts and resources on the goals
23 of:

24 (a) Increasing the retention and progression of students toward timely credential
25 or degree completion;

26 (b) Increasing the number and types of credentials and degrees earned by all types
27 of students;

- 1 (c) Increasing the number of credentials and degrees that garner higher salaries
2 upon graduation, such as science, technology, engineering, math, and health,
3 and in areas of industry demand;
- 4 (d) Closing achievement gaps by increasing the number of credentials and
5 degrees earned by low-income students, underprepared students, ~~and~~
6 ~~underrepresented~~~~minority~~ students, **and nontraditional age students**; and
- 7 (e) Facilitating credit hour accumulation and transfer of students from KCTCS to
8 four (4) year postsecondary institutions.
- 9 (3) (a) The General Assembly hereby declares these goals can best be accomplished
10 by implementing a comprehensive funding model for the allocation of state
11 general fund appropriations for postsecondary institution operations that
12 aligns the Commonwealth's investments in postsecondary education with the
13 Commonwealth's postsecondary education policy goals and objectives.
- 14 (b) The General Assembly further recognizes that priority for state general fund
15 appropriations for postsecondary institutions should be given to each
16 institution's funding floor over appropriations to the performance fund. For
17 purposes of this section, "funding floor" means an institution's fiscal year
18 2020-2021 general fund appropriation included in 2020 Ky. Acts ch. 92, plus
19 any fiscal year 2020-2021 distribution from the performance fund, and minus
20 fiscal year 2020-2021 debt service on bonds and appropriations for mandated
21 programs.
- 22 (4) This section establishes a comprehensive funding model for the public
23 postsecondary education system to be implemented by the Council on
24 Postsecondary Education. The funding model shall include a public university
25 sector formula and a KCTCS sector formula, **and shall not include any race-based**
26 **metrics or targets in the formulas.**
- 27 (5) The funding formula for the public university sector shall:

- 1 (a) Recognize differences in missions and cost structures between research
 2 universities and comprehensive universities to ensure that neither are
 3 advantaged or disadvantaged during the first full year of implementation;
- 4 (b) Distribute one hundred percent (100%) of the university allocable resources
 5 for all universities in the sector, based on rational criteria, including student
 6 success, course completion, and operational support components, regardless
 7 of whether state funding for postsecondary institution operations increases,
 8 decreases, or remains stable;
- 9 (c) Include an adjustment to minimize impact on smaller campuses as determined
 10 by the council; and
- 11 (d) Be constructed to achieve equilibrium, at which point the funding formula
 12 rewards rates of improvement above the sector average rate.
- 13 (6) Funding for the public university sector shall be distributed as follows:
- 14 (a) **Forty percent (40%)**~~[Thirty five percent (35%)]~~ of total university allocable
 15 resources shall be distributed based on each university's share of total student
 16 success outcomes produced, including but not limited to:
- 17 1. Bachelor's degree production;
- 18 2. ~~[Bachelor's degrees awarded per one hundred (100) undergraduate full-~~
 19 ~~time equivalent students;~~
- 20 3. ~~]~~Numbers of students progressing beyond thirty (30), sixty (60), and
 21 ninety (90) credit hour thresholds;
- 22 3.~~[4.]~~Science, technology, engineering, math, and health bachelor's degree
 23 production; and
- 24 4.~~[5.]~~Bachelor's degrees earned by low-income students and underrepresented
 25 ~~[minority]~~students;
- 26 (b) **Thirty percent (30%)**~~[Thirty five percent (35%)]~~ of total university allocable
 27 resources shall be distributed based on each university's share of sector total

- 1 student credit hours earned, excluding dual credit enrollment, weighted to
2 account for cost differences by academic discipline and course level, such as
3 lower and upper division baccalaureate, master's, doctoral research, ~~and~~
4 ~~doctoral professional,~~ **and nontraditional age students**; and
- 5 (c) Thirty percent (30%) of total university allocable resources shall be
6 distributed in support of vital campus operations as follows:
- 7 1. Ten percent (10%) shall be distributed based on each university's share
8 of Category I and Category II square feet, net of research, nonclass
9 laboratory, and open laboratory space, to support maintenance and
10 operation of campus facilities and may include a space utilization factor
11 as determined by the council in collaboration with the working group
12 established in subsection (11) of this section;
 - 13 2. Ten percent (10%) shall be distributed based on each university's share
14 of total instruction and student services spending, net of maintenance
15 and operation, to support campus administrative functions; and
 - 16 3. Ten percent (10%) shall be distributed based on each university's share
17 of total full-time equivalent student enrollment to support academic
18 support services such as libraries and academic computing.
- 19 (7) The funding formula for the KCTCS sector:
- 20 (a) Shall distribute one hundred percent (100%) of KCTCS institution allocable
21 resources for all KCTCS colleges based on rational criteria, including student
22 success, course completion, and operational support components, regardless
23 of whether state funding for postsecondary institution operations increases,
24 decreases, or remains stable;
 - 25 (b) May include an adjustment to account for **community economic**
26 **disadvantage**~~[declining enrollment]~~ in some regions of the Commonwealth as
27 determined by the council; and

- 1 (c) Shall be constructed to achieve equilibrium, at which point the funding
2 formula rewards rates of improvement above the sector average rate.
- 3 (8) Funding for the KCTCS sector shall be distributed as follows:
- 4 (a) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
5 be distributed based on each college's share of total student success outcomes
6 produced, including but not limited to:
- 7 1. Certificate, diploma, and associate degree production, *weighted to*
8 *provide a premium for credentials that are aligned with the economic*
9 *needs of the state;*
 - 10 2. Numbers of students progressing beyond fifteen (15), thirty (30), and
11 forty-five (45) credit hour thresholds;
 - 12 3. ~~[Science, technology, engineering, math, and health credentials~~
13 ~~production;~~
 - 14 4. ~~Production of high wage, high demand, industry credentials as~~
15 ~~determined using occupational outlook data and employment statistics~~
16 ~~wage data provided by the Department of Workforce Development in~~
17 ~~the Education and Labor Cabinet;~~
 - 18 5. ~~Production of industry credentials designated as targeted industries by~~
19 ~~the Education and Labor Cabinet;~~
 - 20 6. ~~]Credentials earned by low-income students, underprepared students,~~
21 ~~[and]underrepresented[minority] students, *and nontraditional age*~~
22 *students;* and
 - 23 *4.[7.]* Transfers to four (4) year institutions;
- 24 (b) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
25 be distributed based on each college's share of total student credit hours
26 earned, weighted to account for cost differences by academic discipline; and
- 27 (c) Thirty percent (30%) of total KCTCS institution allocable resources shall be

1 distributed in support of vital campus operations as follows:

- 2 1. Ten percent (10%) shall be distributed based on each college's share of
3 Category I and Category II square feet, net of research, nonclass
4 laboratory, and open laboratory space, to support maintenance and
5 operation of campus facilities and may include a space utilization factor
6 as determined by the council in collaboration with the postsecondary
7 education working group established in subsection (11) of this section;
- 8 2. Ten percent (10%) shall be distributed based on each college's share of
9 total instruction and student services spending, net of maintenance and
10 operation, to support campus administrative functions; and
- 11 3. Ten percent (10%) shall be distributed based on each college's share of
12 total full-time equivalent student enrollment to support academic
13 support services such as libraries and academic computing.

14 (9) (a) The funding formula for both sectors shall include:

- 15 1. A hold-harmless provision for fiscal year 2018-2019 preventing a
16 reduction in an institution's funding amount based solely on the formula
17 calculation, and allowing a hold-harmless amount determined by the
18 formula in fiscal year 2018-2019 to be deducted from an institution's
19 formula base amount in whole or in part in fiscal years 2019-2020 and
20 2020-2021, as determined by the council;
- 21 2. A hold-harmless provision for fiscal year 2021-2022, and every fiscal
22 year thereafter, preventing a reduction in an institution's funding amount
23 based solely on the formula calculation;
- 24 3. A stop-loss provision for fiscal year 2019-2020 limiting the reduction in
25 funding to any institution to one percent (1%) of that institution's
26 formula base amount;
- 27 4. A stop-loss provision for fiscal year 2020-2021 limiting the reduction in

- 1 funding to any institution to two percent (2%) of that institution's
2 formula base amount; and
- 3 5. A stop-loss provision for fiscal year 2021-2022, and every fiscal year
4 thereafter, limiting the reduction in funding to any institution to zero
5 percent (0%) of that institution's formula base amount.
- 6 (b) Paragraph (a) of this subsection shall not be construed to limit the level of a
7 budget reduction that may be enacted by the General Assembly or
8 implemented by the Governor.
- 9 (10) (a) By May 1 each year, the council shall certify to the Office of the State Budget
10 Director the amount to be distributed to each of the public universities and
11 KCTCS as determined by the comprehensive funding model created in this
12 section, not to exceed the available balance in the performance fund.
- 13 (b) The Office of the State Budget Director shall distribute the appropriations in
14 the performance fund for that fiscal year to the institutions in the amounts the
15 council has certified. The adjusted appropriations to each institution shall be
16 allotted as provided in KRS 48.600, 48.605, 48.610, 48.620, and 48.630.
- 17 (c) 1. The certified amounts distributed from the performance fund to the
18 institutions are nonrecurring funds that shall not be included in the
19 institutions' base budget amounts submitted in their biennial budget
20 requests.
- 21 2. The certified amounts distributed from the performance fund in the
22 previous fiscal year shall be included in the performance fund's base
23 budget amount submitted by the council in the biennial budget request.
- 24 (d) For fiscal year 2017-2018, the Office of the State Budget Director shall
25 distribute to the public postsecondary education institutions, except for
26 Kentucky State University, those funds appropriated to the performance fund
27 by the General Assembly in 2016 Ky. Acts ch. 149, Part I, K., 12., in

1 accordance with the comprehensive funding model created in this section.

2 (11) (a) The Council on Postsecondary Education is hereby directed to establish a
3 postsecondary education working group composed of the following:

- 4 1. The president of the council;
- 5 2. The president or designee of each public postsecondary institution,
6 including the president of KCTCS;
- 7 3. The Governor or designee;
- 8 4. The Speaker of the House or designee; and
- 9 5. The President of the Senate or designee.

10 (b) Beginning in fiscal year 2020-2021 and every three (3) fiscal years thereafter,
11 the postsecondary education working group shall convene to determine if the
12 comprehensive funding model is functioning as expected, identify any
13 unintended consequences of the model, and recommend any adjustments to
14 the model. The council may call the working group to convene prior to the
15 start of the required fiscal year to allow sufficient time for the group to
16 complete its work.

17 (c) The results of the review and recommendations of the working group shall be
18 reported by the council to the Governor, the Interim Joint Committee on
19 Appropriations and Revenue, and the Interim Joint Committee on Education
20 by December 1 of each fiscal year the working group convenes.

21 (12) The council shall promulgate administrative regulations under KRS Chapter 13A to
22 implement the provisions of this section.

23 (13) (a) The postsecondary education performance fund is hereby established as an
24 appropriation unit to support improvement in the operations of the public
25 postsecondary institutions and achievement of the Commonwealth's education
26 policy goals and workforce development priorities. General fund moneys may
27 be appropriated by the General Assembly to this fund for distribution to the

1 public postsecondary institutions in amounts determined through the
2 comprehensive funding model created in this section.

3 (b) Any balance in the performance fund at the close of any fiscal year shall not
4 lapse but shall be carried forward to the next fiscal year and be continuously
5 appropriated for the purposes specified in this section. A general statement
6 that all continuing appropriations are repealed, discontinued, or suspended
7 shall not operate to repeal, discontinue, or suspend this fund or to repeal this
8 action.

9 ➔Section 2. The Council on Postsecondary Education shall promulgate and file
10 an emergency administrative regulation, or amend a current administrative regulation, in
11 accordance with KRS Chapter 13A by April 1, 2024, or within 30 days of the effective
12 date of this Act, whichever is later, to implement Section 1 of this Act.

13 ➔Section 3. The postsecondary education working group established in
14 subsection (11) of Section 1 of this Act shall convene during the 2024 Interim for the sole
15 purpose of considering how to define "underrepresented students" in the comprehensive
16 funding model for the public postsecondary education system created in Section 1 of this
17 Act. By December 1, 2024, the Council on Postsecondary Education shall report the
18 recommendations of the working group to the Governor and to the Legislative Research
19 Commission for referral to the Interim Joint Committees on Education and
20 Appropriations and Revenue.

21 ➔Section 4. The Council on Postsecondary Education, for the fiscal year 2024-
22 2025 funding distribution in the comprehensive funding model created in Section 1 of
23 this Act, shall:

24 (1) Define "underrepresented students" as first-generation college students, and
25 shall distribute one and one-half percent of allocable resources to bachelor's degree
26 production in this area in the university model and one percent of allocable resources to
27 degree production in this area in the Kentucky Community and Technical College System

1 model; and

2 (2) Distribute nine and one-half percent of allocable resources to low-income
3 students in the university model and five percent of allocable resources in the Kentucky
4 Community and Technical College System model.

5 →Section 5. Whereas the General Assembly recognizes the need for the citizens
6 of Kentucky to be lifelong learners and realizes the necessity of postsecondary
7 institutions in assisting with that endeavor, an emergency is declared to exist and this Act
8 takes effect upon its passage and approval by the Governor or upon its otherwise
9 becoming a law.

Summary of Performance Funding Model Review and Recommendations
Postsecondary Education Working Group

Council on Postsecondary Education
December 1, 2023

Introduction

In 2023, pursuant to KRS 164.092 (11)(b), the Council on Postsecondary Education (CPE) convened a Postsecondary Education Working Group (PEWG) to conduct a comprehensive review of Kentucky's public university and Kentucky Community and Technical College System (KCTCS) funding models. That group, which was comprised of the Council president, public university presidents and KCTCS president, and state policymakers, is charged to come together every three years to determine if the funding models are functioning as expected, to identify any unintended consequences of the models, and to recommend adjustments to the models.

The working group met five times between January 25, 2023 and September 6, 2023 to conduct their review. During the course of those meetings, the group examined and discussed funding model components and metrics, campus and CPE staff responses to funding model surveys, performance fund appropriations and distributions, information about the financial impacts of the models, and trends in student outcomes before developing recommendations.

Review Summary

The key takeaways from the working group's review include the following:

- Overall, campus officials indicated that the funding models are functioning as expected and the models' goals, components, and metrics are well aligned with campus priorities
- The models have contributed to progress toward the state's 60x30 college attainment goal, which the state is on track to meet
- One unintended consequence was lack of state support for the models in early years of implementation, which resulted in redistribution of base funds among institutions and limited the models' effectiveness
- Establishing a funding floor 2020-21 and eliminating campus stop-loss carve outs (i.e., changes enacted based on 2020 work group recommendations) and recent state investment in higher education has facilitated operation of the models and helped narrow funding gaps within sectors
- Several universities indicated that sector weightings and metrics based on enrollment and size make it hard for comprehensive universities to compete with research institutions, but there was lack of consensus to adjust the model to address these issues
- Several institutions advocated making earned funds recurring to institutions, but this was seen as running counter to the recommendations of the 2020 working group
- Several universities and KCTCS supported the idea of adding a base funding component to the models to offset inflationary cost increases, but this was addressed outside the models through the Council's 2024-2026 budget recommendation
- Several universities advocated separate research and comprehensive sector models to account for mission differences, but there was lack of consensus to pursue this change

- CPE staff found that the models have addressed shortcomings of the previous funding method by recognizing changes in enrollment, program mix, and performance and that historical funding disparities among institutions are being rectified
- Kentucky is making great strides in all areas of degree production except for awards to low-income students, which could stem from the low-income degree premium being the lowest among bachelor's degree premiums
 - Between 2014 and 2021, the number of total bachelor's degrees awarded increased by 8 percent, the number of bachelor's degrees awarded in STEM+H fields grew by 28%, and the number awarded to URM students increased by 38%
 - During that same period, the number of bachelor's degrees awarded to low-income students decreased by -1.4%
- An unexpected outcome of the models is downward trends in the number of students reaching 30-credit-hour and 60-credit-hour progression thresholds, resulting from a general decline in enrollment that affected most Kentucky institutions
- Enrollment declines were caused by decreasing numbers of high-school graduates, falling college-going rates, and the impact of COVID-19
- The degree efficiency index used to weight bachelor's degree production in the university model created a disincentive to grow enrollment
- Over time, changes in formula share of resources among institutions have been gradual and incremental (i.e., there have not been drastic shifts in resources among institutions)
- In the KCTCS model, overlapping degree metrics (i.e., STEM+H, high-wage high-demand, targeted industries) created confusion since some degrees were counted several times
- Kentucky's funding models currently do not include metrics or incentives that encourage enrollment, progression, and completion of adult learners, but they should
- The state will not be able to achieve its 60x30 college attainment goal unless institutions expand efforts to target the adult learner population
- The KCTCS model should increase weightings for degrees earned by underrepresented minority students and underprepared students and should increase the weighting in the model for transfer students
- Increasing small school adjustments at KSU and MoSU by the amount of their respective 2023-24 hold harmless allocations would bring those institutions to funding parity with their peers and allow them to compete more effectively in the model
- Reallocating equity adjustment in the KCTCS model using a Community Needs Index would allow community colleges located in economically challenged regions (i.e., low income, high unemployment) an increased opportunity to earn performance funds

Recommendations

Work group members ultimately agreed to recommend a limited number of changes to the funding models. These changes are intended to build upon the successes of the current models and bring about incremental but constructive change going forward.

The work group recommends five changes to the university model:

- 1) *Increase Low-Income Degree Premium.* The university funding model currently allocates 3% of available resources for bachelor's degrees awarded to low-income students. The work group recommends an increase in this metric to 8% and a concomitant decrease in the earned-credit-hour component (i.e., from 35% to 30%).
- 2) *Add Adult Learner Metric.* The working group recommends that a new adult learner metric be added to the model by incorporating a new category of students into the earned-credit-hours component and assigning a weighting of 1.0 for hours earned by those students (i.e., in addition to resident, nonresident, reciprocity categories).
- 3) *Eliminate Degree Efficiency Index Weighting.* The current model uses an efficiency index to weight the number of bachelor's degrees produced at each institution. The intent was to provide an incentive for efficient bachelor's degrees production, but the index has not operated as intended due to declining enrollment at most institutions. The work group recommends eliminating the degree efficiency index in the university model.
- 4) *Increase Small School Adjustments at KSU and MoSU.* Since the model's first full year of implementation, KSU and MoSU have had negative hold harmless allocations and have not received a share of any performance distribution. Work group members agreed that adding current year hold harmless amounts to the small school adjustments at KSU and MoSU would help bring these institutions to funding parity with peers and allow them to compete more effectively in the model.
- 5) *Increase Nonresident Credit Hour Weighting.* The university model includes an earned credit hour component that assigns differential weightings based on student residency status. Currently, credit hours earned by resident and reciprocity students are assigned a weighting of 1.00 and hours earned by nonresident students are weighted at 0.50. The work group recommends increasing the weighting for nonresidents to 0.75, which will help institutions maintain enrollment and is better aligned with CPE's tuition policy.

The work group recommends six changes to the KCTCS model. These changes were all endorsed by KCTCS's college presidents:

- 1) *Add Adult Learner Metric.* KCTCS supports, and the work group recommends, that a new adult learner credential metric, comprising 4% of allocable resources, be added to the KCTCS model. In order for Kentucky to achieve its 60x30 college attainment goal, it is essential for KCTCS to increase the number of adult learners earning credentials.
- 2) *Reallocate Equity Adjustment Using Community Needs Index.* Currently, 10% of the KCTCS Adjusted Net General Fund is distributed to the 16 community colleges equally. The work group proposes that a Community Needs Index, which considers a service

region's level of poverty, unemployment, and labor participation rate, be used to allocate these funds.

- 3) *Increase Weightings for Targeted Student Populations.* KCTCS supports, and the work group recommends, increasing the metric weightings for credentials earned by URM, underprepared, and low-income students, and increasing the weighting for transfer students. Currently, each of these metrics is assigned a 2% weighting. KCTCS and the work group members recommend increasing the weightings to 4% for each metric.
- 4) *Reduce Weighting of Progression Metrics.* The work group proposes to reduce the weightings of progression metrics in the model from a total of 12% to 7%. This change will help accommodate increases in weightings for special populations (see #3 above).
- 5) *Merge Overlapping Credential Metrics.* The KCTCS model currently includes several categories of credentials that are assigned different allocation percentages (i.e., weighted credentials and STEM+H, high-wage high-demand, and targeted industry credentials). Some of the credentials are counted multiple times in separate categories (i.e., they overlap), which clouds incentives and causes confusion. KCTCS requests, and the working group recommends, that these overlapping metrics be merged into a single credential metric tied to the economy and that the total weighting be reduced from 15% to 8%. This change also accommodates increases in weightings for special populations.
- 6) *Use Three-Year Rolling Average Data.* The university model has used three-year rolling averages of metric data since the inception of performance funding. This practice has smoothed out year-to-year changes in the data and made funding outcomes more predictable. At this time, to bring about increased predictability and stability, KCTCS officials support, and the working group recommends that the KCTCS funding model be modified to allow use of three-year rolling averages for all metrics, except square feet.

Concluding Remarks

The first review of the funding models, conducted in 2020, established a funding floor for all institutions and eliminated stop-loss carve outs of campus base funds. This meant that, going forward, state appropriations rather than campus contributions would be the source of funding for the performance fund. In addition, distributed performance funds would no longer be recurring to institutions that earned the funds but would be recurring to the performance fund itself. These adjustments were not changes to the funding models, per se, but rather changes in the way the models are applied.

If authorized by the General Assembly, the recommendations of the 2023 working group cited above would constitute incremental but constructive changes to the funding models. These proposals, agreed to in their entirety by all stakeholders, represent the working group's best thinking on how to create financial incentives and leverage the funding models to advance state goals for postsecondary education. Work group members, therefore, respectfully request that policymakers accept the recommended adjustments and make the necessary changes in statute and regulation to implement those adjustments.



Kentucky Council on Postsecondary Education

Andy Beshear
Governor

100 Airport Road, 2nd Floor
Frankfort, Kentucky 40601
Phone: 502-573-1555
<http://www.cpe.ky.gov>

Aaron Thompson, Ph.D.
President

December 1, 2023

The Honorable Andy Beshear, Governor, Commonwealth of Kentucky
The Honorable Robert Stivers, President, Kentucky State Senate
The Honorable David Osborne, Speaker, Kentucky House of Representatives
The Honorable Stephen West, Co-Chair, Interim Joint Committee on Education
The Honorable James Tipton, Co-Chair, Interim Joint Committee on Education

Kentucky Leaders,

Pursuant to KRS 164.092 (11)(b), the Council on Postsecondary Education (CPE) convened a Postsecondary Education Working Group (PEWG) in calendar year 2023 to determine if the comprehensive funding models for the public universities and Kentucky Community and Technical College System (KCTCS) were functioning as expected, to identify any unintended consequences of the models, and to recommend any adjustments to the models. This letter communicates the recommendations of the PEWG, which was comprised of the Council president, the public university presidents and KCTCS president, and Cabinet Secretary John Hicks representing the Governor, Senator David Givens representing the President of the Senate, and Representative James Tipton representing the Speaker of the House.

The work group met five times between January 25, 2023 and September 6, 2023. During the course of those meetings, they reviewed and discussed trends in student success outcomes data, financial impact information, and campus and CPE staff responses to performance funding surveys before arriving at their recommendations. Work group members ultimately agreed to propose incremental changes to the models, which collectively will address many of the issues identified by the group during their review. For more information regarding the process and activities by which the working group conducted their review, methods and data sources used in the review, and the rationale for group recommendations see the attached Summary Report.

The working group recommends five changes to the university model:

- Increase the premium in the model for low-income bachelor's degrees from 3% to 8% of allocable resources, and reduce the credit hours earned component from 35% to 30%
- Add an adult learner metric to the model within the credit hours earned component

- Eliminate the degree efficiency index currently used to weight bachelor's degrees
- Modify the small school adjustments at KSU and MoSU to bring those institutions to funding parity with peers and allow them to fully compete in the model
- Increase the weighting for nonresident credit hours earned from 50% to 75% to help institutions maintain enrollment and better align the model with CPE's tuition policy

The work group recommends six changes to the KCTCS model. These changes were endorsed by KCTCS's college presidents:

- Add an adult learner metric to the model that rewards credential production and assign it 4% of allocable resources
- Reallocate the model's equity adjustment using a Community Needs Index that takes into account a service region's poverty and employment rates (10% of Formula Base)
- Increase weightings for credentials earned by URM, underprepared, and low-income students and increase the weighting for transfer students (from 2% each to 4% each)
- Reduce the total weighting of three student progression metrics from 12% to 7% to allow for increases in weightings described in the first and third bullets above
- Merge overlapping credential metrics (i.e., weighted credentials, STEM+H, high-wage high-demand, and targeted industries) into one credential metric tied to the economy and reduce the total weighting from 15% to 8% to clarify incentives, simplify the model, and accommodate increased weightings in the first and third bullets above
- Use rolling three-year average data for all metrics except square feet to provide additional stability to the model

The first review of the funding models, conducted in 2020, established a funding floor for all institutions and eliminated stop-loss carve outs of campus base funds. This meant that, going forward, state appropriations rather than campus contributions would be the source of funding for the performance fund. In addition, distributed performance funds would no longer be recurring to institutions that earned the funds but would be recurring to the performance fund itself. These adjustments were not changes to the funding models, per se, but rather changes in the way the models are applied.

If authorized by the General Assembly, the recommendations of the 2023 working group cited above would constitute incremental but constructive changes to the funding models. These proposals, agreed to in their entirety by all stakeholders, represent the working group's best thinking on how to create financial incentives and leverage the funding models to advance state goals for postsecondary education. Work group members, therefore, respectfully request that policymakers accept the recommended adjustments and make the necessary changes in statute and regulation to implement those adjustments.

In coming weeks, Council on Postsecondary Education staff will contact legislators and LRC staff regarding the working group's recommendations and will be available as needed to assist bill drafters and LRC staff to incorporate these changes into law.

I want to thank each of our campus presidents for their thoughtful advocacy on behalf of their respective institutions, and for their willingness to make helpful compromises. I also want to thank Senator David Givens, Representative James Tipton, and Executive Cabinet Secretary John Hicks for their thoughtful comments, patience, and support during this second review of Kentucky's comprehensive funding models.

I believe the proposed changes will allow our postsecondary institutions to continue making progress toward the state's college attainment goals, while providing additional stability during this challenging time for higher education.

Thank you,



Aaron Thompson
President, Council on Postsecondary Education

- C: University Presidents
KCTCS President
Senator David Givens, PEWG member
Secretary John Hicks, PEWG member
Senator Christian McDaniel, Chair, Senate Appropriations and Revenue Committee
Representative Jason Petrie, Chair, House Appropriations and Revenue Committee
Madison Silvert, CPE Chair
Carla Wright, OSBD staff
Jay Hartz, LRC Director

TITLE: Amendment to 13 KAR 2:120. *Comprehensive Funding Model for the Allocation of State General Fund Appropriations to Kentucky Community and Technical College institutions*

DESCRIPTION: CPE staff recommends the Council approve the emergency and regular amended administrative regulation titled *13 KAR 2:130. Comprehensive funding model for the allocation of state general fund appropriations to the Kentucky Community and Technical College System institutions*. The action would authorize staff to file the proposed administrative regulation and the General Counsel, pursuant to KRS 13A.290(4) and KRS 13A.320(1)(b), to make such changes on behalf of the Council as necessary to comply with KRS Chapter 13A and obtain adoption of the new regulation by the Administrative Regulation Review Subcommittee and the Interim Joint Committee on Education.

PRESENTER: Travis Powell, Vice President and General Counsel

BACKGROUND INFORMATION

On April 17, 2024, Governor Beshear signed SB 191 amending the comprehensive funding model for the allocation of state general fund appropriations for postsecondary institution operations. The bill requires revisions to the public university sector formula, the KCTCS sector formula, and provides the Council with authority to promulgate emergency and/or amended administrative regulations in order to implement the amended funding formulas. 13 KAR 2:130 implements the formula for the Kentucky Community and Technical College System institutions. SB 191 contains an emergency clause and therefore went into effect immediately, which put the performance funding regulations out of statutory compliance. Therefore, an emergency regulation filing is necessary to bring the regulations into compliance before the fiscal year 2024-2025 funding distributions are certified to the Office of State Budget Director by the May 1st statutory deadline.

SB 191 includes the changes recommended to the funding model by the Performance Funding Workgroup. In addition, SB 191 removes the underrepresented minority student metric from the model and requires that the 2% previously allocated to that metric be allocated equally to first generation college students and low-income students in fiscal year 2024-2025.

Highlights of these recommendations for the regulation include:

- An allocation of 1% to credentials earned by first generation college students.

- The use of a community needs index to weight performance on the production of credentials.
- An increase to the weightings for targeted student populations, including low-income students, and a reduction in the weighting of student progression metrics.
- The inclusion of a metric for non-traditional college age students.
- Inclusion of a Community Needs Index in order to determine equity adjustments for institutions.

SB 191 creates a new “underrepresented student” metric that will be defined by the Performance Funding Workgroup on or before December 1, 2024. That revised definition will be brought to the Council for approval for incorporation into the amended regulation and will be final in anticipation of the fiscal year 2025-2026 performance funding distribution.

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" ***consists of the Summer, Fall, and Spring terms***~~[means July 1 through~~
15 ~~June 30 and all terms completed therein].~~

16 (2) ***“Credentials” means 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 in order to determine eligibility for federal student financial aid.

5 (6) "First-generation college students" are students who report on the FAFSA that neither
6 parent has earned a college degree or credential, or one 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 ~~[fall semester credit hours~~
11 ~~earned divided by fifteen (15)]~~ academic year credit hours taken divided by 30.

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 students" means a student who has received a Federal Pell Grant at
3 any 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)(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" mean students who tested into developmental English,
2 math, or reading upon entering KCTCS ~~[at any period of enrollment]~~ since the 2010-11 academic
3 year.

4 ~~(20)~~ "Underrepresented ~~[minority]~~ students" mean first-generation college students. ~~[students~~
5 ~~who categorized themselves as Hispanic or Latino, American Indian or Alaska Native, Black or~~
6 ~~African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races.]~~

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

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

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

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

17 ~~(8)(10) **Two (2)** [Four (4)] percent based on the number of full-time and part-time~~
18 ~~undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in an~~
19 ~~academic year; and~~

1 ~~(9)~~~~[(11)]~~ **Four (4)**~~[(Six--(6))]~~ percent based on the number of full-time and part-time
2 undergraduate students reaching or surpassing forty-five (45) cumulative earned credit hours in an
3 academic year.

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

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

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

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

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

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

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

22 (2) The council shall determine hold-harmless amounts for institutions [~~in fiscal year 2018-~~
23 ~~2019]~~ through application of the formula established in this administrative regulation.

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

4 ~~[(4) The council shall apply these hold harmless allocations to all applicable institutions in
5 2018-2019 and in any subsequent years as directed by the General Assembly.]~~

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

7 (a) "KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors
8 Index", June 2017, is hereby incorporated by reference.

9 **(b) "Community Needs Index (CNI)", March 2024, is hereby incorporated by reference.**

10 **(c) "Credentials tied to the Economy", March 2024, is hereby incorporated by reference.**

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

APPROVED:

Date

Madison Silvert, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:

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 **April 30, 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 **April 30, 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 NOTE

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)", March 2024, is a 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", March 2024, is a 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.

STATEMENT OF EMERGENCY

13 KAR 2:130E

This emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute, specifically KRS 164.092(10) and SB 191 (2024 Regular Session), signed into law on April 17, 2024, and containing an emergency clause. In particular, Section 4 of SB 191 directs the Council on Postsecondary Education to make certain changes to the operation of the performance funding model created in KRS 164.092 that impact the 2024-2025 funding distribution. KRS 164.092(10)(a) requires that by May 1st of each year, the Council on Postsecondary Education certify to the Office of State Budget Director the amount of performance funding allocations to be distributed to each public university and KCTCS institution for the forthcoming fiscal year. All required changes require amendments to 13 KAR 2:120 and 13 KAR 2:130 and the normal administrative regulation amendment process would not conclude in nearly enough time for those changes to become effective for the 2024-2025 funding distribution. The emergency regulation administration will be replaced by an ordinary regulation and the ordinary regulation is identical to this emergency regulation.

Andy Beshear, Governor

Aaron Thompson, President
Council on Postsecondary Education

1 GENERAL GOVERNMENT CABINET

2 Council on Postsecondary Education

3 (Emergency Amendment)

4 **13 KAR 2:130E. 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" ***consists of the Summer, Fall, and Spring terms***~~[means July 1 through~~
15 ~~June 30 and all terms completed therein].~~

16 (2) ***“Credentials” means 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 in order to determine eligibility for federal student financial aid.

5 (6) "First-generation college students" are students who report on the FAFSA that neither
6 parent has earned a college degree or credential, or one 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 ~~[fall semester credit hours~~
11 ~~earned divided by fifteen (15)]~~ academic year credit hours taken divided by 30.

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 students" means a student who has received a Federal Pell Grant at
3 any 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)(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" mean students who tested into developmental English,
2 math, or reading upon entering KCTCS ~~[at any period of enrollment]~~ since the 2010-11 academic
3 year.

4 ~~(20)~~ "Underrepresented ~~[minority]~~ students" mean first-generation college students. ~~[students~~
5 ~~who categorized themselves as Hispanic or Latino, American Indian or Alaska Native, Black or~~
6 ~~African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races.]~~

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

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

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

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

17 ~~(8)[(10)] **Two (2)**[Four (4)] percent based on the number of full-time and part-time~~
18 ~~undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in an~~
19 ~~academic year; and~~

1 ~~(9)~~~~[(11)]~~ **Four** ~~(4)~~~~[(Six--(6))]~~ percent based on the number of full-time and part-time
2 undergraduate students reaching or surpassing forty-five (45) cumulative earned credit hours in an
3 academic year.

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

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

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

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

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

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

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

22 (2) The council shall determine hold-harmless amounts for institutions [~~in fiscal year 2018-~~
23 ~~2019]~~ through application of the formula established in this administrative regulation.

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

4 ~~[(4) The council shall apply these hold harmless allocations to all applicable institutions in
5 2018-2019 and in any subsequent years as directed by the General Assembly.]~~

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

7 (a) "KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors
8 Index", June 2017, is hereby incorporated by reference.

9 **(b) "Community Needs Index (CNI)", March 2024, is hereby incorporated by reference.**

10 **(c) "Credentials tied to the Economy", March 2024, is hereby incorporated by reference.**

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

APPROVED:

Date

Madison Silvert, Chair
Council on Postsecondary Education

APPROVED AS TO FORM:

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 **April 30, 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 **April 30, 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 NOTE

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)", March 2024, is a 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", March 2024, is a 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.

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 \(lmiontheweb.org\)](#)
 - 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.

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

