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Sequence Number: 10-18-13
Rule ID(s): 5593
File Date: 10/17/13
Effective Date: 3/31/14

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Tennessee Higher Education Commission
Division:	Higher Education
Contact Person:	Scott Sloan, General Counsel and Associate Executive Director for Legal & Regulatory Affairs
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1540-01-05	Public Higher Education Fee Discounts for Children of Licensed Public School Teachers and State Employees
Rule Number	Rule Title
1540-01-05-.01	Definitions
1540-01-05-.02	Eligibility
1540-01-05-.03	Limitations
1540-01-05-.04	Appeals Procedures
1540-01-05-.05	Repealed

Chapter 1540-01-05

Public Higher Education Fee Discounts
for Children of Licensed Public School Teachers and State Employees

Amendment

Rule 1540-01-05 is amended by inserting a "0" in the rule and/or chapter number throughout the rule where only a single digit is reflected to conform to Tenn. Comp. R. and Regs, 1360-01-01-.03(1)(a)1.(xi), which states there are to be no single digits on rule and chapter numbers.

Rule 1540-01-05-.01(7) is amended by deleting the current language in its entirety and substituting the following language so that as amended the rule shall read:

- (7) Maintenance fee: A fee charged to students enrolled in credit courses. It is an enrollment or registration fee and is calculated based on the number of student credit hours for which the student enrolls. Alternatively, at colleges of applied technology this term refers to program fees. Tuition does not include application for admission fees, student activity fees, debt service fees, lab fees, applied music fees, the cost of books or other course materials, dormitory charges, or meal plans.

Rule 1540-01-05-.01(9) is amended by adding a new Paragraph (9) defining "Retired Teacher" and renumbering the existing Paragraph (9) as a new Paragraph (10) defining "State operated institution of higher learning or Institution" so that as amended the rule shall read:

- (9) Retired teacher: A certified teacher as defined in this chapter who retires after a minimum of thirty (30) years of full-time creditable service in Tennessee public schools or who receives disability retirement after a minimum of twenty-five (25) years of full-time creditable service in Tennessee public schools.
- (10) State operated institution of higher learning or Institution: Any institution operated by the University of Tennessee or the Tennessee Board of Regents which offers courses of instruction beyond the high school level.

Authority: T.C.A. §§ 8-50-115, 49-7-119, 2013 Public Acts, Chapter 345, 2005 Public Acts, Chapter 447, and 2003 Public Acts, Chapter 136.

Paragraph (5) of Rule 1540-01-05-.02 Eligibility is amended by deleting the current language in its entirety and substituting the following language so that as amended the paragraph shall read:

- (5) At the time of enrollment, the student must present a completed form for children of teachers or state employees certifying eligibility to receive a tuition discount. This form must be signed by the teacher or state employee, his or her employer, and the student. Forms are available at the public higher education institutions or at the Commission's website <www.state.tn.us/thec>. Children of retired state employees and retired teachers must have this form signed by a designated official of the State Treasury Department, Division of Retirement to verify that the identified state employee or teacher has retired with the required number of years of creditable service. For children of state employees killed on the job or in the line of duty, the form must be signed by a designated official of the state agency at which the employee was last employed.

Authority: T.C.A. §§ 8-50-115, 49-7-119, and 2013 Public Acts, Chapter 345.

The vote by the Commission on these rules was as follows:

Commission Member	Aye	No	Abstain	Absent	Signature (if required)
Cato Johnson, Chair, Bartlett - 7th Congressional District	X				
Jon Kinsey, Vice-Chair, Chattanooga - 3rd Congressional District	X				
Evan Cope, Vice-Chair, Murfreesboro - 4th Congressional District	X				
A C Wharton, Jr., Secretary, Memphis - 9th Congressional District				X	
Tre Hargett, Secretary of State				X	
Justin P. Wilson, State Comptroller				X	
David H. Lillard, Jr., State Treasurer	X				
Greg Isaacs Knoxville - 2nd Congressional District				X	
Pam Koban, Nashville 5th Congressional District	X				
Charles W. Bone, Hendersonville 6th Congressional District	X				
Sharon L. Hayes, Brownsville - 8th Congressional District	X				
Adam Jarvis, voting ex- officio, East Tennessee State University	X				

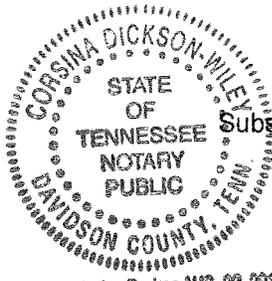
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Higher Education Commission on 07/25/2013, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 8 9 13

Signature: *Richard G. Rhoda*

Name of Officer: Richard G. Rhoda

Title of Officer: Executive Director



Subscribed and sworn to before me on: 08-09-13

Notary Public Signature: *Corrina Dickson-Wiley*

My Commission Expires AUG. 23, 2016

My commission expires on: 08-23-2016

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

10-14-13

Date

Department of State Use Only

Filed with the Department of State on: 10/17/13

Effective on: 3/31/14

Tre Hargett

Tre Hargett
Secretary of State

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STATE OF TENNESSEE

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rules affects small businesses.

The agency shall consider without limitation, certain methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety and well-being and those methods are as follows: the extent to which the proposed rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules; clarity, conciseness, and lack of ambiguity in the proposed rule or rules; the establishment of flexible compliance and/or reporting requirements for small businesses; the establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; the consolidation or simplification of compliance or reporting requirements for small businesses; the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule; and the unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Description of Proposed Rules

The Tennessee Higher Education Commission (THEC) intends to file the proposed rules pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing amending Chapter 1540-01-05 Public Higher Education Fee Discounts for Children of Licensed Public School Teachers and State Employees. It is the intent of THEC to promulgate these rules without a public rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days after the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Consistent with the terms of 2013 Public Acts, Chapter 345, the proposed rules allow children of retired teachers to receive a twenty-five percent tuition discount at state-operated institutions of higher learning, provided that the child is under twenty-four (24) years of age. Eligibility for the discount requires that the parent retired with thirty (30) years of full-time creditable service in Tennessee public schools, or received disability retirement after a minimum of twenty-five (25) service years.

The rules currently allow for children under twenty-four (24) years of age whose parent is employed as a full-time certified teacher in any public school in this state to receive a twenty-five percent discount on tuition to any state operated institution of higher learning.

Regulatory Flexibility Analysis - Methods of Reducing the Impact of Rules on Small Businesses

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

The proposed rules will not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

2. Clarity, conciseness, and lack of ambiguity in the rule or rules:

The proposed rules were patterned to ensure clarity and conciseness of the language of the rules and to eliminate possible ambiguity in the interpretation of the rules.

3. Flexible compliance and/or reporting requirements for small businesses:

The proposed rules were drafted to facilitate administration of the program for all Tennessee state public institutions of higher learning.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

THEC has met with and provided a copy of these rules to the Tennessee Board of Regents and the University of Tennessee system. No comments or concerns regarding these rules or the schedules

and deadlines for compliance and/or reporting requirements have been expressed by any of these entities.

5. Consolidation or simplification of compliance or reporting requirements:

The proposed rules were drafted to ensure solid, easily interpreted compliance and reporting requirements.

6. Performance standards for small businesses:

As these rules apply to state operated institutions of higher learning the proposed rules will not affect small businesses.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities.

Furthermore, the statute requires that the agency, as part of the rulemaking process for any proposed rule that may have an impact on small businesses, shall prepare an economic impact statement as an addendum for each rule. The statement shall include the following: the type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rules; the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record; a statement of the probable effect on impacted small businesses and consumers; a description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small businesses; a comparison of the proposed rule with any federal or state counterparts; and analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Economic Impact Statement

1. Types of small businesses directly affected:

Not Applicable. These rules affect only state operated institutions of higher learning.

2. Projected reporting, recordkeeping, and other administrative costs:

There are no significant reporting, recordkeeping, or other administrative costs that will result from the promulgation of these proposed rules.

3. Probable effect on small businesses:

Not Applicable. The proposed rules provide for a tuition discount available at state institutions to the children of current or retired teachers.

4. Less burdensome, intrusive, or costly alternative methods:

As these proposed rules present no foreseeable cost to small businesses, there is no alternative method to propose.

5. Comparison with federal and state counterparts:

There are no federal or state counterparts to the issues addressed by these proposed rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these proposed rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.”

The rules for the Public Higher Education Fee Discounts for Children of Licensed Public School Teachers and State Employees Chapter 1540-01-05, as proposed, shall have no projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The proposed rule acts to amend the Public Higher Education Fee Discounts for Children of Licensed Public School Teachers and State Employees Chapter 1540-01-05 as proposed rules. These rules currently provide for children under twenty-four (24) years of age whose parent is employed as a full-time certified teacher in any public school in this state to receive a twenty-five percent discount on tuition to any state operated institution of higher learning.

The proposed rules extends the twenty-five percent tuition discount available at state institutions to the children of retired public school teachers. Eligibility for the discount requires that the parent retired with thirty (30) years of fulltime creditable service in Tennessee public schools, or received disability retirement after a minimum of twenty-five (25) service years.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 49-7-119 allows for children under twenty-four (24) years of age whose parent is employed as a full-time certified teacher in any public school in this state to receive a twenty-five percent discount on tuition to any state operated institution of higher learning.

Tennessee 2013 Public Acts, Chapter 345, extends the twenty-five percent tuition discount available at state institutions to the children of retired public school teachers. Eligibility for the discount requires that the parent retired with thirty (30) years of full-time creditable service in Tennessee public schools, or received disability retirement after a minimum of twenty-five (25) service years.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee Higher Education Commission (THEC), the Tennessee Board of Regents, and the University of Tennessee system are most directly affected by these proposed rules.

THEC has met with, and/or provided a copy of the proposed rules to the aforementioned entities and has received no comments or concerns regarding the proposed rules.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no opinions of the Attorney General and reporter or any judicial ruling that directly relates to the rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There is no financial impact resulting from the proposed rule changes.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Scott Sloan, General Counsel and Associate Executive Director for Legal & Regulatory Affairs for the Tennessee Higher Education Commission

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Scott Sloan, General Counsel and Associate Executive Director for Legal & Regulatory Affairs for the Tennessee Higher Education Commission

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Scott Sloan, General Counsel and Associate Executive Director for Legal & Regulatory Affairs
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404 James Robertson Parkway
Nashville, TN 37243
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

There is none received to date.

**RULES
OF
TENNESSEE HIGHER EDUCATION COMMISSION**

**CHAPTER 1540-01-05
PUBLIC HIGHER EDUCATION FEE DISCOUNTS FOR CHILDREN
OF LICENSED PUBLIC SCHOOL TEACHERS AND STATE EMPLOYEES**

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1540-01-05-.01 DEFINITIONS.

- (1) Children under the age of twenty-four (24): Dependent children, twenty-three (23) years of age or younger, of certified public school teachers or employees of the State of Tennessee who are:
 - (a) The natural children or legally adopted children of the teacher or state employee.
 - (b) The stepchildren of the teacher or state employee living with the teacher or state employee in a parent/children relationship.
 - (c) Otherwise eligible and living in a parent/children relationship with the teacher or state employee, such as children of deceased parents who are being raised by a grandparent who is employed as a teacher or state employee.
 - (d) Children, as described in (a) through (c) above, of a teacher who died while employed as a public school teacher, and who are utilizing the benefit at the time of the parent/teacher's death.
- (2) Certified teacher in any public school in Tennessee or Teacher: Teacher, supervisor, principal, superintendent, and other personnel who is licensed by the Tennessee Department of Education or by a branch of the U.S. Armed Forces to teach Reserve Officer Training Corps, and employed by any local school system, for service in public, elementary and secondary schools in Tennessee supported in whole or in part by state funds. This term shall also include technology coordinators employed by any local school system, for service in public secondary schools in Tennessee supported in whole or in part by state funds.
- (3) Deceased state employee: Person who at the time of their death was a full-time employee of the State of Tennessee.
- (4) Full-time teacher or Teacher: School employee whose position requires them to be on the job on school days throughout the school year at least the number of hours during which schools in the local board of education are in session.
- (5) Full-time supervisors principal, superintendent, and other personnel: School employee who is licensed by the Tennessee Department of Education whose current assignments, regardless of their classification, requires his or her services each working day at least a number of hours equal to a regular working day.
- (6) Full-time employee of the State of Tennessee: Employee of the executive, judicial or legislative branches of Tennessee state government.

(Rule 1540-01-05-.01, continued)

- (a) classified as "full-time" and scheduled to work one thousand nine hundred and fifty (1,950) hours or more per fiscal year; or
 - (b) employees, regardless of classification, and scheduled to work one thousand six hundred (1600) hours per fiscal year and who receive employment benefits provided to all full-time employees.
- (7) Maintenance fee: A fee charged to students enrolled in credit courses. It is an enrollment or registration fee and is calculated based on the number of student credit hours for which the student enrolls. Alternatively, at ~~technology centers~~ colleges of applied technology this term refers to program fees. Tuition does not include application for admission fees, student activity fees, debt service fees, lab fees, applied music fees, the cost of books or other course materials, dormitory charges, or meal plans.
- (8) Retired state employee: Employee of the State of Tennessee who retires after a minimum of twenty-five (25) years of full-time creditable service, although he or she may be deceased at the time the children seeks the benefit provided by this chapter.
- (9) Retired teacher: A certified teacher as defined in this chapter who retires after a minimum of thirty (30) years of full-time creditable service in Tennessee public schools or who receives disability retirement after a minimum of twenty-five (25) years of full-time creditable service in Tennessee public schools.
- (910) State operated institution of higher learning or Institution: Any institution operated by the University of Tennessee or the Tennessee Board of Regents which offers courses of instruction beyond the high school level.

Authority: T.C.A. §§ 8-50-115, and 49-7-119, 2013 Public Acts, Chapter 345, 2005 Public Acts, Chapter 447, and 2003 Public Acts, Chapter 136; ~~and Public Chapter 447 of the Acts of 2005.~~ **Administrative History:** Original rule filed September 6, 1990; effective December 29, 1990. Amendment filed October 27, 1992; effective January 28, 1993. Amendment filed October 20, 1993; effective March 1, 1994. Amendment filed February 3, 2000; effective June 28, 2000. Repeal and new rule filed August 31, 2004; effective December 29, 2004. Public necessity rule filed June 3, 2005; effective through November 15, 2005. Amendment filed June 3, 2005; effective October 28, 2005. Public necessity rule filed September 1, 2005; effective through February 13, 2006. Amendment filed September 1, 2005; effective January 27, 2006.

1540-01-05-.02 ELIGIBILITY.

- (1) The successful applicant for a student fee discount must meet all of the following:
 - (a) Be twenty-three (23) years of age or under;
 - (b) Be a child of a teacher or state employee or deceased state employee in Tennessee as defined in this chapter;
 - (c) Be eligible according to the regulations in this chapter; and
 - (d) Be eligible for enrollment at the institution for which a student fee discount is sought according to the academic rules and regulations of the institution.
- (2) Eligible children may enroll in any number of courses up to and including full-time study.

(Rule 1540-01-05-.02, continued)

- (3) Fee discounts are only available for courses classified as undergraduate as defined by the institutions.
- (4) Eligibility for the discount will be based on the employment status of the teacher or state employee and the age of the child on the first day of classes for the term as determined by the institution. A change in employment status or the child's age after the first day of classes will affect eligibility for the discount only for subsequent terms.
- (5) At the time of enrollment, the student must present a completed form for children of teachers or state employees certifying eligibility to receive a tuition discount. This form must be signed by the teacher or state employee, his or her employer, and the student. Forms are available at the public higher education institutions or at the Commission's website <www.state.tn.us/thec>. Children of retired state employees and retired teachers must have this form signed by a designated official of the State Treasury Department, Division of Retirement to verify that the identified state employee or teacher has retired with a minimum of twenty-five (25) years with the required number of years of creditable service. For children of state employees killed on the job or in the line of duty, the form must be signed by a designated official of the state agency at which the employee was last employed.

Authority: T.C.A. §§ 8-50-115, ~~and 49-7-119~~, and 2013 Public Acts, Chapter 345. **Administrative History:** Original rule filed September 6, 1990; effective December 29, 1990. Amendment filed October 27, 1992; effective January 28, 1993. Amendment filed October 20, 1993; effective March 1, 1994. Amendment filed April 4, 1994; effective August 28, 1994. Repeal and new rule filed August 31, 2004; effective December 29, 2004.

1540-01-05-.03 LIMITATIONS.

- (1) Fee discounts will not be retroactive for prior terms. Fee discounts are available only by application and should be approved prior to the beginning of the term for which a discount is being sought.
- (2) The fee discount described by this chapter may not be used in conjunction with any other fee waiver or discount program. No eligible child shall receive a discount greater than twenty-five percent (25%) for any one term under the provisions of the programs described by this chapter.
- (3) The Higher Education Commission shall develop a methodology for allocating appropriations to reimburse institutions for actual fee discounts provided pursuant to this program.

Authority: T.C.A. §§ 8-50-115 and 49-7-119. **Administrative History:** Original rule filed September 6, 1990; effective December 29, 1990. Amendment filed October 27, 1992; effective January 28, 1993. Amendment filed April 4, 1994; effective August 28, 1994. Repeal and new rule filed August 31, 2004; effective December 29, 2004.

1540-01-05-.04 APPEAL PROCEDURES.

Appeals regarding the determination of eligibility of the applicant will be available in a manner consistent with institutional procedures now in place for admissions decisions.

Authority: T.C.A. §§ 8-50-115 and 49-7-119. **Administrative History:** Original rule filed September 6, 1990; effective December 29, 1990. Repeal and new rule filed August 31, 2004; effective December 29, 2004.

1540-01-05-.05 REPEALED.

Authority: T.C.A. §§ 8-50-115 and 49-7-119. **Administrative History:** Original rule filed September 6, 1990; effective December 29, 1990. Repeal and new rule filed August 31, 2004; effective December 29, 2004.