

# SHEEO State Authorization Inventory

## Kentucky

**Please note:** For purposes of this survey, the terms “authorize” and “authorization” are used generically to include approve, certify, license, regulate, recognize, empower, or similar actions relative to the operation, provision, or availability of postsecondary education in your state.

### 1. Agency and Contact Information

a. Agency Name: **Kentucky Council on Postsecondary Education**

○ Description:

The Council on Postsecondary Education has the statutory authority to license all nonprofit colleges and universities, including private degree-granting institutions, which operate in Kentucky, as well as proprietary, baccalaureate degree-granting institutions.

○ Contact:

Sarah Levy, J.D.  
Director of Postsecondary Licensing  
Council on Postsecondary Education  
1024 Capital Center Drive, Suite 320  
Frankfort, Kentucky 40601  
Tel: 502.573.1555, ext. 350  
Fax: 502.573.1535  
[sarah.levy@ky.gov](mailto:sarah.levy@ky.gov)

○ Please state who institutions should contact if they have questions about your agency’s authority, policies, or application process?

Please submit questions to:  
<https://cpe.custhelp.com/app/ask>

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- b. Links:  
 Link to agency: <http://cpe.ky.gov/institutions/>  
 Link to regulations: <http://www.lrc.ky.gov/kar/013/001/020.htm>
- c. The following agency also has responsibility for authorization in the state and was requested to complete a survey.  
 State Board for Proprietary Education
- d. If the division of responsibility among these agencies is not clear, please explain.  
 The State Board for Proprietary Education licenses for-profit institutions only offering below the bachelor's degree level.

## 2. Types of Educational Providers Authorized

- a. Please indicate the types of institutions that your agency authorizes, using the list below. Please answer "yes" or "no" to each item. Feel free to provide a short explanation of any ambiguity, including any necessary clarification of "in-state," "out of state," or other terminology.
- Yes Public, in-state degree granting institutions Public in-state institutions are authorized per different statutes than the postsecondary licensing statutes KRS 164.945-.947.
- Yes Public, out-of-state degree granting institutions
- Yes Private, in-state, not-for-profit degree granting institutions
- Yes Private, out-of-state, not-for-profit degree granting institutions
- Yes Private, in-state, for-profit degree granting institutions Except that if for-profit institution is only offering below bachelor's degree level, then institution is under jurisdiction of State Board for Proprietary Education instead.
- Yes Private, out-of-state, for-profit degree granting institutions Except that if for-profit institution is only offering below bachelor's degree level, then institution is under jurisdiction of State Board for Proprietary Education instead.
- Yes Public, in-state, non-degree granting institutions Public in-state institutions are authorized per different statutes than the postsecondary licensing statutes KRS 164.945-.947.
- Yes Public, out-of-state, non-degree granting institutions
- Yes Non degree, not-for profit institutions For example, certificate and diploma programs.
- \_\_\_ Non degree, for-profit institutions
- Yes Religious institutions
- \_\_\_ Tribally-controlled institutions

Clarifying comments:

b. Is an institution required to obtain approval from more than one agency to be authorized in your state (excluding purely programmatic approvals)? If so, please explain.

c. Is accreditation required for an institution to be authorized in your state?

No.

- If yes, please explain:
- If yes, what type of accreditation is required? Please, check all that apply as appropriate.

Regional  
 National  
 Programmatic/specialized

Clarifying comments:

d. Does your agency authorize specific academic programs offered by institutions or only institutions themselves?

The former. We license by institution, by site, and by program.

e. Programs in certain subject areas that may require separate approval.

**Education**

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Kentucky Education Professional Standards Board  
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**Nursing**

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### 3. Exemptions

- a. Are certain institutions or programs exempt by law or policy from your state authorization requirements?

No exemptions.

- If yes, please describe which institutions or programs the exemption applies to and how it works? If available, please provide any pertinent web links.
- If yes, how does the institution or program claim an exemption? For example, is the exemption automatic as long as it meets specified criteria, does the institution or program notify the agency and the exemption is granted, is there an application process, etc.?

- b. If an institution or program is exempt from state authorization, are there any other state requirements that an institution would need to fulfill in order to operate in your state (e.g., providing contact information, list of programs, etc.)?

No exemptions.

- c. Does your state constitution or do your state laws provide any exemptions for religious institutions?

No exemptions.

- Are all religious institutions exempt (please describe)?
- Are religious institutions that award only religious degrees or certificates exempt (please describe)?
- Are certain religious institutions exempt that meet other criteria (please describe)?

### 4. Authorization of Distance Education

- a. Does your agency require purely (100%) distance education programs, including online or correspondence study programs that enroll residents of your state, to be authorized without regard to physical presence?

No.

- b. If not, does your agency determine whether an institution must be authorized based on a physical presence or “operating” standard?

Yes.

## 5. Physical Presence Policy – Common “Triggers”

- a. If your agency uses a physical presence standard, how does your agency define physical presence? If available, please provide a link to that policy or a citation to the relevant regulation giving that standard.

Here is our general information:

The application for initial licensure can be found online:

[http://apps.cpe.ky.gov/licensure/FORM\\_OSCO\\_Application\\_for\\_Licensure\\_as\\_a\\_n\\_OutOfState\\_Institution\\_Online.doc](http://apps.cpe.ky.gov/licensure/FORM_OSCO_Application_for_Licensure_as_a_n_OutOfState_Institution_Online.doc)

Please note:

1) Applications are to be submitted in electronic format (CD, FTP site, SharePoint, etc.) rather than on paper to Ms. Sarah Levy whose contact information is provided below.

2) In lieu of completing Forms E and F of the application, you may submit faculty information in spreadsheet format, reference:

[http://apps.cpe.ky.gov/licensure/FORM\\_FAC\\_Faculty\\_information\\_Equivalent\\_to\\_Forms\\_E\\_and\\_F.xls](http://apps.cpe.ky.gov/licensure/FORM_FAC_Faculty_information_Equivalent_to_Forms_E_and_F.xls)

Also, here are links to:

- our licensing regulation <http://www.lrc.ky.gov/kar/013/001/020.htm>
- our fee schedule <http://www.cpe.ky.gov/NR/rdonlyres/28B0D28F-9FFD-4FD8-812F-DD1437D527D1/0/12FeeScheduleJan2010editioneff030510.pdf> .

Licensure is required for an out-of-state institution to operate or solicit in KY and offer online courses and programs to KY students. “Operating or soliciting” is defined in the licensing regulation 13 KAR 1:020 Section 1 (8):

(8) "Operating or soliciting" means having a physical presence within Kentucky and includes:

- (a) An instructional or administrative site within Kentucky whether owned, leased, rented, or provided without charge;
- (b) Instruction whether theory or clinical, originating from or delivered within Kentucky utilizing teachers, trainers, counselors, advisors, sponsors, or mentors;
- (c) An agent, recruiter, in-state liaison personnel, institution, or business located in Kentucky that advises, promotes, or solicits for enrollment, credit, or award of an educational or occupational credential;
- (d) An articulation agreement with a Kentucky licensed college or state-supported institution; or
- (e) Advertising, promotional material, or public solicitation in any form that targets Kentucky residents through distribution or advertising in the state.

If the institution will not be engaging in any of the “operating or soliciting” activities above (a-e), then please certify that in a letter to Ms. Sarah Levy’s attention for CPE’s review to determine if licensure is required or not. Letters may be scanned and submitted electronically.

If the institution does seek to operate or solicit in Kentucky and offer its online programs to KY students, then please contact Ms. Levy in order to go over some common questions about the application for licensure, before you submit the application.

Ms. Levy’s contact information:  
Sarah Levy, J.D.  
Director of Postsecondary Licensing  
Council on Postsecondary Education  
1024 Capital Center Drive, Suite 320  
Frankfort, KY 40601

Tel: 502.573.1555, ext. 350  
Fax: 502.573.1535  
<http://cpe.ky.gov/>

- b. Please specify whether any of the following activities would constitute a physical presence or signify “operating” in your state, assuming that the named activity is the institution’s sole activity in your state. **Please answer “yes” or “no” to each question. In addition you may provide a short explanation of any ambiguity.**
- Permitting a student to complete an internship, externship, field experience, or clinical practicum organized by the institution?  
**Yes, per 13 KAR 1:020 Section 1(8)(b).**
  - Does this apply only to distance education students or more generally?  
**Yes. Any internship, externship, field experience, or clinical practicum in Kentucky that is requirement of institution’s program triggers requirement for licensure by CPE per 13 KAR 1:020 Section 1(8)(b).**
  - Permitting a student to complete an internship, externship, field experience, or clinical practicum found by the student acting independently?  
**Yes. Any internship, externship, field experience, or clinical practicum in Kentucky that is requirement of institution’s program triggers requirement for licensure by CPE per 13 KAR 1:020 Section 1(8)(b).**
    - Does this apply only to distance education students or more generally?

Yes. Any internship, externship, field experience, or clinical practicum in Kentucky that is requirement of institution's program triggers requirement for licensure by CPE per 13 KAR 1:020 Section 1(8)(b).

- Employing full-time faculty in the state to provide instruction via distance education programs to students in the state?  
Yes per 13 KAR 1:020 Section 1(8)(b).
  - What about adjunct faculty?  
Yes per 13 KAR 1:020 Section 1(8)(b).
- Employing full-time faculty in the state to provide instruction via distance education programs solely to students outside of the state?  
In general, our consumer protection is for Kentucky students. Please contact Sarah Levy to make sure we understand the details of this scenario.
  - What about adjunct faculty?  
In general, our consumer protection is for Kentucky students. Please contact Sarah Levy to make sure we understand the details of this scenario.
- Having a contract/agreement between the institution and in-state institutions or in-state entities to provide services for students (i.e. library, gym, computer centers, etc.)?  
Yes, for example per 13 KAR 1:020 Section 1(8)(c).
- Organized, consistent, on-the-ground recruiting of students in the state by employees or agents of the institution?  
Yes.
  - What if the agent is only recruiting students in the state on an occasional basis (i.e. at job fairs)?  
Yes.
- Advertising in local media sources that are largely viewed by residents of the state?  
Yes. 13 KAR 1:020 Section 1(8)(e).
- Advertising in national media sources that can be accessed by residents of the state?  
No.
- Having computer servers or other equipment located in the state?  
Please contact CPE to discuss details.

- Hosting short term, face-to-face, seminars or conferences in the state where students meet in person?  
**Please contact CPE to discuss details.**
  - Employing mentors, tutors, or preceptors in the state to aid students, who are residents of the state, on an individual basis?  
**In general yes, but please contact CPE to discuss details.**
  - Requiring a student to take a proctored exam at a location or with an entity in the state prescribed by the institution?  
**Please contact CPE to discuss details.**
  - Requiring a student to take a proctored exam with an entity in the state chosen by the student but approved by the institution?  
**Please contact CPE to discuss details.**
  - Other [please explain]
- c. Of the activities or conditions listed above that alone would not constitute a physical presence, are there any that if combined would create a physical presence?  
**Please contact CPE to discuss details.**

## 6. Application Process

- a. Please provide a short description of the application process to obtain state authorization. If available, please provide web links to the specific references to all applicable state laws, regulations, manuals, forms, or other pertinent documents.  
**To request an application, or if you have additional questions, please complete Ask a Question form at <https://cpe.custhelp.com/cgi-bin/cpe.cfg/php/enduser/ask.php>**
- Also, see response to question 5.a. above.**
- b. Generally, how long does it take to approve applications (assuming that the agency has received all required information from the institution)? Please provide a typical range if appropriate.  
**Typically at a minimum 60 working days.**
- c. What is the authorization duration?  
**Typically one to two years.**

- d. What does an institution need to do to maintain authorization?  
**Stay in compliance with our licensing standards. Complete online annual application for renewal or maintenance of license. Submit enrollment, transfer, and degrees granted data in online summary level data submission system annually.**
- e. What kinds of information or data must an institution report to your agency as a condition for continued authorization? How frequently is this reported or updated? Is this information published or shared publicly?  
**Complete online annual application for renewal or maintenance of license. Submit enrollment, transfer, and degrees granted data in online summary level data submission system annually.**
- f. Can an institution lose its authorized status? If so, how?  
**Yes, failure to do items mentioned in d. above.**
- g. Can a multi-institutional system or college corporation apply to your agency for authorization on behalf of all of its component institutions? If so, please describe the process.  
**No.**
- h. Would multi-institution public systems be treated the same as multi-location for-profit institutions?  
**N/A. See g. above.**
- i. What distinctive features in your authorization process would be useful for applicants to know (e.g., certain times during the year that you process applications for authorization, sharing of applications or information about proposed programs with institutions or other stakeholders in your state for comment)?  
**Please contact Sarah Levy to schedule phone conference to go over the application.**
- j. Is your agency currently planning to amend its application process by the end of 2011?  
**No.**
- If yes, please provide a brief description of the anticipated change.
  - If yes, when does the agency expect the change to be fully implemented?

## 7. Fees Associated with Authorization

- a. Is there an application fee to initiate the authorization process? If so, what is the fee or fee schedule? Please provide a web link if available.

Yes.

<http://cpe.ky.gov/NR/rdonlyres/28B0D28F9FFD4FD8812FDD1437D527D1/0/12FeeScheduleJan2010editioneff030510.pdf>

\$1,000 in-state application, \$5,000 out-of-state application, plus program fees -- annual fees range from \$250-\$12,000 based on enrollment

- b. Are there any other costs associated with the state authorization process (e.g. site visits, hiring a reviewer, surety bond, tuition recovery fund, agent licensing, etc.)? Surety bond required for out-of-state institutions per 13 KAR 1:020 Section 8(3). Also, if site visit then site visit costs per 13 KAR 1:020 Section 4.

- c. What are the costs, if any, to renew authorization?

See fee schedule, depends upon enrollment.

<http://cpe.ky.gov/NR/rdonlyres/28B0D28F9FFD4FD8812FDD1437D527D1/0/12FeeScheduleJan2010editioneff030510.pdf>

- d. What costs are associated with receiving a waiver or exemption to authorization?

N/A.

## 8. Interstate Reciprocity

- a. Do your state regulations explicitly allow or prohibit interstate reciprocal agreements about authorization? If so, please describe.

Please contact Sarah Levy for information about the relationship of CPE's postsecondary licensing with the Southern Regional Education Board's Electronic Campus.

- b. What is the process, if any, to obtain a reciprocal agreement with your state?

See a.

- c. Are there any reciprocal agreements currently in place or under consideration? If so, please list those agreements.

See a.

- d. If interstate reciprocal agreements are not addressed in your regulations, would your agency consider establishing such agreements? Please elaborate.

See a.

## 9. Consumer Protection and Student Complaints

- a. Does your agency have a process for handling complaints about postsecondary institutions or programs?

Yes.

- If yes, please describe the process or provide a web link to the material that describes the complaint process.

13 KAR 1:020 Section 13 sets forth the consumer complaint procedure as follows:

**Consumer Complaint Procedure.** A person with a complaint or grievance involving misrepresentation against a college licensed under this administrative regulation shall make a reasonable effort to resolve the complaint or grievance directly with the college. If a mutually satisfactory solution cannot be reached, the procedures established in this section shall be followed.

(1) A person shall submit a written complaint to the president which contains evidence relevant to the complaint and documentation that a reasonable effort was made to resolve the complaint directly with the college.

(2) The president shall require an institution to file a written response setting forth acts concerning the consumer complaint, including a statement on the current status of the complaint, and any resolution of the complaint.

(3) The president shall review the facts as presented and may intervene to bring the matter to a satisfactory conclusion through facilitation, but the facilitation shall not include legal action on behalf of any party.

<http://cpe.ky.gov/policies/academicpolicies/licensure.htm>

- If yes, does this complaint process extend to institutions not authorized by the agency that may enroll residents of the state (such as explicitly distance education programs with no physical presence or exempt institutions)?

13 KAR 1:020 Section 13 applies to a college licensed by CPE. However, please check with Sarah Levy as she may be able to assist or be able to provide additional resource(s).

- If available, please provide a web link to the complaint form.  
Complaint must be in writing, but no specific complaint form required.

- Who is the contact person for receiving complaints? Please include name, title, address, phone, and email if available.

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- b. If your agency has no formal process for handling complaints related to postsecondary institutions, what state agency would handle a complaint?

## 10. Enforcement

- a. If your agency finds that an institution or program is operating in your state without authorization, what is the resulting warning or enforcement action?  
CPE notifies the institution (i.e., a cease and desist letter). See 13 KAR 1:020 Section 9. Failure to Apply for a License.
- b. Can an institution or program appeal a warning or enforcement action? If yes, please describe the process or provide web links to the regulations/policies.  
See 13 KAR 1:020 Section 14. Hearings and Appeals.

## 11. Legislative or Regulatory Changes

- a. Is your agency or state legislature planning to amend its regulations or alter its physical presence policy by the end of 2011?  
No.
  - If yes, please provide a brief description of the anticipated change.
  - If yes, when does the agency expect the change to be fully implemented?
- b. Is your agency or state legislature making changes in your state regulations or statutes so that institutions with locations in your state would be considered legally authorized in accordance with the federal institutional eligibility regulations?  
No.
  - If yes, please provide a brief description of the anticipated change.
  - If yes, when does the agency expect the change to be fully implemented?

- c. Is your agency or state legislature making any other changes in your state regulations or statutes with regard to state authorization?

No, not at this time.

- If yes, please provide a brief description of the anticipated change.
- If yes, when does the agency expect the change to be fully implemented?

**12. Is there anything else about the authorization process in your state that we and others ought to know about?**