

# ***Coordinating Board for Higher Education*** **Policy on Higher Education Student Funding Act Implementation**

## **Section 1. General Description and Intent**

Tuition is set by the governing board of each Missouri public institution of higher education. Governing board members have relationships with the institutions they represent that give them insight into the needs of the institution, state funding levels, and the extent to which students can be asked to contribute to the cost of their education.

State law, however, now provides for the Coordinating Board for Higher Education and the Commissioner of Higher Education to have some role in reviewing the tuition setting process. Institutions that increase tuition at rates that exceed the rate of inflation must either return a portion of their state appropriations to the state or must ask the Commissioner to waive the financial penalty in whole or in part.

This policy sets forth the statutory language on tuition increases, defines relevant terms, describes the procedures for seeking a waiver, and lists some of the factors the Commissioner may weigh in assessing institutions' waiver requests.

## **Section 2. Statutory Language**

173.1000. The provisions of sections 173.1000 to 173.1006 shall be known and may be cited as the "Higher Education Student Funding Act".

173.1003. 1. Beginning with the 2008-2009 academic year, each approved public institution, as such term is defined in section 173.1102, shall submit its percentage change in the amount of tuition from the current academic year compared to the upcoming academic year to the coordinating board for higher education by July first preceding such academic year.

2. For institutions whose tuition is greater than the average tuition, the percentage change in tuition shall not exceed the percentage change of the consumer price index or zero, whichever is greater.

3. For institutions whose tuition is less than the average tuition, the dollar increase in tuition shall not exceed the product of zero or the percentage change of the consumer price index, whichever is greater, times the average tuition.

4. If a tuition increase exceeds the limits set forth in subsections 2 or 3 of this section, then the institution shall be subject to the provisions of subsection 5 of this section.

5. Any institution that exceeds the limits set forth in subsections 2 or 3 of this section shall remit to the board an amount equal to five percent of its current year state operating appropriation amount which shall be deposited into the general revenue fund unless the

institution appeals, within thirty days of such notice, to the commissioner of higher education for a waiver of this provision. The commissioner, after meeting with appropriate representatives of the institution, shall determine whether the institution's waiver request is sufficiently warranted, in which case no fund remission shall occur. In making this determination, the factors considered by the commissioner shall include but not be limited to the relationship between state appropriations and the consumer price index and any extraordinary circumstances. If the commissioner determines that an institution's tuition percent increase is not sufficiently warranted and declines the waiver request, the commissioner shall recommend to the full coordinating board that the institution shall remit an amount up to five percent of its current year state operating appropriation to the board, which shall deposit the amount into the general revenue fund. The coordinating board shall have the authority to make a binding and final decision, by means of a majority vote, regarding the matter.

6. The provisions of subsections 2 to 5 of this section shall not apply to any community college unless any such community college's tuition for any Missouri resident is greater than or equal to the average tuition. If the provisions of subsections 2 to 5 of this section apply to a community college, subsections 2 to 5 of this section shall only apply to out-of-district Missouri resident tuition.

7. For purposes of this section, the term "average tuition" shall be the sum of the tuition amounts for the previous academic year for each approved public institution that is not excluded under subsection 6 of this section, divided by the number of such institutions. The term "consumer price index" shall mean the consumer price index for all urban consumers (CPI-U), 1982-1984 = 100, not seasonally adjusted, as defined and officially recorded by the United States Department of Labor, or its successor agency, from January first of the current year compared to January first of the preceding year. The term "state appropriation" shall mean the state operating appropriation for the prior year per full time equivalent student for the prior year compared to state operating appropriation for the current year per full time equivalent student for the prior year. The term "tuition" shall mean the amount of tuition and required fees, excluding any fee established by the student body of the institution, charged to a Missouri resident undergraduate enrolled in fifteen credit hours at the institution.

8. Nothing in this section shall be construed to usurp or preclude the ability of the governing board of an institution of higher education to establish tuition or required fee rates.

### **Section 3. Definitions and Acronyms**

- A. Academic year: The academic year shall include the fall and spring terms between August 1 and July 31 of one 365-day period.
- B. Average tuition: The sum of all included institutions' tuition for the current academic year divided by the number of included institutions. This figure will be determined by

adding the tuition of each public four-year institution and Linn State Technical College, then dividing by the number of included institutions. If any community college has tuition that exceeds the average tuition at public four-year institutions and Linn State Technical College, the average tuition shall be recalculated to include that community college's tuition.

- C. CBHE: The Coordinating Board for Higher Education.
- D. Commissioner: The Commissioner of Higher Education.
- E. Consumer price index or CPI: The consumer price index for all urban consumers, 1982-1984=100, not seasonally adjusted, as defined and officially recorded by the United States Department of Labor or its successor agency, for December of the current year compared to December of the previous year.
- F. Fee established by the student body of the institution: Any fee the amount of which has been approved by a majority of students who vote in a campus-wide election or by a majority of members of an officially recognized student government organization popularly elected by the students of an institution or a campus within a multi-campus system.
- G. Fine policy: The requirement that institutions that exceed the limitations on tuition increases set forth in §§ 173.1003.2 and .3, RSMo, remit an amount equal to 5% of their state operating appropriations to the state's general revenue fund, as set forth in § 173.1003.5, RSMo.
- H. FTE: Full time equivalent.
- I. Higher Education Student Funding Act: §§ 173.1000-1003, RSMo.
- J. Included institution: All institutions that offer four-year degree programs, Linn State Technical College, and any community college that charges out-of-district Missouri residents tuition that exceeds the average tuition.
- K. Institution: An approved public institution of higher education, as defined in § 173.1102, RSMo. An institution that is comprised of more than one campus at which the same level of degree is offered shall constitute one institution for purposes of calculating the average tuition and of seeking a waiver of the fine policy.
- L. MDHE: The Missouri Department of Higher Education.
- M. Mid-year tuition increase: Any ongoing increase in tuition that occurs after an institution has submitted its initial notice of tuition change to the MDHE, or any amended notices of tuition change related to the initial notice of tuition change, the duration of which extends beyond the end of the academic year in which it is initially imposed.
- N. Notice of tuition change: Written documentation indicating the tuition charged during the current academic year, the tuition that will be charged during the upcoming academic year, and the percentage change in the tuition charged during the current academic year compared to the tuition that will be charged during the upcoming academic year.

- O. State operating appropriation: The total dollar amount appropriated to an institution, exclusive of capital appropriations, by the Missouri legislature per year. This figure shall not include any amount withheld by the governor or the legislature.
- P. Temporary tuition surcharge: Any temporary increase in tuition that is assessed in addition to the amount indicated by an institution in its initial notice of tuition change, or in any amended notices of tuition change related to the initial notice of tuition change. The time period during which a temporary tuition surcharge is assessed shall not extend beyond the end of the academic year in which the surcharge is initially imposed.
- Q. Tuition: The amount an institution charges per semester for each of two semesters. Per-semester tuition shall be the average dollar amount an institution charges each Missouri resident undergraduate student enrolled in 15 credit hours plus each student's required fees; provided, however, that tuition shall include only the fees required of all undergraduate students and shall not include course-specific or program fees.
  - a. In the community college context, "tuition" means out-of-taxing-district Missouri resident tuition.
  - b. Tuition shall not include course-specific or program fees.
  - c. Tuition shall not include any "fee established by the student body of the institution," as that term is defined in section 3F of this policy, after the effective date of the Higher Education Student Funding Act.

#### **Section 4. Tuition Policy**

The Higher Education Student Funding Act provides for the following limitations on tuition increases:

(1) Institutions whose tuition is greater than the average tuition during the current academic year shall not increase tuition for the next academic year at a percentage rate that exceeds the percentage increase in the CPI or zero, whichever is greater.

(2) Institutions whose tuition is less than the average tuition during the current academic year shall not increase tuition for the next academic year in a dollar amount that exceeds the product of either zero or the percentage change in the CPI, whichever is greater, times the average tuition.

(3) A community college shall be required to abide by the limitations set forth in (1) and (2), above, only if its tuition is greater than or equal to the average tuition during the current academic year.

#### **Section 5. Procedures Relating to Tuition**

(1) The MDHE will provide written notice to all institutions indicating what the average tuition for the current academic year is by December 1 of each year. This notice will also list which institutions have higher than average tuition, which institutions have lower than average

tuition, and which institutions will be exempt from the requirements of the Higher Education Student Funding Act for the upcoming academic year.

(2) The MDHE will provide written notice to all institutions indicating what the CPI was for the previous year by January 16 of each year. (*NOTE: federal CPI data may be published after this date, in which case DHE will provide notice as soon thereafter as possible.*)

(3) Each institution must submit its notice of tuition change to the CBHE, via the Commissioner, on February 1, March 1, May 1, or July 1 before the start of the next academic year.

(4) Any institution that imposes a mid-year tuition increase and/or temporary tuition surcharge must provide a notice of tuition change reflecting the increase as soon as it is practically possible to do so.

a. If the mid-year tuition increase and/or temporary tuition surcharge plus the tuition initially indicated in the institution's notice of tuition change exceed the increase permitted by the Higher Education Student Funding Act, the institution must abide by the terms of this policy.

b. Because any mid-year tuition increase and/or temporary tuition surcharge will likely be associated with exigent circumstances, the Commissioner and the CBHE recognize that the timeline this policy sets forth for the normal appeals process may be too lengthy for mid-year appeals. The Commissioner and the CBHE will address mid-year appeals in as expeditious a manner as possible, and any institution seeking a waiver under this policy is expected to provide all required information in like manner. All parties will honor the intent of the timeline this policy sets forth for the normal appeals process, and adequate time for public comment, preparation of responses, consideration of arguments, and deliberation will be afforded.

c. If an institution imposes a **mid-year tuition increase**, the figure used to calculate the amount the institution may increase tuition the following year will be the amount indicated in the institution's initial notice of tuition change, or in any amended notices of tuition change related to the initial notice of tuition change, plus any mid-year tuition increase.

d. If an institution imposes a **temporary tuition surcharge**, the figure used to calculate the amount the institution may increase tuition the following year will be the amount indicated in the institution's initial notice of tuition change, or in any amended notices of tuition change related to the initial notice of tuition change, plus any mid-year tuition increase, but shall not include any amount attributable to a temporary tuition surcharge.

(5) The Commissioner will notify each institution, including community colleges, in writing that its notice of tuition change has been received, the date of such receipt, and whether its tuition increase triggers the provisions of § 173.1003, RSMo, within one business day after receiving the institution's notice of tuition change.

(6) Any institution that exceeds the limits set forth in the Higher Education Student Funding Act must remit 5% of its current year state operating appropriation to the state's general revenue

fund or must ask the Commissioner for a waiver of the fine policy. In either case, action must be taken no later than 30 calendar days after the institution submits its notice of tuition change.

(7) The waiver request must set forth each factor the institution contends supports its decision to increase tuition in excess of the limits set forth in the Higher Education Student Funding Act.

(8) After the Commissioner receives the waiver request, he/she will arrange to meet with the institution seeking a waiver at a time and place agreeable to all parties. This meeting should take place as soon as possible and may not take place more than 45 calendar days after the institution submits its request for a waiver.

(9) The Commissioner may ask an institution to submit additional written material before or after the meeting. Such requests from the Commissioner may include, among others, information regarding the areas of inquiry listed in section 6 of this policy.

(10) An institution requesting a waiver must provide all information requested by the Commissioner in a timely manner.

(11) All written materials, including but not limited to notices of tuition change and waiver requests, submitted to the Commissioner in connection with Higher Education Student Funding Act will be considered public information and will be posted on the MDHE's website. The MDHE website will specifically advise members of the public that they may submit written comments about any of the posted material to the Commissioner at any time before the meeting of the Commissioner and the institution requesting a waiver takes place. The Commissioner may determine the weight each comment should be afforded and may consider the comments in determining whether to grant a waiver. Copies of all comments must be provided to the institution requesting a waiver within one business day of the date the comment is received.

(12) Unless otherwise agreed, the meeting of the Commissioner and the institution requesting a waiver will be led by the Commissioner. The institution will have an opportunity to present its rationale for seeking a waiver and to address any comments received from the public. The Commissioner and/or his/her staff will have an opportunity to ask questions of the institution.

(13) The Commissioner will notify the institution whether he/she has determined that its tuition increase is sufficiently warranted within 20 calendar days of the meeting or within 20 calendar days after the institution has provided all information requested by the Commissioner, whichever is later. If the Commissioner finds that the tuition increase is not sufficiently warranted, such notice shall be in writing and shall state the reasons that such increase was deemed not sufficiently warranted. The notice will also inform the institution what percentage, if any, of its state operating appropriation the Commissioner recommends the institution should be required to remit to the state's general revenue fund.

(14) If the Commissioner determines that the tuition increase is not sufficiently warranted, the institution shall have 10 calendar days within which to submit an amended notice of tuition change and the rationale for the tuition rate set forth in the amended notice of tuition change, to agree to increase tuition only at the level permitted by the Higher Education Student Funding Act, or to maintain its original position. In any case, the institution shall notify the Commissioner

of its decision in writing within 10 calendar days after the Commissioner notifies the institution that the initial tuition increase is not sufficiently warranted.

- (15) If the institution submits an amended notice of tuition change:
- a. The Commissioner shall consider the amended notice of tuition change and the rationale for the tuition rate set forth in the amended notice of tuition change and shall meet with the institution if deemed necessary by the Commissioner.
  - b. The Commissioner will notify the institution whether he/she has determined that the tuition increase set forth in the amended notice of tuition change is sufficiently warranted within 20 calendar days of the meeting or within 20 calendar days after the institution has provided all information requested by the Commissioner, whichever is later.
  - c. If the Commissioner finds that the tuition increase is not sufficiently warranted, such notice shall be in writing and shall state the reasons that such increase was deemed not sufficiently warranted. The notice will also inform the institution what percentage, if any, of its state operating appropriation the Commissioner recommends the institution should be required to remit to the state's general revenue fund.
  - d. If the Commissioner determines that the tuition increase set forth in the institution's amended notice of tuition change is not sufficiently warranted, the institution shall have 10 calendar days within which to either agree to increase tuition only at the level permitted by the Higher Education Student Funding Act or to maintain the position indicated in its amended notice of tuition change. In either case, the institution shall notify the Commissioner of its decision in writing within 10 calendar days after the Commissioner notifies the institution that the amended tuition increase is not sufficiently warranted.
  - e. In no case may an institution submit more than one amended notice of tuition change per academic year.

(16) If the Commissioner determines that the tuition increase is not sufficiently warranted and the institution decides to maintain its original position rather than to increase tuition only at the level permitted by the Higher Education Student Funding Act, the Commissioner must notify the CBHE of his/her determination and recommendation as to what percentage of the institution's state operating appropriation the Commissioner recommends the institution should be required to remit to the state's general revenue fund.

(17) If the Commissioner determines that the tuition increase is not sufficiently warranted, the CBHE will determine what, if any, percentage of the institution's state operating appropriation must be remitted to the state's general revenue fund at its next regularly scheduled meeting or at a specially called meeting, by means of a majority vote of all CBHE members present at the meeting, whether present in person or by electronic means; provided, however, that no vote will be made on the matter unless a quorum is established. The institution will have an opportunity to present each factor it believes supports its decision to increase tuition to the CBHE. The CBHE's decision will be binding and final.

(18) If the CBHE votes to impose a fine, the fine shall be a percentage of the state operating appropriation for the fiscal year before the academic year during which the tuition increase will take effect. The fine shall be a one-time fine only. The institution shall remit the fine to the state's general revenue fund no more than 30 calendar days after the date the CBHE votes to impose a fine.

(19) All written material submitted by an institution in connection with the Higher Education Student Funding Act shall be submitted in electronic form.

(20) The Commissioner, at his/her discretion, may agree to extend any deadline described in this policy.

(21) Throughout his/her tenure, the Commissioner will be committed to addressing waiver requests in a timely manner. Failure by the Commissioner to meet any deadline described in this policy shall not, however, invalidate the process.

(22) This policy is not intended to inhibit institutions' ability to engage in conversations with the Commissioner, MDHE staff, or the CBHE about issues of interest to members of the higher education community, including tuition.

(23) The MDHE will request, and institutions will provide, information about the number of students enrolled at satellite or branch campuses, in online classes, or in distance education programs at each institution, and the tuition charged for each such type of education.

## **Section 6. Areas of Inquiry**

The Commissioner shall consider all written and verbal information provided by an institution in the waiver request process. Specifically, the Commissioner shall consider:

(1) The relationship between state appropriations and the consumer price index. State appropriations means the state operating appropriation for the prior year per FTE student for the prior year compared to the state operating appropriation for the current year per FTE student for the prior year; and

(2) Extraordinary circumstances.

In addition, the institution may also submit, or the Commissioner may request, information regarding topics included but not limited to:

(1) Mandatory costs that have increased at a rate that exceeds the CPI, including but not limited to increased costs incurred in connection with the implementation of new mandates or legal requirements.

(2) Historical trends in state operating appropriations, tuition policy, and other financial issues and relationships.

(3) Costs related to the institution's mission that require growth in revenues in excess of the CPI.

(4) Costs related to other initiatives designed to meet specific needs of the state of Missouri that require growth in revenues in excess of the CPI.



(5) The current and/or historical structure of the institution's total budget, including the institution's allocations for faculty and non-faculty salaries, institutional financial aid, student support, research, physical plant maintenance, and other operational activities.

(6) Damage, destruction, or deterioration of facilities, infrastructure, property, or other physical assets of an institution for which there are insufficient funds from state appropriations or insurance proceeds to repair or replace.

(7) Public comments about the material posted on the MDHE's website pertaining to the institution's waiver request.