



**Nonpublic Postsecondary Education Commission
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**Brian P. Kemp
Governor**

**Kirk Shook
Executive Director**

To: All Parties on the Nonpublic Postsecondary Education Commission's Policy Making Mailing List
All Interested Parties via Publication by the Nonpublic Postsecondary Education Commission

From: Georgia Nonpublic Postsecondary Education Commission
2082 E. Exchange Place
Tucker, GA 30084

Date: August 18, 2022

The Nonpublic Postsecondary Education Commission (NPEC) is continuing to take steps to update its currently promulgated policies to ensure that they are accurate and current. NPEC will hold its Quarterly Commission meeting on Monday, August 29, 2022 at 1pm at the Nonpublic Postsecondary Education Commission. At that meeting, the Commission intends to take the following steps.

The Commission will vote regarding amending the following policies:

Policy 2: Hearing and Review

1. Any person aggrieved by a decision of the executive director respecting:
 - a) denial of an authorization to operate, whether on initial application or application for renewal;
 - b) conditions placed on an authorization;
 - c) revocation of an authorization; or

- d) the imposition of a penalty by the executive director under O.C.G.A. § 20-3-250.21 shall have the right to a hearing and review of such decision under these procedures. O.C.G.A. § 20-3-250.15.
2. Pursuant to O.C.G.A. § 20-3-250.15(d), the Commission appoints the Office of State Administrative Hearing (OSAH) to conduct hearings for any persons aggrieved by decisions of the executive director.
 - a) The Executive Director shall provide notice to the aggrieved party of the hearing date, time, and location within 30 days pursuant to O.C.G.A. § 20-3-250.15(c).
 - b) The Executive Director, through OSAH, shall have the authority to change the hearing date, time, and location.
 3. Hearings shall be conducted by a hearing officer in accordance with the Administrative Rules of Procedure.
 4. The decision of the Office of State Administrative Hearings shall constitute an initial decision of the Commission.
 - a) An initial decision will become the final decision of the Commission following the conclusion of the next meeting of the Commission that falls more than thirty (30) days from the date of the issuance of the final decision, unless a majority of the Commission votes to issue a final decision different than the initial decision or votes to extend the review period of the initial decision to the next Commission meeting following the vote to extend the review period.
 - b) In reaching a Final Decision, the Commission may review any finding of fact, conclusion of law, or order contained in the Initial Decision. The Commission may review the complete record, including the transcript of the hearing and submitted exhibits. The Commission may also, at its sole discretion, request additional evidence from the parties. If the Commission requests further evidence, the Commission shall set forth a schedule and provide instructions regarding how the parties shall submit additional evidence.
 - c) The Commission shall serve its final decision on all parties no later than thirty (30) days from the issuance of the final decision, or, if applicable, the initial decision becoming the final decision of the Commission.

Policy 11: Change of Institution Ownership

"Owner" is defined in defined as O.C.G.A. § 20-3-250.2 (14). In the event of an ownership change, the following steps must be taken:

1. The new owner must within ten (10) business days of the official change of ownership, pay the \$500 Change in Ownership Fee and notify GNPEC of the change of ownership using the GNPEC Change of Ownership Form located on GNPEC's website at <https://gnpec.georgia.gov>.
 - A. If the new owner does not notify GNPEC by submitting the form and the fee within ten (10) days of the official change of ownership, the institution's authorization to operate shall terminate, and GNPEC will require the new owner to initiate the complete Initial Authorization Application along with a \$1000 Change of Ownership fee.
2. In accordance with O.C.G.A. § 20-3-250.8(f) the new owner must submit a complete Renewal of Authorization Application with all required fees (Annual Authorization and TGTF, if applicable) within thirty (30) calendar days of the official change of ownership.
 - A. Alternatively, if the new owner does not submit the Renewal of Authorization application and fees within (30) calendar days, the institution's authorization to operate shall terminate, and GNPEC will require the new owner to initiate the complete Initial Authorization Application along with a \$1000 Change of Ownership fee.

3. If the previous owner has already satisfied its obligation to the Tuition Guaranty Trust Fund, the new owner will assume the benefits derived thereafter. If the previous owner has already paid into the Tuition Guaranty Trust Fund, but has not satisfied the full commitment as set forth by O.C.G.A. § 20-3-250.27(c)(3), the new owner will still assume the benefits of the previous owner's payments, but will be required to pay into the Tuition Guaranty Trust Fund, on an annual basis, the remaining unpaid payments until all payments to fulfill the obligation have been made.
4. In accordance with O.C.G.A. § 20-3-250.27(c)(4) Following a change of ownership, a postsecondary educational institution may be required to participate in the fund for a period of up to seven years as determined by the executive director in his or her sole discretion.

Policy 13: Tuition Guaranty Trust Fund (TGTF) Claims

For a student to be eligible for TGTF Funds, all the following conditions must be met.

1. The student:
 - a) was enrolled in an institution that was authorized by GNPEC;
 - b) had been enrolled during the term of the institution's closure; and
 - c) has suffered a financial loss as a result of the institution failing to satisfy its educational obligations.
 - d) Claims must be made within six (6) months of the date the institution ceased operations.
2. Financial loss may include tuition, registration, general graduation, activity, or other fees that are required to be paid by all students where the institution did not complete the educational obligation or reimburse students (this includes advance payments). Additionally, increased costs resulting from lost transfer credit to a comparable program at another institution may be considered.
3. For all claims, an application for loan discharge must be made to the appropriate federal authority for any monies paid with Federal Financial Aid. Applications for discharge/reimbursement of Federal Financial Aid which have been denied may be submitted to GNPEC to request TGTF funds to cover those non-discharged amounts. Any TGTF reimbursement of funds shall be returned to the original source of the funds to assist in satisfying the student's outstanding loan balance rather than the TGTF funds being remitted to the student who incurred the loan obligation.
4. The Board of Commissioners of the Nonpublic Postsecondary Education Commission are responsible for making the final determination of the criteria qualifying "financial loss".

Procedure for Filing a TGTF Claim

1. Student must email a TGTF claim to info@gnpec.ga.gov within six (6) months of the official date of an institutional closure. Such initial notification to GNPEC of a potential TGTF claim must include, at a minimum:
 - a) Student name at time of enrollment, name of closed institution and campus, dates(s) of enrollment, valid email address and phone number, nature of request for reimbursement.
 - b) GNPEC will screen such submissions for preliminary eligibility determination. If GNPEC determines that the submission may state a valid basis for a TGTF claim, GNPEC will send the student the TGTF Claim Application form for the student to complete.
 - c) The student must return the TGTF Claim Application form within 30 days of the form being sent to the claimant via email. The following must be included with the submission of the TGTF Claim Application:

1. Documentation of financial loss as a result of the institutional closure to include the source(s) of payments, e.g., receipts from institution, loan documents, bank statements.
 2. Proof of enrollment at the institution, such as a transcript, during the term of the institution's closure.
 3. Enrollment Agreement (if available)
 4. Final student accounts ledger card from the institution.
 5. If reimbursement is requested for a minor or for someone other than the formerly enrolled student of the institution, such as payments made by a parent or guardian, the source of such payments as well as confirmation by the student of such payment made by the non-student is required.
2. GNPEC will make the final determination regarding the use of TGTF funds, following a review of the TGTF Board of Trustees.
- a) If approved, the student's information will be submitted for reimbursement processing in compliance with O.C.G.A. § 20-3-250.27(g)(4).
 - b) If denied, GNPEC will contact the student regarding which conditions for use of TGTF funds were not met.
 - c) Decisions of the TGTF Board of Trustees to pay or deny any claim may appeal to GNPEC in accordance with O.C.G.A. § 20-3-250.27(g)(5). Within 30 days after receiving a notice of appeal, the commission shall affirm the decision of the board of trustees, modify and affirm the decision of the board of trustees, or overrule the decision of the board of trustees. Any person aggrieved by the action of the commission shall have the right to judicial review pursuant to the provisions of Code Section 20-3-250.16.

Policy 14: Permitted Programming of Unaccredited Institutions

1. Any institution that is not institutionally accredited by an accrediting agency recognized by the United States Department of Education may not offer any degree in Georgia (including but not limited to associate, bachelor's, master's degrees and doctorate degrees).
2. For any unaccredited institution authorized to offer a graduate-level degree in Georgia or which has submitted a materially complete application for authorization, as determined by the Commission in its sole discretion, to offer a graduate-level degree in Georgia prior to July 1, 2020, that institution will have until July 1, 2023 to obtain accreditation with an institutional accrediting agency recognized by the United States Department of Education or be a candidate for accreditation status with an institutional accrediting agency recognized by the United States Department of Education and, in the sole determination of GNPEC, showing substantial progress toward becoming fully institutionally accredited by July 1, 2024.
3. For any unaccredited institution authorized to offer a degree in Georgia prior to August 29, 2022, that institution will have until July 1, 2025 to obtain accreditation with an institutional accrediting agency recognized by the United States Department of Education or be a candidate for accreditation status with an institutional accrediting agency recognized by the United States Department of Education and, in the sole determination of GNPEC, showing substantial progress toward becoming fully institutionally accredited by July 1, 2026.
4. An accredited institution will not be permitted to offer any degree program that is not directly included as part of its institutional accreditation or other programmatic accreditation recognized by the United States Department of Education.

Policy 16: Surety Bond and Letter of Credit Forms and Requirements

1. Pursuant to Code Section 20-3-250.8(a) Each nonpublic postsecondary educational institution desiring to operate or conduct postsecondary activities in this state shall make application to the commission, upon forms to be provided by the commission.
2. In accordance with O.C.G.A. § 20-3-250.10, an initial or renewing applicant for authorization to operate *may* be required to file with the executive director a good and sufficient surety bond with at least a B+ bond rating by a recognized bond rating agency in such sumas determined by the Commission in accordance with the bond amount schedule. As of July 1, 2022, required bond amounts are as follows:

<u>Gross Tuition</u>	<u>Minimum Bond</u>
\$ 0.00 -- \$ 50,000.00.....	\$ 20,000.00
50,001.00 -- 100,000.00.....	30,000.00
100,001.00 -- 200,000.00.....	50,000.00
200,001.00 -- 300,000.00.....	75,000.00
300,001.00 -- 400,000.00.....	100,000.00
400,001.00 -- 500,000.00.....	150,000.00
500,001.00 -- 1,000,000.00.....	250,000.00
1,000,001.00 -- 2,000,000.00	350,000.00
2,000,001.00 – 5,000,000.00.....	500,000.00
5,000,001.00—10,000,000.00.....	750,000.00
10,000,001.00 and over.....	1,000,000.00

The required bond amounts are subject to change from time to time by commission vote.

Pursuant to statute and this Policy, the bond must be provided to GNPEC in substantial conformance with the form attached hereto as Exhibit “A,” and incorporated herein by reference.

3. These forms may be updated from time to time by the Commission to reflect revisions to statute and to make administrative revisions.
4. The Executive Director is authorized, in his or her sole discretion, to require an applicant to file with the commission a surety bond if a financial assessment includes findings or notes raising concern about such applicant’s institutional internal controls or recommends that such applicant be placed on financial monitoring status.
5. An institution’s failure to maintain a surety bond as set forth herein will result in suspension and/or termination of its authorization to operate, in accordance with O.C.G.A. § 20-3-250.10 and a determination by the Executive Director in accordance with applicable law and agency policies.

Exhibit A

**State of Georgia
Nonpublic Postsecondary Education Commission**

NONPUBLIC POSTSECONDARY EDUCATIONAL INSTITUTION BOND

Bond No. _____
(To be Assigned by Surety)

Know All Men By These Presents, that we _____
(Name of Principal - i.e. Name of Postsecondary Institution)

located at _____
(Address of Principal)

as Principal and _____, a corporation of the State of _____
(Name of Surety)

lawfully doing business in the State of Georgia, as Surety, are held and firmly bound unto the State of Georgia for the use and benefit of any person or governmental subdivision or trust fund of the State of Georgia which may suffer expense or damage through the breach of this bond in the penal sum of \$ _____ for which sum well and truly to be paid to the State of Georgia, its certain attorneys or assigns, any student or enrollee or his or her parent or guardian, or class thereof, said Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas, the above bounden Principal, a "postsecondary educational institution" as that term is defined in the "Nonpublic Postsecondary Educational Institutions Act of 1990," O.C.G.A. § 20-3-250.1, et. seq. (GA Laws 1990, pp. 1166-1200; 1991, pp. 687-691, 980-981), desires to operate its institution at the above-stated location as authorized by and in conformity with the provisions of said Act and all rules and regulations promulgated by the Nonpublic Postsecondary Education Commission thereunder, and

Whereas, said "Nonpublic Postsecondary Educational Institutions Act of 1990" requires the filing of a blanket bond in the penal sum of \$ _____ (as determined by the formula in O.C.G.A. § 20-3-250.10 (b)) before a 'Certificate of Authorization' can be issued to the institution.

Now, Therefore, The Condition Of This Obligation is that if neither the Nonpublic Postsecondary Educational Institutions Act of 1990 nor any rule or regulation adopted pursuant thereto shall be violated by the institution or any of its officers, agents, or employees, or if the parties shall promptly pay all damages or expenses which the State, or any governmental subdivision thereof, or any person may sustain resulting from any such violation, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

1. The aggregate liability of the Surety shall not exceed the sum amount of the required bond on all breaches of the condition of the bond by the institution | and its officers, agents, or employees, nor shall the penal sum of the bond be considered cumulative from year to year.
2. The Surety shall have the right to cancel this bond at any time by a written notice, stating when the cancellation shall take effect and served or sent by registered mail to the Nonpublic Postsecondary Education Commission at least thirty (30) days prior to the date that the cancellation becomes effective, but said Surety so filing said notice shall not be discharged from any liability already accrued under this bond or which shall accrue hereunder before the expiration of said thirty (30) day period.
3. Without limiting the effect of any other provision herein which is not in conflict therewith, this bond is to be construed as a statutory bond under the provision of O.C.G.A. § 20-3-250.1, et. seq., the Nonpublic Postsecondary Educational Institutions Act of 1990.
4. This obligation shall be effective beginning _____, 20____ and ending _____, 20____.

Signed and sealed this _____ day of _____, 20____

Attest

(Seal)

By _____

Attest

(Seal)

By _____

Interested persons may submit written comments to Kirk Shook, Executive Director, Georgia Nonpublic Postsecondary Education Commission, 2082 East Exchange Place, Tucker, Georgia 30084- 5305, info@gnpec.ga.gov. All written comments must be received by 9:00 a.m. on Monday, August 29, 2022. Interested persons may also participate in the proposed policy making by presenting comments orally at a public hearing to commence at 1:00 p.m. on August 29, 2022 at the Nonpublic Postsecondary Education Commission at the Quarterly Commission Meeting.

Oral presentations at the hearing may be limited to five (5) minutes per person in order to afford all interested persons an opportunity to be heard. If you have a physical impairment and require assistance or have any questions regarding this notice, please contact the Nonpublic Postsecondary Education Commission.

Based upon full consideration of all written and oral comments regarding the above matters, the Commission may reject or adopt the proposed policies or may make changes to the proposed policies.

The Commission intends to consider these matters at a Quarterly Commission Meeting at 1:00 p.m. on August 29, 2022 at the Nonpublic Postsecondary Education Commission.

Direct all written correspondence to:

Kirk Shook, Executive Director
Georgia Nonpublic Postsecondary Education Commission
2082 East Exchange Place
Tucker, Georgia 30084-5305
info@gnpec.ga.gov