

Proposed Rules
of
The Tennessee Board of Regents
State University and Community College System of Tennessee
Austin Peay State University

Chapter 0240-3-1
Student Disciplinary Rules

Presented herein are proposed amendments of the Tennessee Board of Regents submitted pursuant to Tennessee Code Annotated, §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Board of Regents to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in Suite 350 of the Genesco Park Building located at 1415 Murfreesboro Road, Nashville, TN 37217 and in the Department of State, Eighth Floor, William R. Snodgrass Tower, 312 Eighth Avenue, North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Mary M. Slater, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217, Tennessee Board of Regents, 615-366-4437.

The text of the proposed amendments is as follows:

Amendments

1. Subparagraph (c) of paragraph (2) of Rule 0240-3-1-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting the following language, so that, as amended, subparagraph (c) shall read:

- (c) Disorderly conduct. Any individual or group behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs other groups or individuals (this may include inappropriate behavior resulting from the use of or being under the influence of alcoholic beverages or drugs, inappropriate use of electronic devices that violates the privacy of another individual, such as the use of a web camera or other photographic device without the knowledge of the individual being photographed, etc.).

2. Subparagraph (f) of paragraph (2) of Rule 0240-3-1-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph and substituting the following language, so that, as amended, subparagraph (f) shall read:

- (f) Theft, misappropriation, or unauthorized sale. Any act of theft, misappropriation, or unauthorized possession, use or sale of institution property or any such act against a member or organization of the institution community or a guest of the institution.

Authority: T.C.A. § 49-8-203.

3. Paragraph (4) of Rule 0240-3-1-.03 Academic and Classroom Misconduct is amended by deleting the text of the paragraph and substituting the following language, so that, as amended, paragraph (4) shall read:

- (4) Disruptive behavior in the classroom may be defined, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of students and professors, repeated outbursts from a student which disrupt the instruction or prevent concentration on the subject taught, failure to cooperate in maintaining classroom decorum, the presence of non-enrolled visitors in the classroom [see APSU Policy No. 3:032, Minors on Campus Policy], etc.), the continued use of any electronic or other noise or light emitting device which disturbs or interrupts the concentration of others (e.g., disturbing noises from beepers, cell phones, palm pilots, lap-top computers, games, etc.).

Statutory Authority: T.C.A. § 49-8-203.

4. Part 2. of subparagraph (d) of paragraph (1) of Rule 0240-3-1-.05 Disciplinary Procedures is amended by deleting the text of part and substituting the following language, so that, as amended, part 2. shall read:

2. All other formal cases shall be heard by the Dean of Students, or appropriate designee, except in cases where such staff is not available or has a bias toward either party in the pending case. In such cases the Chief Student Affairs Officer, or designee, shall assign one or more Student Affairs Administrators to hear the case.

5. Part 4. of subparagraph (b) of paragraph (4) of Rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the text of the part and substituting the following language, so that, as amended, part 4. shall read:

4. The Dean of Student Affairs shall train all regular and alternate members and advise this Board in appropriate disciplinary procedures.

6. Subparagraph (b) of paragraph (5) of Rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the text of the subparagraph and substituting the following language, so that, as amended, subparagraph (b) shall read:

- (b) In any case where the decision results in separation from the University, the decision shall be reviewed by the Chief Student Affairs Officer, or designee, prior to notifying the Office of the Registrar and the appropriate Academic Department in which the student has been enrolled.

7. Subparagraph (d) of paragraph (5) of Rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the text of the subparagraph and substituting the following language, so that, as amended, subparagraph (d) shall read:

- (d) An appeal in writing setting forth grounds for the appeal and addressed to the appropriate appellate authority (as outlined in the next section) must be received in the Office of the Chief Student Affairs Officer, or designee, within three (3) class days after the student is notified of the sanction imposed at any hearing or appellate level.

8. Subparagraphs (a) and (b) of paragraph (6) of Rule 0240-3-1-.05 Disciplinary Procedures are further amended by deleting the text of the subparagraphs and substituting the following language, so that, as amended subparagraphs (a) and (b) shall read:

- (a) A decision by a Student Affairs Administrator may be appealed to the Chief Student Affairs Officer, or designee.

- (b) A decision by the University Hearing Board may be appealed to the Chief Student Affairs Officer, or designee.

9. Paragraph (7) of Rule 0240-3-1-.05 Disciplinary Procedures is amended by deleting the text of the first paragraph and substituting the following language, so that, as amended, the first paragraph under Paragraph (7) shall read:

- (7) Appellate Authority. The Chief Student Affairs Officer, or designee, shall have the authority to do any of the following upon review of an appeal:

10. Subparagraph (c) of paragraph (8) of Rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the text of the subparagraph and substituting the following language, so that, as amended, subparagraph (c) shall read:

- (c) Sanctions Against Student Organizations. Any registered student organization may be given a reprimand, be placed on probation, suspension, and/or restriction or may have its registration withdrawn by the Dean of Students, or by another Student Affairs Administrator appointed by the Chief Student Affairs Officer, or designee. Such actions may be taken after having a hearing conducted in accordance with the procedures outlined in this document for disciplinary procedures. In the case of Withdrawal of Registration of an organization, the procedures to be used will be the contested case provisions of the Tennessee Uniform Administrative Procedures Act, unless those provisions have been waived in writing by an authorized representative of the student organization. Such action may be taken for any one of the following reasons:

Authority: T.C.A. § 49-8-203.

11. Subparagraph (e) of paragraph (2) of Rule 0240-3-1-.07 Traffic and Parking Regulations is amended by deleting the text of the subparagraph, so that, as amended, subparagraph (e) shall read:

- (e) Austin Peay State University acknowledges that there are a limited number of parking spaces within the immediate vicinity of many facilities. Notwithstanding, there are a sufficient number of total spaces on campus grounds and adjacent city streets for everyone to park legally. Possession of a valid parking decal provides the recipient a right to secure available, legal parking on campus - it is not a guarantee for parking in particular locations or in particular categories of spaces. The limited number of designated spaces for visitors, residence hall students, faculty/staff and disabled persons mandates stringent enforcement of parking regulations. Everyone is encouraged to respect the rights of others, and to allow sufficient time, usually a maximum of 5-10 minutes, to walk from available parking spaces to classrooms or facilities. A security escort service is available to students by calling Campus Police at 221-7786.

Paragraph (2) of Rule 0240-3-1-.07 Traffic and Parking Regulations is further amended by adding a new subparagraph (h). New subparagraph (h) shall read:

- (h) A campus access fee will be charged to all main-campus students. The campus access fee is included in the general access fee on the students' statement of account. All University employees will be charged a campus access fee for each issued parking decal.

13. Subparagraphs (a) through (d) of paragraph (3) of Rule 0240-3-1-.07 Traffic and Parking Regulations are further amended by deleting the text of the subparagraphs and substituting the following language, so that, as amended, subparagraphs (a) through (d) shall read:

- (a) Faculty and Staff Spaces. These spaces are also authorized for those with visitor passes and disabled decals at all hours. Parking in faculty/staff spaces is not enforced on days when the University is officially closed (weekends, holidays, etc.), and not enforced from 5:00 p.m. through 6:00 a.m. when school is in session. Faculty/staff spaces associated with any on-campus faculty/staff housing, however, are enforced on a twenty-four (24) hour basis.
- (b) Residence Hall Student Spaces. These spaces are enforced on a twenty-four (24) hour basis whether classes are held or not. Only those with valid residence hall parking decals, valid disabled parking decals, and visitor passes issued only by Public Safety/Campus Police expressly for that category, are authorized to park in those spaces. Residence hall spaces will be broken into further color-coded categories, and resident students may only park in the colored-coded spaces that are associated with their residence hall. When necessary, specific parking. Specific parking spaces will be designated in commuter lots for overflow residence hall parking.
- (c) Commuting Students and Married Housing Spaces. These spaces are also authorized for visitors with passes, those with disabled parking decals, and residence hall parking decal holders only in specific lots. Commuting spaces are enforced only between the hours of 6:00 a.m. and 5:00 p.m. on days when classes are in session.
- (d) Visitor Spaces. Visitor spaces will not be issued to or used by current faculty, staff, or students. Visitor spaces are enforced between the hours of 6:00 a.m. and 5:00 p.m. on days when classes are in session.

14. Paragraph (3) of Rule 0240-3-1-.07 Traffic and Parking Regulations is further amended by adding a new subparagraph (f). New subparagraph (f) shall read:

- (f) Yellow curbs and yellow bumper blocks. No parking is permitted on yellow curbs or at yellow bumper blocks at any time.

15. Paragraph (4) of Rule 0240-3-1-.07 Traffic and Parking Regulations is further amended by deleting the text of the first sentence in the paragraph and substituting the following language, so that, as amended, the first sentence in paragraph (4) shall read:

- (4) Obtaining and displaying parking decals and passes.

16. Parts 1. through 3. of subparagraph (a) of paragraph (4) of Rule 0240-3-1-.07 Traffic and Parking Regulations are further amended by deleting the text of the parts and substituting the following language, so that, as amended, parts 1. through 3. shall read:

- 1. All parking decals expire annually on August 31.
- 2. Hanging parking decals are issued to persons, not vehicles, and are not required to be permanently affixed to a vehicle. Persons in valid possession of a parking decal may drive any conveyance, if legally registered, insured, and in safe operating condition, with their parking decal displayed. Persons are encouraged but not required to provide

specific vehicle information on the registration form to aid campus police in the identification of their vehicle for administrative or emergency purposes.

3. Second parking decals. Because parking decals may be used on any vehicle desired under control of the operator/decal holder, only Emerald Hills/married housing students and families qualify automatically for a second parking decal. Only students/faculty/staff that present extraordinary circumstances in writing, approved by the Director/Chief, are authorized a second parking decal. Persons authorized a second parking decal will be assessed an additional campus access fee. Everyone is reminded and encouraged to use the temporary and visitor pass provisions below when desired.

17. Subparagraphs (b) and (c) of paragraph (4) of Rule 0240-3-1-.07 Traffic and Parking Regulations are further amended by deleting the text of the subparagraphs and substituting the following language, so that, as amended, subparagraphs (b) and (c) shall read:

- (b) Faculty/staff parking decals. Faculty and staff complete registration and render payment at the Business Office.
- (c) Student parking decals. Parking fee is included in the general access fee on student financial statements. Students complete registration with the Campus Police Department at the Shasteen Building or at announced additional locations at the beginning of the academic year.

18. Subparagraphs (e) through (h) of paragraph (4) of Rule 0240-3-1-.07 Traffic and Parking Regulations are further amended by deleting the text of the subparagraphs and substituting the following language, so that, as amended, subparagraphs (e) through (h) shall read:

- (e) Visitor parking permits. Visitor parking permits will be issued by Public Safety/Campus Police at the Shasteen Building, and may also be issued by the Directors of Admissions, Advancement, Alumni Affairs, and the University Center. Visitor parking permits will only be issued in hard, color copy, and will not be forwarded to any other party electronically. In addition to designated visitor spaces, visitors with parking permits may use all legal parking spaces on campus, except residence student spaces. Only Public Safety can issue visitor parking permits authorized for use in residence hall spaces.
- (f) Temporary parking decals. Unlike visitor parking decals, temporary parking decals are issued to members of the campus community who otherwise qualify for a regular parking decal. Temporary parking decals are issued by Public Safety/Campus Police for a maximum of fourteen (14) days and are assigned a specific category and/or color code.
- (g) Displaying the parking decal/permit. Parking decals designed to be hung from rear-view mirrors will be so displayed, and/or affixed to the inside in the center of the windshield, with registration number facing out. The hanging parking decal system, provided as a convenience at the request of the campus community, presents potential abuses and a challenge to enforcement. The success of the program rests on the requirement to enforce the display of parking decals at all times while on campus.
- (h) Lost or stolen parking decals/permits. Lost or stolen parking decals/permits must be reported immediately to Public Safety/Campus Police. A temporary parking

decal will be issued for fourteen (14) days. If the original parking decal is not recovered during that time, the operator will obtain and pay for a new parking decal.

19. Parts 9. and 10. of subparagraph (b) of paragraph (5) Rule 0240-3-1-.07 Traffic and Parking Regulations are further amended by deleting the text of the parts and substituting the following language, so that, as amended, parts 9. and 10. shall read:

9. Failure to display parking decal or permit.

10. Improper display of parking decal/permit – inability to read permit.

20. Subparagraph (c) of paragraph (5) of Rule 0240-3-1-.07 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph and substituting the following language, so that, as amended, subparagraph (c) shall read:

(c) Other. Persons who obtain a parking decal/permit through misrepresentation, and/or transfer control of a parking decal to a party not otherwise entitled to those privileges, will be subject to action under the provisions of student/employee disciplinary procedures.

21. Part 3. of subparagraph (b) of paragraph (6) of Rule 0240-3-1-.07 Traffic and Parking Regulations is further amended by deleting the text of the part and substituting the following language, so that, as amended, part 3. shall read:

3. Possession/use of a forged/altered/lost/stolen parking decal or permit: \$25.00 and revocation of parking privileges for remainder of semester term.

22. Subparagraph (a) of paragraph (7) of Rule 0240-3-1-.07 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph and substituting the following language, so that, as amended, subparagraph (a) shall read:

(a) Immobilization. Persons who receive more than three (3) citations in one semester, regardless of status of appeals under the provisions below, may be subject to action under the provisions of student/employee disciplinary procedures, and are subject to having their vehicle immobilized (“booted”).

Authority: T.C.A. §49-8-203

The proposed rules set out herein were properly filed in the Department of State on the 16th day of January, 2007 and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 31st day of May, 2007. (01-08-07)