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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	University of Tennessee (Knoxville)
<b>Division:</b>	
<b>Contact Person:</b>	C. Ryan Stinnett, General Counsel
<b>Address:</b>	719 Andy Holt Tower, Knoxville, TN 37996
<b>Phone:</b>	865-974-2540
<b>Email:</b>	ryanstinnett@tennessee.edu

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Melissa Tindell
<b>Address:</b>	P267 Andy Holt Tower, 1331 Circle Park, Knoxville, TN 37996
<b>Phone:</b>	865-974-0741
<b>Email:</b>	mtindell@tennessee.edu

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	University of Tennessee	
Address 2:	Student Union Building, Room 362	
City:	Knoxville	
Zip:	37996	
Hearing Date:	03/8/2021	
Hearing Time:	1:00 p.m.	<u>    </u> CST <input checked="" type="checkbox"/> EST

**Additional Hearing Information:**

Oral and written comments on the proposed rulemaking will be received at the public hearing on Monday, March 8, 2021, at 1:00 p.m. EST. In addition, interested parties may submit written comments on or before March 5, 2021, by mail or email to the following person:

C. Ryan Stinnett, General Counsel  
 University of Tennessee  
 719 Andy Holt Tower  
 Knoxville, TN 37996  
 865-974-2540  
[ryanstinnett@tennessee.edu](mailto:ryanstinnett@tennessee.edu)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

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

Chapter Number	Chapter Title
1720-04-03	Student Code of Conduct
Rule Number	Rule Title
1720-04-03	Student Code of Conduct Table of Contents
1720-04-03-.01	Preamble
1720-04-03-.02	Jurisdiction
1720-04-03-.03	Relationship Between the Code and Criminal Law
1720-04-03-.04	Standards of Conduct
1720-04-03-.05	Fundamental Rights
1720-04-03-.06	Student Conduct Processes
1720-04-03-.07	Student Conduct Process: Resolutions
1720-04-03-.08	Student Conduct Board: Hearing and Appeals
1720-04-03-.09	Title IX Hearings: Hearing and Appeals
1720-04-03-.10	Sanctions
1720-04-03-.11	Honor Statement
1720-04-03-.12	Policy on Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention
1720-04-03-.14	Maintenance, Disclosure, and Expungement of Student Disciplinary Records
1720-04-03-.15	Definition of Terms Used in the Code

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

**AMEND** the table of contents for Chapter 1720-04-03 by deleting language in the title of section .12, so that as amended it shall read as follows:

#### TABLE OF CONTENTS

1720-04-03-.01	Preamble	1720-04-03-.12	Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention
1720-04-03-.02	Jurisdiction	1720-04-03-.13	Emergency Powers
1720-04-03-.03	Relationship Between the Code and Criminal Law	1720-04-03-.14	Maintenance, Disclosure, and Expungement of Student Disciplinary Records
1720-04-03-.04	Standards of Conduct	1720-04-03-.15	Definitions of Terms Used in the Code
1720-04-03-.05	Fundamental Rights	1720-04-03-.16	Repealed
1720-04-03-.06	Student Conduct Process: Initial Stages	1720-04-03-.17	Repealed
1720-04-03-.07	Student Conduct Process: Resolutions		
1720-04-03-.08	Student Conduct Board: Hearings and Appeals		
1720-04-03-.09	Title IX Hearings: Hearings and Appeals		
1720-04-03-.10	Sanctions		
1720-04-03-.11	Honor Statement		

#### **1720-04-03-.01 PREAMBLE.**

**AMEND** rule 1720-04-03-.01 by adding language in paragraph (1), adding and deleting language in paragraph (3), and adding language in paragraph (6), so that as amended it shall read as follows:

#### **1720-04-03-.01 PREAMBLE.**

- (1) Students at the University of Tennessee are members of both the University community and the larger community of which the University is a part. Accordingly, students are responsible for conducting themselves in a lawful manner as well as in compliance with University rules and policies. In addition, the University has developed a set of aspirational goals titled, Principles of Civility and Community, which encourages all members of the University community to foster a learning environment where diversity is valued, respected, and celebrated. As stated in those Principles, the University of Tennessee affirms the value of each member of the University community and adheres to the principles of inclusivity, diversity, dialogue, collegiality, respect, knowledge, integrity, learning, awareness, and responsiveness. We respect the diverse backgrounds of all members of our community. This includes, but is not limited to, people of any

race, color, sex, gender identification, sexual orientation, religion, national origin, age, ancestry, ability status, and military status. We value an environment that facilitates collegial relationships, encourages mutual understanding among diverse individuals and leads to addressing issues and differences in an atmosphere of mutual respect and civility. Therefore, we strive to be welcoming to all and hostile to none.

- (2) The University has established the Student Code of Conduct (“Code”) in order to advance the mission of the University and sustain a culture of excellence by: maintaining a safe learning environment; requiring students to conduct themselves in ways that allow for their personal growth and development as well as others, in the most positive manner possible; protecting the rights and privileges of all members of the University community; providing a basis for orderly conduct of the affairs of the University; promoting a positive relationship between the University and its surrounding community; preserving the University’s reputation and property; encouraging students to engage in conduct that brings credit to themselves and the University; and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding citizen.
- (3) The University’s behavioral standards are set forth in the Code’s Standards of Conduct (Section .04). Students who engage in conduct that is inconsistent with the Standards of Conduct are subject to University disciplinary action. The process by which the University investigates and resolves alleged violations of the Standards of Conduct is called the student conduct process. The student conduct process resolves allegations of misconduct and is an educational process designed to promote learning and development. Therefore, even if behavior does not violate the Standards of Conduct, a University staff member may engage students in voluntary conversations to promote learning and development. The student conduct process is consistent, fair, and provides means of resolution that are commensurate with the skills and abilities of the participants in the process.
- (4) The effectiveness of the student conduct process rests partially upon the participation of all members of the University community. Active participation in the process by students, faculty, and staff reflects a willingness to address the difficult issues brought before them for the betterment of individual students and the University community. This involvement is vital to the establishment of true community standards.
- (5) Authority and responsibility relating to the Code are delegated to the Vice Chancellor for Student Life, who has delegated certain authority and responsibility to the Office of Student Conduct and Community Standards (“SCCS”).
- (6) The University is committed to respecting students’ constitutional rights. The Code shall be interpreted in a way that does not violate students’ constitutional rights, including, without limitation, the rights protected by the First Amendment and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
- (7) Students are responsible for being fully acquainted with and for complying with the Code, the applicable undergraduate or graduate catalog, the student handbook (Hilltopics), and other rules and policies relating to students.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.02 JURISDICTION.**

**AMEND** rule 1720-04-03-.02 by adding and deleting language in paragraph (1), so that as amended it shall read as follows:

**1720-04-03-.02 JURISDICTION.**

- (1) Geographical Limits. The Code applies to the conduct of a student that occurs on University-controlled property. With respect to a student’s conduct that does not occur on University-controlled property, the University has the discretion to discipline a student for conduct in violation of the Code if the student’s conduct adversely affects the interests of the University, including,

without limitation, when the conduct:

- (a) Occurs during or in connection with a University-affiliated activity, including, without limitation, an overseas study program, clinical or field placement, internship, or in-service experience;
  - (b) Consists of academic dishonesty or research misconduct;
  - (c) Is prohibited by local, state, or federal law;
  - (d) Involves another member of the University community; or
  - (e) Threatens, or indicates that the student may pose a threat to, the health or safety of the student or other person, or the security of any person's property, including, without limitation, alcohol-related misconduct, drug-related misconduct, arson, battery, fraud, hazing, sexual assault or misconduct, stalking, and theft.
- (2) Professional and Ethical Standards. Graduate or professional programs within the University may take separate and independent academic action against students for alleged violations of professional and/or ethical standards using procedures other than those contained in the Code.
- (3) Responsibility for Conduct. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if his/her conduct is not discovered until after a degree is awarded).
- (4) Student Organizations' Responsibility for Violations of the Standards of Conduct. Notwithstanding anything in the Code to the contrary, a student organization may be found responsible for conduct that violates the Standards of Conduct only if the conduct is fairly attributable to the student organization. Whether conduct is fairly attributable to the student organization will be determined by SCCS based on a totality of the following criteria:
- (a) Whether the misconduct was endorsed by one (1) or more officers of the student organization ("endorsed by" means: having prior knowledge that the misconduct was reasonably likely to occur and failing to take reasonable preventative or corrective action; failing to attempt to stop known misconduct while it is occurring; and/or helping to plan, promote, or carry out the misconduct);
  - (b) Whether the misconduct occurred in connection with an activity:
    1. Financed by the student organization and/or one (1) or more members or alumni of the student organization who contributed personal funds in lieu of organizational funds;
    2. Related to initiation into, admission into, affiliation with, or as a condition for continued membership in the student organization; and/or
    3. Advertised, promoted, or publicized in such a way that a reasonable student viewing or hearing the advertisement, promotion, or publication would believe that the activity was affiliated with the student organization.
  - (c) Whether the misconduct occurred on property owned, controlled, rented, leased, and/or used by the student organization and/or any of its members/alumni acting on the student organization's behalf; and/or
  - (d) Whether a member of the student organization attempted to conceal the activity connected with the misconduct or conceal the misconduct of another member of the student organization.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.03            RELATIONSHIP BETWEEN THE CODE AND CRIMINAL LAW.**

**AMEND** rule 1720-04-03-.03 by deleting language in paragraphs (3) and (5) and adding a word in paragraph (6), so that as amended it shall read as follows:

**1720-04-03-.03 RELATIONSHIP BETWEEN THE CODE AND CRIMINAL LAW.**

- (1) Independent Action. The Code has been adopted in furtherance of the University's interests and serves to supplement, rather than substitute for, the enforcement of civil and criminal law. Accordingly, University disciplinary action may be instituted against a student whose conduct potentially violates both criminal law and the Standards of Conduct without regard to the pending status of criminal charges or civil litigation. At the discretion of SCCS, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students alleged to have violated the Standards of Conduct may not challenge any aspect of the University's student conduct process on the grounds that criminal charges, civil litigation, or other University proceedings regarding the same incident are pending or have been terminated, dismissed, reduced, or have not yet been adjudicated.
- (2) University's Interaction with Other Entities. The University will cooperate with law enforcement and other government agencies in the enforcement of criminal law on University-controlled property and in the conditions imposed by criminal courts for the rehabilitation of students who have violated the criminal law.
- (3) Withdrawals. If a Respondent voluntarily withdraws from the University before the conclusion of the student conduct process, SCCS retains the right to investigate and resolve the allegations made against the Respondent. A disciplinary hold may remain in place or be implemented after the student withdraws in order to enforce this Section .03(3).
- (4) Time Extensions and Rescheduling. Any time period described in the Code may be extended for good cause at the discretion of SCCS. Any meeting or hearing described in the Code may be rescheduled for good cause at the discretion of SCCS.
- (5) Voluntary Impairment. A student's voluntary impairment to themselves resulting from the use and/or consumption of alcohol, drugs, chemicals, and/or other substances does not excuse or diminish a violation of the Code, except as provided in Section .12 (Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention).
- (6) Other Rights – Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, or Retaliation. In addition to rights granted in the Code, in cases involving an allegation of sexual harassment, sexual assault, dating or domestic violence, stalking, sexual exploitation, or retaliation, the Complainant and the Respondent shall have the rights outlined in the University's rules, policies, and procedures for investigating and resolving complaints of sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, or retaliation in accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, University rules, and other applicable law.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.04            STANDARDS OF CONDUCT.**

**AMEND** rule 1720-04-03-.04 by adding and deleting language in paragraph (6), adding language in paragraphs (10), (17), and (18), so that as amended it shall read as follows:

**1720-04-03-.04 STANDARDS OF CONDUCT.** Students are prohibited from engaging in the following types of misconduct:

- (1) Academic Dishonesty. Cheating, plagiarism, or any other act of academic dishonesty, including, without limitation, an act in violation of the Honor Statement.

- (2) False Information. Providing false information to a University official.
- (3) Misuse of Information in Connection with University Investigation or Hearing. Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing, except as provided in Section .05(1)(i).
- (4) Misconduct Relating to Records or Identification. Forging, altering, destroying, falsifying, or misusing records or identification, whether in print or electronic form.
- (5) Harm to Others. Causing physical harm to any person; endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his/her health or safety; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of violence to a particular individual or group of individuals.
- (6) Discrimination and/or Harassment. Discrimination: Conduct that discriminates against any person(s) or organization(s) based on a characteristic protected by federal, state, or local law prohibiting discrimination; or conduct that violates the University's rules or policies prohibiting discrimination. Harassment: Unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit.
- (7) Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, and/or Retaliation. Violating the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking, which includes sexual exploitation and retaliation.
- (8) Invasion of Privacy. Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, without limitation, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in showers, locker rooms, or restrooms. The storing, sharing, and/or distributing of such nonconsensual recordings by any means is also prohibited.
- (9) Private or Public Property. Any of the following conduct with respect to private or public property, including, without limitation, University-controlled property: theft; misappropriation; unauthorized possession, use, sale, duplication, or entry; vandalism; destruction; damage; or conduct that is reasonably likely to cause damage.
- (10) Hazing. Any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. Hazing does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization regardless of the student's willingness to participate.
- (11) Disorderly Conduct. Fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.
- (12) Lewd, Indecent, or Obscene Conduct. Engaging in lewd, indecent, or obscene conduct, including, without limitation, public exposure of one's sexual organs, public urinating, and public sexual acts.
- (13) Imminent Lawless Action. Engaging in speech either orally or in writing that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (14) Fire Safety. Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary

device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.

- (15) University Keys, Access Cards, and Identification. Possessing, using, or duplicating University keys, University access cards, or University identification cards without authorization from the University.
- (16) Information Technology. Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, without limitation: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's policy on the acceptable use of information technology resources.
- (17) Weapons. Possessing, carrying, using, storing, or manufacturing any weapon if prohibited by federal, state, or local law; or possessing, carrying, using, storing, or manufacturing any weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or his/her designee or unless federal or state law affirmatively gives a student a right, irrespective of the Code, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (18) Alcohol-Related Conduct – University Property or University Activities. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity unless expressly permitted by University rules or policy.
- (19) Alcohol-Related Conduct Prohibited by Law. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.
- (20) Providing Alcohol to Underage Person. Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- (21) Drugs and Drug Paraphernalia. Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs, if prohibited by federal, state, or local law; using, manufacturing, possessing, distributing, or selling drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- (22) Failure to Fulfill a University Financial Obligation. Failing to timely fulfill a University bill, account, or other financial obligation owed to the University.
- (23) Failure to Respond, Comply, or Identify. Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of his/her duties, except as provided in Section .05(1)(i); or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.
- (24) Failure to Appear. Failing to appear at a University hearing, including, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re- Enrollment. Violating the terms of a no-contact directive, an interim restriction, a disciplinary sanction, or a

condition of re-enrollment imposed by the University.

- (26) Obstruction or Disruption of University Activity. Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.
- (27) Violation of University Policy or Rule. Violating a University policy or rule, including, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, residence halls, and registered student organizations.
- (28) Act Prohibited by Law. Committing an act that is prohibited by local, state, or federal law.
- (29) Attempted Violation; Accessory to Violation. Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.
- (30) Retaliation. Engaging in retaliation. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules. Retaliation violates the Standards of Conduct regardless of whether the underlying allegation of a violation of the Standards of Conduct is ultimately found to have merit. Retaliation can include, without limitation: (a) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (b) an act or omission committed by a student through a third party.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.05 FUNDAMENTAL RIGHTS.**

**AMEND** rule 1720-04-03-.05 by adding language in subparagraphs (1)(e), (1)(f), (1)(h), (1)(j), and (1)(k), adding and deleting language in subparagraphs (1)(g), (1)(i), (1)(l), and 1(m), adding and deleting language in subparagraphs (2)(a)(4.), (2)(a)(5.), (2)(a)(6.), (2)(a)(7.), and (2)(a)(8.), and adding language in subparagraphs (3)(a) and (3)(b), so that as amended it shall read as follows:

#### **1720-04-03-.05 FUNDAMENTAL RIGHTS.**

- (1) Rights of the Respondent. The following summarizes the rights granted to a Respondent in the student conduct process:
  - (a) Right to be assisted by an Advisor during all stages of the student conduct process, in accordance with Section .05(3);
  - (b) Right to an opportunity for an Educational Conference, in accordance with Section .06(5);
  - (c) Right to resolve allegations of misconduct and/or sanctions through a Formal Hearing, in accordance with Section .07(2);
  - (d) Right to receive notice of meetings and hearings at which the Respondent may be present and receive access to records used during those meetings and hearings, as provided in the Code;
  - (e) Right to the presumption that the Respondent is not responsible for the allegations of misconduct (i.e., the University bears the burden of presenting information demonstrating



that it is more likely than not that the Respondent violated a Standard of Conduct);

- (f) Right to not be directly questioned in a hearing by anyone other than the Student Life Hearing Officer (“SLHO”) or the Chairperson of the Student Conduct Board (“SCB”), except when a Title IX Hearing must be held in accordance with Section .09;
  - (g) Right to challenge the fairness and/or impartiality of a SLHO, a member of the SCB, a member of the Appellate Board, or a Title IX Hearing Officer;
  - (h) Right to have a SLHO Hearing or SCB Hearing conducted in accordance with Section .08, including, without limitation, the right to present information to the SLHO or SCB, the right to propose questions for the SLHO or Chairperson to ask witnesses, the right to request that information be excluded from the SLHO or SCB’s consideration, and the right to make a closing statement, except when a Title IX Hearing must be held in accordance with Section .09;
  - (i) Right to refrain from presenting information and witnesses during a hearing before the SLHO, the SCB, or the Title IX Hearing Officer, and the right to not have the SLHO, the SCB, or the Title IX Hearing Officer draw an inference adverse to the Respondent if the Respondent chooses not to present information or witnesses;
  - (j) Right to Notice of Decision of the SLHO, SCB or Title IX Hearing Officer, in accordance with Section .08(5) and Section .09(7);
  - (k) Right to appeal the decisions of the SLHO, SCB or a Title IX Hearing Officer that are contained in the Notice of Decision, in accordance with Section .08(6) and Section .09(9);
  - (l) Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a SLHO, the SCB, the Appellate Board, and/or a Title IX Hearing Officer (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Complainant’s receipt of a copy of the notice of the decision; and
  - (m) Right to appeal a decision issued by SCCS, a SLHO, the SCB, or a Title IX Hearing Officer and receive a notice containing information about the right to appeal simultaneously with the Complainant’s receipt of a notice of such information, in accordance with Section .07, Section .08, and Section .09.
- (2) Rights of the Complainant.
- (a) A Complainant shall be granted equivalent rights to the rights granted to a Respondent under the Code including, without limitation:
    - 1. Right to meet with SCCS to ask questions and receive information about the student conduct process, including, without limitation, the status of an investigation;
    - 2. Right to receive notice of meetings and hearings at which the Complainant may be present and receive access to records used during those meetings and hearings, as provided in the Code;
    - 3. Right to be assisted by an Advisor during all stages of the student conduct process, in accordance with Section .05(3);
    - 4. Right to present information and witnesses during meetings and hearings, including, without limitation, investigations, or hearings before a Student Life Hearing Officer (“SLHO”), the Student Conduct Board (“SCB”), or a Title IX Hearing Officer;
    - 5. Right to not be directly questioned in a hearing by anyone other than the SLHO or the Chairperson of the Student Conduct Board (“SCB”), except when a Title IX Hearing must be held in accordance with Section .09;

6. Right to challenge the fairness and/or impartiality of a SLHO, a member of the SCB, a member of the Appellate Board, or a Title IX Hearing Officer;
  7. Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a SLHO, the SCB, the Appellate Board, and/or a Title IX Hearing Officer (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Respondent's receipt of a copy of the notice of the decision;
  8. Right to appeal a decision issued by SCCS, a SLHO, the SCB, or a Title IX Hearing Officer and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information, in accordance with Section .07, Section .08, and Section .09; and/or
  9. Right to otherwise participate in the student conduct process.
- (b) Notwithstanding any provision of the Code to the contrary, including, without limitation, this Section .05(2), a Complainant shall not have the right to attend a meeting or hearing, receive information concerning, or otherwise participate in the student conduct process if such attendance, receipt of information, or participation would violate state or federal law.
- (3) Right to an Advisor. The Complainant and the Respondent may choose to be assisted by one(1) Advisor during all stages of the student conduct process.
- (a) Selection of an Advisor. SCCS encourages a Complainant or a Respondent who chooses to be assisted by an Advisor to consider selecting a University employee or student who has received training from SCCS about the student conduct process. The Complainant and the Respondent may obtain the names of trained advisors from SCCS. At their own expense, the Complainant and the Respondent may choose a person who is not employed by the University to serve as an Advisor (e.g., friend, attorney). The Complainant and the Respondent should select as an Advisor a person whose schedule allows attendance at the scheduled date, time, and place for meetings and hearings scheduled by SCCS because meeting and hearing delays generally will not be granted due to the scheduling conflicts of an Advisor. If a Complainant or Respondent does not have an Advisor present at a Title IX Hearing, the University must provide one (selected by the University) without fee or charge to that party.
  - (b) Role of an Advisor. The role of an Advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process, including at all meetings, investigative interviews, and hearings. An Advisor is not permitted to speak for or on behalf of a Complainant or Respondent, appear in lieu of a Complainant or Respondent, participate as a witness, or participate directly in any other manner during any phase of the student conduct process, except in a Title IX Hearing. In a Title IX Hearing, the Advisor (who may be, but is not required to be, an attorney) is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses, in accordance with Section .09(5)(f). In a Uniform Administrative Procedures Act ("UAPA") Hearing, the Complainant and the Respondent may have an attorney advocate on their behalf, in accordance with state law.
  - (c) Notification of the Right to Have an Advisor. SCCS shall provide written notice to the Complainant and the Respondent of their rights to an Advisor. The notice shall contain an explanation of the role of an Advisor during the student conduct process.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.06 STUDENT CONDUCT PROCESS: INITIAL STAGES.**

**AMEND** rule 1720-04-03-.06 by revising the numbering structure in subparagraph (2)(c), adding and deleting language to subparagraphs (3)(b), (3)(c) and (3)(d)(1.), and adding language to subparagraphs (6)(a) and (7)(b), so that as amended it shall read as follows:

## 1720-04-03-.06 STUDENT CONDUCT PROCESS: INITIAL STAGES.

- (1) Receipt and Review of Allegations of Misconduct.
  - (a) Except as stated in Section .06(1)(b), SCCS may initiate the student conduct process on the basis of written allegations received from any source, including, without limitation, a student, a faculty member, a University housing employee, or a law enforcement agency. SCCS also may initiate the student conduct process in the absence of written allegations if SCCS becomes aware, through other means, of potential misconduct committed by a student. Upon receipt of written allegations or other information concerning potential student misconduct, SCCS will review the information and determine whether to initiate the student conduct process. SCCS's determination of whether to initiate the student conduct process generally will be based on: the preliminary investigation by SCCS or other University official(s), if any, into the allegations received by SCCS; SCCS's determination of whether the alleged conduct falls within the jurisdiction of the Code; and SCCS's determination of whether the alleged conduct, if true, violated the Standards of Conduct.
  - (b) In cases involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, SCCS will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: 1. notice of the student conduct process that applies to the allegations; 2. the identities of the parties involved in the incident; 3. the conduct allegedly constituting the violation; 4. the date and location of the incident, if known; 5. a statement that the Respondent is presumed not responsible for the alleged conduct; 6. a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; 7. the parties' right to have an Advisor of their choice, who may be, but is not required to be, an attorney; 8. the parties' right to inspect and review evidence; and 9. notice of the provisions of the Code that prohibit providing false information to a University official.
- (2) Conflicts of Interest.
  - (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias consistent with due process of law.
  - (b) A University employee shall not act on behalf of SCCS in the student conduct process in any case in which: 1. the employee is a Complainant, Respondent, or a witness; or 2. the employee determines, for any other reason (e.g., personal prejudice or bias), that he/she cannot be fair or impartial.
  - (c) In all cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the student conduct process must include protections for the Respondent analogous to, and no less protective than, the conflict of interest provisions of Tennessee Code Annotated § 4-5-303. Notwithstanding the preceding sentence: 1. an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and 2. the University is allowed to provide the Complainant with equivalent rights as the Respondent during the student conduct process.
- (3) Interim Administrative Actions.
  - (a) General. In certain situations, the University may impose interim administrative actions prior to the conclusion of the student conduct process. The University shall determine the appropriate interim administrative actions based on the totality of the circumstances. Examples of interim administrative actions include, without limitation, a no-contact directive (Section .06(3)(b)), a disciplinary hold (Section .06(3)(c)), and interim restrictions (Section .06(3)(d)).
  - (b) No-Contact Directive. In cases involving allegations of assault, injury, sexual harassment,

sexual assault, dating violence, domestic violence, stalking, sexual exploitation, retaliation or in other cases where there is reason to believe continued contact between a student and specific persons may interfere with those persons' security, safety or ability to participate effectively in work or studies, the University may issue a written instruction to a student, called a no-contact directive, that prohibits a student from having verbal, physical, written, and/or electronic contact with specific other persons for a definite or indefinite period of time. A no-contact directive also may prohibit a student from being present on designated University-controlled property. Any student, faculty or staff member or other person with a reasonable justification may request that the University issue a no-contact directive to a student. However, the University retains ultimate authority to decide whether or not to issue a no-contact directive.

- (c) Disciplinary Hold. The Respondent's academic record (including, without limitation, the release of the Respondent's official or unofficial transcript), degree, ability to register for classes, and/or ability to re-enroll may be placed on disciplinary hold by SCCS to require the Respondent to participate in the student conduct process or to require the Respondent to satisfy the terms and conditions of disciplinary sanctions received (the hold shall be released after the terms and conditions have been satisfied). A student who, at the time of commencement, is subject to a continuing disciplinary penalty or an unresolved disciplinary charge shall not be awarded a degree before the resolution of all disciplinary charges and/or the satisfaction of all sanctions.
- (d) Interim Restrictions.
  - (1) Generally, the status of a student alleged to have violated the Standards of Conduct is not affected until the conclusion of the student conduct process (Section .07(5)). However, the Vice Chancellor for Student Life may impose interim restrictions prior to the conclusion of the student conduct process related to the alleged misconduct when the Vice Chancellor for Student Life has reasonable cause to believe that 1. a Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property or 2. poses an imminent or ongoing threat to the disruption of, or interference with, the normal operations of the University. Interim restrictions shall be confirmed by notice to the Respondent that explains the basis for the interim restrictions and shall remain in effect until the conclusion of the student conduct process, which should be completed without undue delay. Within three (3) business days of the imposition of the interim restrictions, the Respondent shall be offered an opportunity to appear before the Vice Chancellor for Student Life in order to discuss the following issues only: 1. the reliability of the information concerning the Respondent's conduct; and 2. whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property or poses an imminent or ongoing threat of disruption of or interference with the normal operations of the University. Examples of interim restrictions include, without limitation, restricting the student's privileges to participate in University affiliated activities, restricting the student's privileges to access University-controlled property, University-owned housing removal and/or reassignment, and/or interim suspension. Restrictions contained within no-contact directives (Section .06(3)(b)) are not interim restrictions. An interim suspension is an official separation of the student from the University until the conclusion of the student conduct process or the interim suspension is lifted, whichever occurs first. While on interim suspension, the student loses all University rights and privileges (e.g., enrollment privileges) except for the rights and privileges to contest the allegations pursuant to the Code, shall not represent the University in any official manner, and shall not be present on University-controlled property or participate in University-affiliated activities without the prior approval of the Vice Chancellor for Student Life. When placed on interim suspension, the Respondent may receive a grade of "W," or when deemed appropriate by instructor, a grade of "I." A Respondent who violates the terms of an interim restriction shall be subject to further disciplinary action and may be treated as a trespasser.

- (2) Notwithstanding any provision in this Section .06(3)(d), in any case that includes Title IX Allegations, the Vice Chancellor for Student Life may impose an interim suspension on a Respondent only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the Respondent. The Vice Chancellor for Student Life will provide the Respondent notice and an opportunity for the Respondent to challenge an interim suspension within three (3) business days.
- (4) Coursework. Coursework performed during the student conduct process shall be considered conditional. Credit for such coursework may be affected, delayed, denied, and/or revoked based on a final finding of misconduct and/or a sanction imposed under the Code. In addition, subject to the other provisions of the Code, a delay in the granting of a degree may be imposed and/or a degree that was awarded prior to a final decision under the Code may be revoked.
- (5) Educational Conference.
- (a) Scope of the Educational Conference. The Educational Conference is a meeting between SCCS and the Respondent in which the following generally occurs:
1. SCCS orally informs the Respondent about the allegations made against the Respondent and, if requested by the Respondent, provides the Respondent with a reasonable opportunity to review the written allegations, if any, received by SCCS.
  2. SCCS provides the Respondent with an opportunity to respond to the allegations, including, without limitation, an opportunity to present information to SCCS concerning the allegations and identify witnesses whom the Respondent believes SCCS should interview to obtain additional information.
  3. Both SCCS and the Respondent may ask questions to each other and seek clarifying information about the allegations, the possible sanction(s), and the student conduct process.
  4. Except in cases that include Title IX Allegations, based on information provided by the Respondent during the Educational Conference, SCCS may issue a no-action determination (Section .07(5)(a)) or continue its investigation in order to determine whether it is more likely than not that the Respondent violated the Standards of Conduct.
- (b) Notice of Educational Conference. A Notice of Educational Conference is a written notice through which SCCS notifies the Respondent that SCCS has received allegations that the Respondent has engaged in misconduct; instructs the Respondent to attend or schedule an Educational Conference; and provides the Respondent with other information about the student conduct process. A Notice of Educational Conference generally will include the following information: 1. notice that SCCS has begun or will begin an investigation of allegations SCCS received concerning the Respondent's conduct; 2. notice of a disciplinary hold, if any, that the University has implemented or will implement with respect to the Respondent; 3. a brief description of the Respondent's alleged conduct; 4. a preliminary list of potential violations of the Standards of Conduct, based on the Respondent's alleged conduct; 5. notice of the Respondent's right to be assisted and/or supported by an Advisor throughout the student conduct process, in accordance with Section .05(3), including information about the role of an Advisor; 6. the internet address where the Respondent can review a copy of the Code; 7. a date, time, and place for an Educational Conference with SCCS to discuss the incident, or, in the alternative, an instruction that the Respondent contact SCCS to schedule an Educational Conference within the time frame designated in the Notice of Educational Conference; and 8. notice of the consequences of failing to comply with SCCS's instruction to attend or schedule an Educational Conference.
- (c) Consequences of Failing to Attend or Schedule an Educational Conference. If the Respondent fails to attend or schedule an Educational Conference after SCCS has sent the Respondent a Notice of Educational Conference, then the Respondent waives all rights to a

Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose appropriate sanction(s) for the misconduct (unless the Respondent's absence is excused by SCCS for good cause), unless prohibited by state or federal law. SCCS also may determine that the Respondent's failure to attend the Educational Conference constitutes a separate violation of the Standards of Conduct.

(6) Investigation of Allegations of Misconduct.

- (a) SCCS may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. If SCCS investigates allegations against a Respondent, SCCS will 1. ensure that the burden of proof of gathering evidence rests on the University and not on the parties; 2. provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; and 3. provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate. SCCS is not obligated to interview a witness identified by the Respondent or the Complainant if SCCS believes the witness is not likely to possess relevant information, is not likely to lead SCCS to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by SCCS. SCCS may interview and re-interview the Complainant, the Respondent, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information. Investigations conducted by SCCS will be prompt, thorough, and equitable. In conducting an investigation, SCCS will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to SCCS. Parts of SCCS's investigation may occur before, during, and/or after the Educational Conference (Section .06(5)) and/or any other part of the student conduct process. At the conclusion of its investigation, SCCS may prepare a written investigative report of the findings of the investigation. The investigative report may include an assessment of the credibility of persons interviewed during the investigation and an assessment of whether it is more likely than not that the Respondent violated the Standards of Conduct.
- (b) In cases in which a Complainant or the Title IX Coordinator has filed a Formal Complaint alleging sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, SCCS will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative report, SCCS will send to each party and the party's Advisor, if any, the evidence subject to inspection and review. The parties must have at least ten (10) business days to submit a written response, which SCCS will consider prior to completion of the investigative report. After the investigative report is final, the parties shall have ten (10) business days to submit a written response to the report. No hearing shall occur until that 10-day period has expired, even if the parties have submitted responses prior to the expiration of the 10-day period.

(7) Notice of Allegations and Notice of Sanctions.

- (a) A Notice of Allegations is a written notice that informs the Respondent that SCCS has concluded that it is more likely than not that the Respondent violated the Standards of Conduct. A Notice of Allegations generally includes, without limitation, the following information: 1. a brief summary of the facts of Respondent's alleged misconduct; 2. notice that SCCS has determined that it is more likely than not that Respondent violated the Standards of Conduct; 3. notice of the specific Standard(s) of Conduct that SCCS has determined the Respondent more likely than not violated; 4. the Respondent's option(s) to elect a Formal Hearing to contest SCCS's determination of responsibility for misconduct and/or the sanction(s); and 5. the names of witnesses likely to present information concerning the alleged misconduct if the Respondent elects to contest the allegations through a Formal Hearing. SCCS may provide the Respondent with a Notice of Allegations during the Educational Conference.
- (b) A Notice of Sanctions is a written notice that informs the Respondent of the disciplinary

sanction(s) that SCCS proposes for the violation(s) of the Standards of Conduct. SCCS may provide the Respondent with a Notice of Sanctions during the Educational Conference.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.07 STUDENT CONDUCT PROCESS: RESOLUTIONS.**

**AMEND** rule 1720-04-03-.07 by deleting subparagraph (1)(d), and adding and deleting language to subparagraphs (5)(a), (5)(b), (5)(l), and (5)(m), so that as amended it shall read as follows:

**1720-04-03-.07 STUDENT CONDUCT PROCESS: RESOLUTIONS.**

- (1) Resolution by Agreement.
  - (a) Purpose and Effects of a Resolution Agreement. At any time during the student conduct process, a Respondent may resolve allegations of misconduct (other than Title IX Allegations) by signing a Resolution Agreement proposed by SCCS. By signing a Resolution Agreement, the Respondent: 1. accepts responsibility for violating the Standards of Conduct; 2. agrees to the imposition of the sanction(s); and 3. waives all rights the Respondent may have to resolve the allegations through a Formal Hearing. A Resolution Agreement is not valid until it is signed by both the Respondent and SCCS.
  - (b) Revocation or Appeal of a Resolution Agreement. The Respondent may not revoke or appeal a Resolution Agreement signed by the Respondent.
  - (c) Resolution Agreement – Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, or Retaliation. In a case involving a Formal Complaint of sexual harassment, sexual assault, dating violence, domestic violence stalking, sexual exploitation or retaliation that does not include Title IX Allegations, SCCS will notify the Complainant about the proposed Resolution Agreement in writing and provide the Complainant with the opportunity to object to the proposed Resolution Agreement. A Complainant must notify SCCS of his/her objection in writing within five (5) business days from the date that SCCS informs the Complainant about the proposed Resolution Agreement. If the Complainant timely informs SCCS of his/her objection, then SCCS may address the Complainant's objection by modifying the proposed Resolution Agreement that is agreeable to both the Respondent and the Complainant and having the Respondent sign the modified Resolution Agreement. Otherwise, SCCS will continue the student conduct process and resolve the allegations against the Respondent in accordance with the Code. Formal Complaints of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation that include Title IX Allegations may not be resolved through a Resolution Agreement but may be resolved through an Informal Resolution set forth in Section .07(4).
- (2) Resolution by Formal Hearing.
  - (a) Types of Formal Hearings. A Formal Hearing is a process through which a Respondent has a right to contest allegations of misconduct and/or the sanctions proposed by SCCS by presenting information (including, without limitation, witnesses) to a decision maker other than the University employee(s) who conducted the investigation and/or Educational Conference. The Code provides for four (4) types of Formal Hearings, depending on the gravity of the disciplinary sanctions that have been proposed by SCCS and the nature of the allegations:
    1. A hearing before a Student Life Hearing Officer, which is described in Section .07(2)(d);
    2. A hearing before the SCB ("SCB Hearing"), which is described in Section .08;
    3. A hearing before a Title IX Hearing Officer ("Title IX Hearing"), which is described in Section .09, and which is the only Formal Hearing provided under the Code for determining responsibility for Title IX Allegations; and

4. A contested case hearing under the Uniform Administrative Procedures Act (“UAPA Hearing”), which is conducted in accordance with the University’s procedures for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.
  - (b) Rights to a Formal Hearing. A Respondent has the right to a Formal Hearing in every case before a Respondent can be found responsible for the alleged violation of the Standards of Conduct. In every case other than those that include Title IX Allegations, the Respondent has the right to resolve allegations of misconduct and/or proposed sanctions through a hearing before a Student Life Hearing Officer. In every case other than those that include Title IX Allegations, a Respondent also has the right to resolve allegations of misconduct and/or the proposed sanctions through a SCB Hearing or a UAPA Hearing when SCCS proposes one (1) or more of the following sanctions: 1. deferred suspension; 2. suspension; 3. expulsion; 4. University housing removal; 5. withholding of degree; 6. revocation of degree; or 7. revocation or suspension of the student organization’s University registration. Both Complainants and Respondents have the right to a Title IX Hearing when a Formal Complaint includes Title IX Allegations.
  - (c) How to Request a Formal Hearing. In every case other than those that include Title IX Allegations, a Formal Hearing may be requested by the Respondent only in writing using the form(s) approved by SCCS. Orally requesting a Formal Hearing shall not constitute a valid request for a Formal Hearing. If a Respondent timely requests a Formal Hearing and has a right to have either a UAPA Hearing or a SCB Hearing, then the University will conduct a UAPA Hearing unless the Respondent executes a written waiver of the right to a UAPA Hearing.
  - (d) Hearing before a Student Life Hearing Officer. A Student Life Hearing Officer is a University employee designated and trained by SCCS to conduct a Formal Hearing consistently with the procedures outlined in the Code for SCB Hearings (e.g., Section .08), except as provided in this Section .07(2)(d). In conducting a Formal Hearing, a Student Life Hearing Officer has the same authority of the Chairperson of the SCB except that, unlike the Chairperson of the SCB, but like the voting members of the SCB, the Student Life Hearing Officer is the decision maker concerning whether the Respondent violated the Standards of Conduct, and, if so, what sanction(s) to impose. The decision of a Student Life Hearing Officer may be appealed to the Appellate Board using procedures consistent with the procedures outlined in the Code for appeals of decisions of the SCB.
  - (e) Consequences of Failing to Timely Elect a Formal Hearing. If the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS transmitting a Notice of Sanctions in writing to the Respondent, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS’s determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS (unless SCCS extends the time for the Respondent to request a Formal Hearing for good cause). If SCCS extends the time for the Respondent to request a Formal Hearing and the Respondent fails to elect a Formal Hearing within the additional time granted by SCCS, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS’s determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS. All cases that include Title IX Allegations will proceed to Title IX Hearing without either party having to elect the hearing, unless an Informal Resolution is reached as set forth in Section .07(4) or a hearing is otherwise not required or permitted by law.
- (3) Alternative Resolution.
  - (a) Proposal of Alternative Resolution. At any time during the student conduct process, allegations against the Respondent (except for Title IX Allegations which may be resolved through the Informal Resolution process set forth in Section .07(4)) may be resolved through an alternative resolution. An alternative resolution is a resolution that is reached through a process and/or by a sanction or restriction not described in the Code. Before proposing an alternative resolution SCCS shall determine whether an alternative resolution would be appropriate based on the facts and circumstances of the case, and, if so, what type of



alternative resolution process should be used. In cases involving sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, or retaliation that are not subject to the Informal Resolution process, SCCS will consult with the Title IX Coordinator in making that determination. Examples of alternative resolution processes that may be proposed by SCCS include but are not limited to mediation, facilitated dialogue, conflict coaching, and restorative justice. The process of trying to reach an alternative resolution is voluntary (i.e., neither the Respondent nor a Complainant is required to participate). If an Alternative Resolution Agreement is not reached, then the student conduct process will proceed, and the allegations against the Respondent will be resolved through one of the other resolution methods in the Code.

- (b) **Alternative Resolution Agreement.** An Alternative Resolution Agreement is a written agreement that confirms an agreement to resolve the allegations against the Respondent through an alternative resolution. To be valid, an Alternative Resolution Agreement shall in all cases be signed by SCCS and the Respondent, and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations. Prior to the execution of an Alternative Resolution Agreement, if a Complainant has not participated with SCCS in the discussion of an alternative resolution, then SCCS will provide the Complainant with an opportunity to provide a timely objection to the proposed alternative resolution. In appropriate cases, SCCS may request the Complainant to sign an Alternative Resolution Agreement and determine that the Alternative Resolution Agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.
- (4) **Informal Resolution.** In cases that include Title IX Allegations, at any time prior to reaching a determination regarding responsibility, SCCS may facilitate an informal resolution process that does not involve a full investigation and adjudication. To facilitate an informal resolution, SCCS will (a) provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, and (b) obtain the parties' voluntary, written consent to the informal resolution process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the student conduct process with respect to the Formal Complaint.
- (5) **Conclusion of the Student Conduct Process.** This Section .07(5) summarizes the different ways in which the student conduct process may be concluded. If more than one (1) of the following events occur, then the student conduct process concludes on the date of the last event to occur. SCCS generally will provide the Respondent with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process. If permitted or required by law, SCCS also will provide the Complainant with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process.
- (a) **No Action Determination.** The student conduct process concludes when SCCS makes a final determination at any point in the process that no action will be taken (e.g., SCCS determines the preponderance of the evidence does not support a finding that the Respondent violated the Standards of Conduct); a Complainant declines to participate in the student conduct process; or SCCS does not have sufficient information or witnesses to move forward with the student conduct process). SCCS may reinstate the student conduct process upon receipt of new information; however, after SCCS has determined to take no action, SCCS may reinstate the student conduct process after a student has graduated only in cases involving Section .04(1) (academic dishonesty) or a violation of the University's rules or policy on research misconduct. A Complainant who is informed by SCCS of a no action determination may appeal the decision to the SCCS, in writing, within five (5) business days of the date that SCCS transmitted notice of the no action determination to the Complainant. The decision of SCCS is final and may not be appealed.
  - (b) **Failure to Attend or Schedule an Educational Conference.** In accordance with Section .06(5)(c), the student conduct process concludes when: SCCS has issued a Notice of Educational Conference; the Respondent either fails to attend an Educational Conference or fails to comply with SCCS's instruction to contact SCCS to schedule an Educational Conference within the time frame designated in the Notice of Educational Conference; and

SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.

- (c) Failure to Request a Formal Hearing after Notice of Sanctions. In accordance with Section .07(2)(e), the student conduct process concludes when the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS sending or delivering a Notice of Sanctions to the Respondent, and SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.
- (d) Resolution Agreement. The student conduct process concludes when a Resolution Agreement is executed in accordance with Section .07(1).
- (e) Alternative Resolution Agreement. The student conduct process concludes when an Alternative Resolution Agreement is executed in accordance with Section .07(3).
- (f) Informal Resolution. The student conduct process concludes when an Informal Resolution is agreed upon in accordance with Section .07(4).
- (g) Notice of Decision of a Student Life Hearing Officer – No Valid Appeal. The student conduct process concludes when a Student Life Hearing Officer has issued and transmitted a Notice of Decision and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal.
- (h) Notice of Decision of a Student Conduct Board – No Valid Appeal. The student conduct process concludes when a Student Conduct Board has issued and transmitted a Notice of Decision under Section .08(5) and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal under Section .08(6).
- (i) Notice of Appellate Board Final Decision. The student conduct process concludes when the Appellate Board has issued a Notice of Final Decision.
- (j) Notice of Decision of Title IX Hearing Officer – No Valid Appeal. The student conduct process concludes when a Title IX Hearing Officer has issued a Notice of Decision or written determination regarding responsibility under Section .09(7) and neither the Respondent nor the Complaint has submitted a valid Notice of Appeal.
- (k) Notice of Title IX Appeal Final Decision. The student conduct process concludes when the Vice Chancellor for Student Life has issued a Notice of Title IX Final Decision under Section .09(9).
- (l) UAPA. The student conduct process concludes when the UAPA Hearing process has concluded, either through a final order, settlement, or otherwise, under the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.
- (m) Expiration and Satisfaction of All Sanctions. A Respondent's SCCS case concludes and is considered closed when SCCS determines that the time periods for all sanctions given to the Respondent have expired (except for the sanction of expulsion, which does not expire), and the Respondent has satisfied all other terms and conditions of all sanctions that the Respondent received.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.08 STUDENT CONDUCT BOARD: HEARINGS AND APPEALS.**

**AMEND** rule 1720-04-03-.08 by deleting language in subparagraphs (2)(a) and (2)(b)(1.), adding and deleting language in subparagraph (3)(a)(1.), deleting subparagraph (3)(a)(1.)iv), adding a new subparagraph (3)(a)(3.), adding language in subparagraphs (3)(c) and (3)(d), deleting language in subparagraph (4)(g), and adding and deleting language in subparagraphs (5)(b), (5)(c), and (6)(f), so that as amended it shall read as follows:

#### **1720-04-03-.08 STUDENT CONDUCT BOARD: HEARINGS AND APPEALS.**

- (1) Notice of SCB Hearing.

- (a) When a Notice of SCB Hearing is Sent. If the Respondent requests a SCB Hearing in accordance with Section .07(2), then SCCS will send the Respondent and the Complainant a Notice of SCB Hearing at least seven (7) business days in advance of the date of the hearing.
  - (b) Information in the Notice of SCB Hearing. The Notice of SCB Hearing generally will contain, or be accompanied by, the following information: 1. the date, time, and place of the SCB Hearing (SCCS may reschedule the SCB Hearing for good cause and issue a revised Notice of SCB Hearing that contains a new date, time, and place of the SCB Hearing); 2. a copy of the Notice of Allegations; 3. the sanction(s) that the Conduct Officer will request the SCB impose on the Respondent; 4. the names of all witnesses through whom the Conduct Officer is likely to present information during the SCB Hearing; 5. a notice of the right to the assistance and/or support of an Advisor during the SCB Hearing; and 6. a description of all tangible or electronic information that the Conduct Officer is likely to present to the SCB, such as an investigative report, police report, incident report, witness statements, video or audio recordings, photographs, text messages, or phone records; 7. notice of the right to request a copy of SCCS' investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and 8. notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.
  - (c) More than One Respondent. In cases involving more than one (1) Respondent, SCB Hearings concerning each Respondent's conduct may be conducted separately upon written request of a Respondent submitted at the time of the Respondent's request for a Formal Hearing. SCCS has the discretion to make the final determination of whether to grant such a request and will notify the Respondents of the decision.
  - (d) Consequences of Failing to Attend a SCB Hearing. If the Respondent fails to attend a SCB Hearing, then the Respondent waives all rights to an SCB Hearing. The SCB may: proceed with the SCB Hearing without the Respondent's participation; hold the Respondent accountable for all decisions made in the Respondent's absence, including, without limitation, decisions concerning responsibility for alleged violations of the Standards of Conduct; and may determine that the Respondent's failure to attend the hearing constitutes a separate violation of the Standards of Conduct. If the SCB determines, in the Respondent's absence, that it is more likely than not that the Respondent violated the Standards of Conduct, then SCCS may implement the sanctions imposed by the SCB and conclude the student conduct process.
- (2) Composition of the Student Conduct Board.
- (a) Eligible Pool. The University shall appoint a pool of persons who are eligible to serve on a SCB. The University may appoint University students, University faculty members, or University staff employees; however, an employee who works in SCCS is ineligible to serve on a SCB. Persons appointed by the University will be trained by SCCS to serve on a SCB.
  - (b) Appointment of the SCB.
    - 1. General. The SCB is appointed ad hoc for each hearing by the Director of SCCS from the pool described in Section .08(2)(a). SCCS shall appoint a SCB consisting of one (1) non-voting Chairperson and seven (7) voting members. SCCS shall not appoint persons on the basis of how SCCS anticipates that they will vote. The Chairperson shall be a University faculty member or staff employee who has received training from SCCS on how to conduct a SCB Hearing. Five (5) voting members and one (1) non-voting Chairperson constitute a quorum of the SCB that was appointed by SCCS; however, SCCS will make reasonable efforts to seat a SCB consisting of seven (7) voting members. Regardless of the number of voting members present, all classifications of the University community (students, faculty, and/or staff) must be represented by at least one (1) voting member, except as provided in Section

.08(2)(b)2. or Section .08(2)(b)3.

2. Exception for Cases Involving Allegations of Sexual Misconduct. Notwithstanding anything to the contrary in Section .08(2)(b)1., SCCS shall not appoint students to serve on the SCB in a case involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the SCB hearing their case.
  3. Exception for Cases Involving Allegations of Research Misconduct. Notwithstanding anything to the contrary in Section .08(2)(b)1., SCCS shall not appoint students to serve on the SCB in a case involving an allegation of research misconduct.
- (c) Fairness and Impartiality of SCB Members. Any member of the SCB who determines that they cannot decide a case fairly and impartially for any reason (e.g., having a personal prejudice or bias) shall excuse themselves from serving on the SCB, in which case SCCS shall appoint a substitute member of the panel in accordance with the rules in Section .08(2)(b).
- (3) General Rules Governing SCB Hearings.
- (a) Required Pre-Hearing Information and Copies – Complainant and Respondent.
1. At least five (5) business days prior to the SCB Hearing, the Complainant and the Respondent must provide the following to SCCS in writing:
    - (i) The name of their Advisor, if any, who will attend the SCB Hearing;
    - (ii) The names of all witnesses and a brief summary of the information that they reasonably anticipate that each witness will provide to the SCB; and
    - (iii) A copy of all tangible or electronic information that they plan to present to the SCB (including, but not limited to, witness statements, video or audio recordings, photographs, text messages, phone records, medical bills, diagrams). However, they are not required to provide copies of information that is not in a form that allows copying (e.g., weapon; piece of clothing), in which case they should describe the information in writing.
  2. During the SCB Hearing, the Complainant and the Respondent may present witnesses who were not identified in the Notice of Formal Hearing only if they comply with this Section .08(3)(a) (i.e., other witnesses not identified to SCCS in writing at least five (5) business days prior to the SCB Hearing will not be allowed). The Complainant and the Respondent are responsible for contacting witnesses who were not identified in the Notice of Formal Hearing, informing them about the date, time, and place of the SCB Hearing, and securing their attendance at the SCB Hearing.
  3. During the sanctioning phase of the SCB hearing only, the parties may present statements that they want the SCB to consider in determining the appropriate sanction to impose on the Respondent if the SCB finds that the Respondent violated a Standard of Conduct. The Complainant's statement may include a description of the impact of the Respondent's conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigates the conduct. The Respondent may also present character statements during the sanctioning phase of the hearing only.
- (b) Pre-Hearing Review of Information. Individuals involved with the hearing are responsible for contacting SCCS to arrange a time to review the information prior to the hearing if such review is desired and the information has not been made available electronically. No less than three (3) business days prior to the hearing, SCCS will make copies of information submitted by the Complainant, the Respondent, and the Conduct Officer available for review by the Complainant, Respondent, their respective Advisors, and members of the SCB. Those individuals will be notified by SCCS when materials are available for review. SCCS

may make the information available electronically. In their sole discretion, SCCS may redact irrelevant information prior to making information available.

- (c) Recording of the SCB Hearing. The University shall be responsible for making a verbatim record (e.g., digital or other recording) of a SCB Hearing. Deliberations of the SCB shall not be recorded. The record of the SCB Hearing shall be the property of the University. The Complainant and the Respondent may take notes during a SCB Hearing, which shall be their own property, but neither the Complainant nor the Respondent may record the hearing using any other method of recording. However, the University will provide a copy of the verbatim record to the Complainant and the Respondent upon request.
  - (d) Attendance and Participation. Attendance during an SCB Hearing generally is limited to members of the SCB, the Conduct Officer, the Complainant and the Complainant's Advisor, the Respondent and the Respondent's Advisor, and witnesses. The Conduct Officer, the Complainant, the Respondent, Advisors, and witnesses may not be present during the deliberations of the SCB. Witnesses may attend the SCB Hearing only while they are presenting information to the SCB, unless the witness is the Complainant or the Respondent. The Chairperson and SCCS have the discretion to allow other persons to attend the SCB Hearing, in accordance with state and federal law. The Complainant and the Complainant's Advisor may attend any part of the SCB Hearing (excluding the deliberations of the SCB), but the Complainant and the Complainant's Advisor shall be excused from the hearing room when the Respondent's education records or information obtained from the Respondent's education records are disclosed unless the information is also part of the Complainant's education records. However, the previous sentence shall not apply, and the Complainant and the Complainant's Advisor shall have the right to attend the entire SCB Hearing, in cases of sexual assault, dating violence, domestic violence, and stalking. The Chairperson may accommodate concerns for the personal safety, well-being, and/or fears of confrontations of the Complainant, the Respondent, and/or witnesses by permitting attendance or participation by closed circuit television, video conferencing, or other appropriate means, as determined in the discretion of the Chairperson. However, the identity of all persons who present information to the SCB must be made known to the Respondent and the Complainant. The Respondent and the Complainant must be allowed to simultaneously see, hear, otherwise access the communications of any party or witness who is attending or participating by closed circuit television, video conferencing, or other similar means.
- (4) Procedural Rules for SCB Hearings.
- (a) Right to Challenge the Selection of a SCB Member. At the beginning of the SCB Hearing, the Chairperson shall allow the Complainant and the Respondent to request the removal of a member of the SCB on the grounds that the person cannot be fair and impartial in deciding the case. If the Chairperson determines that the person cannot be fair and impartial, then SCCS may appoint a substitute member of the SCB in accordance with Section .08(2)(b) or, if a quorum of the SCB still exists, remove the SCB member and allow the SCB Hearing to continue without appointing a substitute member.
  - (b) Authority of the Chairperson. The Chairperson has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the SCB Hearing. The Chairperson shall be the final decision maker concerning what, how, and in what order information and witnesses are presented to the SCB.
  - (c) Exclusion of Information. Upon the Chairperson's initiation or upon request by the Conduct Officer, the Complainant, the Respondent, or a member of the SCB, the Chairperson may exclude the following information from the SCB's consideration: 1. irrelevant information; 2. information that unreasonably repeats information already provided to the SCB; 3. information that was not provided in advance of the hearing in accordance with Section .08(3)(a), or information from witnesses who were not disclosed in advance of the hearing in accordance with Section .08(3)(a); 4. information that is protected from disclosure under federal or Tennessee law; and/or 5. information about a person's character or character trait, if the information is being presented to show that on a particular occasion the person acted in accordance with the character or character trait. Generally, in cases involving an

allegation of sexual misconduct, neither the Complainant's nor the Respondent's prior sexual history is relevant to the issue of whether sexual misconduct occurred and will not be considered by the SCB. However, when the Respondent contends that the Complainant gave consent for a particular sexual act, the prior sexual history between the Complainant and the Respondent may be relevant to assess the manner and nature of communications between the parties, although the mere existence of a current or previous dating, romantic, intimate, or sexual relationship with the other person does not allow a Respondent to imply or infer consent. The Complainant's and the Respondent's prior sexual history may also be relevant in other limited circumstances, such as to show intent, motive, absence of mistake, or to explain an injury or physical finding.

- (d) **Persons Who May Present Information.** The only persons who may present information and/or witnesses during a SCB Hearing are the Conduct Officer, the Complainant, and the Respondent. The Complainant and the Respondent are responsible for presenting their own information and/or witnesses, if any, to the SCB (an Advisor shall not present information and/or witnesses to the SCB).
  - (e) **Formal Rules.** Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in SCB Hearings. The Chairperson shall decide all procedural questions that arise during a SCB Hearing. The Chairperson may consult with SCCS for assistance in resolving procedural questions fairly and in accordance with the Code.
  - (f) **Questioning of Witnesses.** Witnesses will provide information to the SCB and answer questions from the Chairperson. The Chairperson may ask questions and/or submit a request for additional information to the Respondent, the Complainant, the Conduct Officer, and/or witnesses. The Conduct Officer, the Respondent and/or the Complainant shall not directly ask questions to each other or other witnesses. The Conduct Officer, the Respondent, the Complainant, and/or members of the SCB may propose questions for the Chairperson to ask witnesses by submitting the proposed questions to the Chairperson in writing during the hearing. The Chairperson has the discretion whether to ask a witness a question proposed by the Conduct Officer, the Respondent, the Complainant, and/or members of the SCB. The method of questioning witnesses outlined in this Section .08(4)(f) is used to preserve the educational tone of the SCB Hearing and to avoid the creation of an adversarial environment.
  - (g) **Closing Statements.** At the close of the SCB Hearing, the Chairperson may allow the Conduct Officer, the Complainant, and the Respondent equal opportunities to make statements to the SCB summarizing the information presented to the SCB and/or advocating the decision that the SCB should reach.
  - (h) **Burden of Presenting Information Demonstrating Misconduct.** The Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct, as alleged in the Notice of Allegations. Neither the Complainant nor the Respondent is required to present information or witnesses concerning the Respondent's alleged misconduct. The SCB shall not draw an inference adverse to the Conduct Officer, the Complainant, or the Respondent if the Complainant or the Respondent chooses not to present information or witnesses to the SCB.
- (5) **Notice of Decision of the Student Conduct Board.**
- (a) **Deliberation of the SCB.** After the Chairperson determines that all relevant information has been received by the SCB, the SCB will deliberate in private and decide, for each Standard of Conduct alleged in the Notice of Allegations to have been violated, whether it is more likely than not that the Respondent violated the Standards of Conduct. The SCB will decide by majority vote whether the Respondent violated the Standards of Conduct. The Chairperson shall not vote on the decision of whether the Respondent is responsible for violating the Standards of Conduct or what sanctions should be imposed unless there is a tie vote of the SCB.
  - (b) **Basis of Decision.** The SCB shall base its decision solely on information presented during

the SCB Hearing. However, if the SCB requests that additional information be provided after the SCB Hearing, the SCB may consider and base its decision on the additional information, as long as the Conduct Officer, the Respondent, and the Complainant have had a chance to review and respond to the additional information either in a resumption of the SCB Hearing or in writing.

- (c) **Determination of Sanction(s).** If the SCB decides that the Respondent violated the Standards of Conduct, then the SCB will decide the appropriate sanction(s) by majority vote. The Conduct Officer and the Complainant may advocate that the SCB impose a specific sanction(s), and the Respondent may respond. In deciding the appropriate sanctions for a Respondent's misconduct, the SCB may consider any statements provided by the Complainant and/or the Respondent as described in Section .08(3)(a)3. During the sanctioning phase, the SCB may also consider a statement provided by the Conduct Officer about the Respondent's conduct history.
  - (d) **Issuance of Notice of Decision.** Issuance of Notice of Decision. Within three (3) business days of the conclusion of the SCB Hearing, the Chairperson shall issue a Notice of Decision and transmit a copy of the Notice of Decision to SCCS. SCCS shall notify the Respondent about the Notice of Decision and provide a copy of the Notice of Decision. If permitted or required under law, SCCS shall notify the Complainant about the Notice of Decision (simultaneously with the notification to the Respondent) and provide a copy of the Notice of Decision to the Complainant.
  - (e) **Information in Notice of Decision.** The following information shall be included in the Notice of Decision: (1) for each Standard of Conduct identified in the Notice of Allegations, the SCB's decision concerning whether it is more likely than not that the Respondent violated the Standard of Conduct and the SCB's rationale for the decision concerning the alleged violation of the Standard of Conduct, including, without limitation, a brief summary of the information upon which the SCB relied in making its decision; (2) the sanction(s), if any, that the SCB has imposed on the Respondent; and (3) information about the Respondent's and the Complainant's options, if any, to appeal the decision of the SCB.
- (6) **Appealing Decisions of the Student Conduct Board.**
- (a) **Appealable Decisions.** The Conduct Officer, the Complainant and/or the Respondent may appeal the decisions of the SCB that are contained in the Notice of Decision, but the grounds for appeal are limited to those described in Section .08(6)(c).
  - (b) **Notice of Appeal.** An appeal is procedurally valid only if all of the following requirements are met: 1. an appeal shall be submitted in writing by fully completing a form approved by SCCS called a "Notice of Appeal;" 2. the Notice of Appeal shall be received by SCCS within five (5) business days of the date that SCCS transmitted the Notice of Decision; and 3.)the Notice of Appeal shall not include information that is not included in the record of the SCB Hearing, except the Notice of Appeal may contain a summary of the new information described in Section .08(6)(c)(3).
  - (c) **Grounds for Appeal.** The Notice of Appeal shall explain the grounds for the appeal, which shall be limited to one (1) or more of the following grounds:
    - 1. **Clearly Unreasonable Sanction.** The sanction(s) imposed by the SCB is clearly unreasonable (i.e., has no sound basis or justification in reason).
    - 2. **Material Procedural Error.** A procedural error occurred prior to or during the SCB Hearing, and the procedural error reasonably could have had a material impact on the SCB in reaching its decision. Neither the failure of the Respondent or the Complainant to secure the attendance of an Advisor or witness nor the failure of an Advisor or witness to attend or otherwise participate in any phase of the student conduct process constitutes a material procedural error. The failure of the Respondent or the Complainant to attend the SCB Hearing does not constitute a material procedural error.

3. New Information. New information has been discovered, the information reasonably could have had a substantial impact on the SCB in reaching its decision, and the person submitting the Notice of Appeal did not know and reasonably could not have known about the information at the time of the SCB Hearing.
  4. Personal Prejudice or Bias of a SCB Member. A SCB member had a personal prejudice or bias that precluded them from fairly and impartially hearing the case. The fact that a SCB member voted to find a Respondent responsible or not responsible for violating a Standard of Conduct does not, by itself, demonstrate that the SCB member had a personal prejudice or bias for or against the Respondent, the Complainant, or the University.
- (d) Effective Date of Sanction. The sanction(s) imposed by the SCB shall not be effective during the period in which a Notice of Appeal may be submitted, or, if a procedurally valid Notice of Appeal has been submitted (as determined by Section .08(6)(b)), until a Notice of Final Decision is issued by the Appellate Board, whichever is later. In cases in which the sanction of degree revocation is imposed, the sanction shall be presented to the Chancellor for approval before the sanction is imposed.
- (e) Appellate Board. The Appellate Board is the University body that considers appeals of decisions of the SCB, after a procedurally valid Notice of Appeal has been submitted to SCCS. SCCS will appoint a pool of persons trained by SCCS who are eligible to serve on an Appellate Board. SCCS may appoint University students, University faculty members, or University staff employees to be members of that pool. SCCS shall not appoint persons on the basis of how SCCS anticipates that they will vote.
- (f) Determination of Procedural Validity of Notice of Appeal. Within five (5) business days after the receipt of a Notice of Appeal, SCCS will determine whether the Notice of Appeal is procedurally valid. A Notice of Appeal is procedurally valid only if it has been fully completed, timely submitted to SCCS, and contains a valid ground for appeal listed in Section .08(6)(c). If a Notice of Appeal is procedurally invalid and the time for submitting a Notice of Appeal under this Section .08(6)(f) has expired, then SCCS shall send the Conduct Officer, the Respondent, and the Complainant (if permitted or required by law) a notice that the decision of the SCB has become final and any sanction(s) imposed will become effective immediately.
- (g) Appointment of Appellate Board. If the Notice of Appeal is procedurally valid, then SCCS shall appoint an Appellate Board to hear the appeal from the pool of persons who are eligible to serve on an Appellate Board. An Appellate Board shall be composed of one (1) non-voting Chairperson and three (3) voting members. At least one (1) voting member of the Appellate Board shall be a University student; except, however, SCCS shall not appoint students to serve on an Appellate Board in a case involving an allegation of research misconduct or involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the Appellate Board hearing their case. The Director of SCCS shall not appoint a person to serve as Chairperson or a voting member of the Appellate Board if the person served as a Chairperson or a voting member of the SCB whose decision is being appealed. In addition, an employee who works in SCCS or whose direct supervisor is the Conduct Officer who participated in the SCB Hearing shall be ineligible to serve as a member of the Appellate Board.
- (h) Transmittal of Notice of Appeal. After the appointment of the members of the Appellate Board, SCCS shall transmit a copy of the Notice of Appeal to persons who have a need to know about the Notice of Appeal, including, without limitation, the members of the Appellate Board and all non-appealing parties (e.g., if the Respondent appeals, the Conduct Officer and the Complainant would be the non-appealing parties). A non-appealing party may submit a written response to the Notice of Appeal to the Appellate Board within five (5) business days of SCCS's transmittal of the Notice of Appeal. The written response shall be limited to: 1. responding to issues raised in the Notice of Appeal and shall not contain information that is not included in the record of the SCB Hearing; and 2. request the removal of a member of the Appellate Board on the grounds that the person cannot be fair and impartial in deciding the case. If SCCS determines that the person cannot be fair and



impartial, then SCCS may appoint a substitute member of the SCB in accordance with Section .08(6)(g).

- (i) Recusal. Any member of the Appellate Board who determines that they cannot decide the appeal fairly and impartially for any reason shall recuse themselves from serving on the Appellate Board, in which case SCCS shall appoint a substitute member of the Appellate Board in accordance with this Section .08(6)(g).
- (j) Review of the Record. The Appellate Board's final decision shall be based on its review of the record of the hearing before the SCB, which shall be limited to: 1. the Notice of Allegations; 2. the Notice of Formal Hearing; 3. the Notice of Decision; 4. the recording and the transcript, if any, of the hearing, and all other information submitted to the SCB during the hearing; and 5. the Notice of Appeal and any written responses, in accordance with Section .08(6)(h).
- (k) Potential Decisions of the Appellate Board. The Appellate Board shall reach one (1) of the following decisions, by a majority vote, if the appeal is determined to be procedurally valid:
  - 1. Affirm both the SCB's finding that the Respondent violated the Standards of Conduct and the sanctions imposed by the SCB;
  - 2. In a case involving a clearly unreasonable sanction, the Appellate Board may modify the sanctions imposed by the SCB by imposing a greater or lesser sanction(s);
  - 3. In a case involving a material procedural error, the Appellate Board shall remand the case for a new hearing to be conducted by a new SCB or the same SCB. The Appellate Board should recommend to the Chairperson how to correct the procedural error. SCCS may appoint a substitute member for any member of the SCB who is unavailable to participate in the new hearing;
  - 4. In a case of new information that fits the criteria described in Section .08(6)(c)3., remand the case to the same SCB for the limited purpose of hearing the new information and reconsidering its decision based on the new information. SCCS may appoint a substitute member for any member of the SCB who is unavailable to participate in hearing the new information or the reconsideration of the decision; or
  - 5. In a case in which a SCB member had a personal prejudice or bias, remand the case for a new hearing to be conducted by a new SCB.
- (l) Notice of Final Decision. The Appellate Board shall communicate its decision through a written notice called a Notice of Final Decision. The Notice of Final Decision should be issued within ten (10) business days of the submission of the Notice of Appeal. The Notice of Final Decision shall be sent to SCCS, who will notify the Conduct Officer, the Respondent, the Chairperson of the SCB, and, if permitted or required by law, the Complainant about the Notice of Decision and provide them with a copy of the Notice of Decision. The decision of the Appellate Board is final and is not subject to appeal.
- (7) Other Issues Heard by the SCB. In addition to hearing disputes concerning violations of the Standards of Conduct, the Student Conduct Board shall also be the University body that hears disputes concerning the interpretation of the Student Government Constitution and disputes concerning the results of Student Government elections.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.09 TITLE IX HEARINGS: HEARINGS AND APPEALS.**

**AMEND** rule 1720-04-03-.09 by inserting a period after paragraph (2), so that as amended it shall read as follows:

**1720-04-03-.09 TITLE IX HEARINGS: HEARINGS AND APPEALS.**

- (1) The Title IX Hearing. Any case that includes Title IX Allegations that reaches the Formal Hearing stage will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance with 34 C.F.R. 106.45.
- (2) The Title IX Hearing Officer. The Vice Chancellor for Student Life (or a designee) will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their Advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing. A party may object to the appointment of any Title IX Hearing Officer, in writing to the Vice Chancellor for Student Life. Any objection must be received within three (3) business days of the notice of appointment, and it must state the party's grounds for objecting. The Vice Chancellor for Student Life will decide whether an objection is justified, and that decision is final. If a Title IX Hearing Officer is removed based on an objection, the Vice Chancellor for Student Affairs will appoint a new qualified Title IX Hearing Officer to conduct the Title IX Hearing.
- (3) Notice of Title IX Hearing.
  - (a) When a Notice of Title IX Hearing is Sent. The Title IX Hearing Officer will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.
  - (b) Information in the Notice of Title IX Hearing. The Notice of Title IX Hearing will contain, or be accompanied by, the following information: 1. the date, time, and place of the Title IX Hearing; 2. notice of the right to have an Advisor of the party's choice, who may be, but is not required to be, an attorney, and that, if the party does not have an Advisor present at the hearing, the University must provide an Advisor of the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; 3. notice that any cross-examination of any other party or witness must be conducted by the Advisor, and never by a party personally; and 4. notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.
  - (c) More than One Respondent. In cases involving more than one (1) Respondent, Title IX Hearings concerning each Respondent's conduct may be conducted separately upon written request of a party submitted at least seven (7) business days in advance of the hearing. SCCS has the discretion to make the final determination of whether to grant such a request and will notify the parties of the decision.
  - (d) Consequences of Failing to Attend a Title IX Hearing. If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.
- (4) General Rules Governing Title IX Hearings.
  - (a) The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.
  - (b) The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their Advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing, the location of the hearing, any technology to be used at the hearing, the general rules governing the hearing, including any rules of decorum, the identification of witnesses, and the availability of evidence at the hearing.
  - (c) Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's Advisor, if any, or that the party does not have an Advisor so that the University can provide an Advisor.
  - (d) At the request of either party, the University will provide for the hearing to occur with the

parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.

- (e) Upon request of a party, and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.
- (5) Procedural Rules for Title IX Hearings.
- (a) Authority of the Title IX Hearing Officer. The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision maker concerning what, how, and in what order witnesses are questioned and evidence is examined.
  - (b) Exclusion of Information.
    - 1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
    - 2. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.
    - 3. The University cannot require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
  - (c) Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University rule or policy allegedly violated.
  - (d) Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from SCCS, the Complainant and the Complainant's Advisor, the Respondent and the Respondent's Advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and SCCS have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.
  - (e) Opening Statements. The Complainant and then the Respondent may each make an opening statement to the Title IX Hearing Officer, and they may provide a written copy of their opening statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written opening statement received to the other party.
  - (f) Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties or deemed to have relevant information by the Title IX Hearing Officer. The Title IX Hearing Officer will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time

by the party's Advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the hearing, the Title IX Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions. Notwithstanding any provisions in this Section .09(5)(f) to the contrary, alleged verbal conduct by a Respondent that constitutes any part of the Title IX Allegations at issue in the case may be considered by the Title IX Officer in reaching a determination regarding responsibility even if the Respondent does not submit to cross-examination during the Title IX Hearing.

- (g) Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing Officer may allow the Complainant and the Respondent equal opportunities to make closing statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.
- (6) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript of the hearing and make it available to the parties for inspection and review.
- (7) Notice of Decision of Title IX Hearing Officer. Within ten (10) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision of Title IX Hearing Officer"). The written determination must include (a) identification of the allegations potentially constituting Sexual Harassment; (b) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (c) findings of fact supporting the determination; (d) conclusions regarding the application of the Code to the facts; (e) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and (f) the procedures and permissible bases for the Complainant and Respondent to appeal. If the Respondent is determined responsible, the Title IX Hearing Officer may consider relevant information provided at the hearing by the Complainant, the Respondent, or any other witness in deciding the appropriate sanction for the Respondent's misconduct.
- (8) Notice of Decision of Title IX Hearing Officer to SCCS. The Title IX Hearing Officer shall transmit a copy of the Notice of Decision of Title IX Hearing Officer to SCCS. SCCS shall notify the Respondent, the Complainant, and their Advisors about the written determination and provide a copy of it simultaneously to the parties and their Advisors.
- (9) Appealing Decisions of the Title IX Hearing Officer.
  - (a) Appealable Decisions. The Complainant and the Respondent may appeal the decisions of the Title IX Hearing Officer that are contained in the Notice of Decision of Title IX Hearing Officer (as well as a decision by the University to dismiss a Formal Complaint that includes Title IX Allegations), but the grounds for appeal are limited to those described in Section .09(8)(c).
  - (b) Notice of Appeal. An appeal is procedurally valid only if all of the following requirements are met: 1. an appeal shall be submitted in writing by fully completing a form approved by SCCS called a "Notice of Appeal;" 2. the Notice of Appeal shall be received by the Vice Chancellor for Student Life, or their designee, within five (5) business days of the date that SCCS transmitted the Notice of Decision; and 3. the Notice of Appeal shall not include information that is not included in the record of the Title IX Hearing, except the Notice of Appeal may contain a summary of the new information described in Section .09(8)(c)3.. SCCS will notify

the other party in writing when an appeal is received.

- (c) Grounds for Appeal. The Notice of Appeal shall explain the grounds for the appeal, which shall be limited to one (1) or more of the following grounds:
  - 1. Clearly Unreasonable Sanction. The sanction(s) imposed by the Title IX Hearing Officer is clearly unreasonable (i.e., has no sound basis or justification in reason).
  - 2. Procedural Error. A procedural irregularity affected the outcome of the matter.
  - 3. New Evidence. New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter.
  - 4. Conflict of Interest or Bias. The Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- (d) Effective Date of Sanction. The sanction(s) imposed by the Title IX Hearing Officer shall not be effective during the period in which a Notice of Appeal may be submitted, or, if a procedurally valid Notice of Appeal has been submitted (as determined by Section .09(8)(c)), until a Notice of Title IX Final Decision is issued by the Vice Chancellor for Student Life, whichever is later.
- (e) Appeal Process. Each party may submit a written statement in support of or challenging the outcome of the Title IX Hearing. The written statement must be received by the Vice Chancellor for Student Life within five (5) business days of the date on which the Notice of Appeal was filed, or within five (5) business days on which the non-appealing party received notice that the other party filed a Notice of Appeal. Within five (5) business days of the receipt of the last timely submitted appeal, the Vice Chancellor for Student Life will issue a written decision (Notice of Title IX Final Decision) describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The decision of the Vice Chancellor for Student Life is final and not subject to further appeal.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.10      SANCTIONS.**

**AMEND** rule 1720-04-03-.10 by adding and deleting language in subparagraphs (2)(a), (2)(b), (2)(d), and (2)(f), adding language in subparagraph (3)(a), deleting subparagraph (3)(f), and adding a new paragraph (4), so that as amended it shall read as follows:

**1720-04-03-.10      SANCTIONS.**

- (1) General Rules.
  - (a) Purposes of Sanctions. The purposes of sanctions include, without limitation: (1) to educate the Respondent about appropriate conduct; (2) to promote the personal and professional development of the Respondent; (3) to discourage the Respondent and other students from violating the Standards of Conduct; and (4) to protect other members of the University community. The sanctions imposed on a Respondent should be proportional to the Respondent's misconduct and appropriate for the particular case based on the gravity of the offense (including, without limitation, how the violation affected or reasonably could have affected other members of the University community). Consideration may also be given to the Respondent's conduct record; whether the Respondent acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; the Respondent's academic classification (e.g., undergraduate, graduate, freshman, sophomore, junior, senior); and other aggravating or mitigating factors.

- (b) Administrative and Developmental Sanctions. A student who accepts responsibility or is found responsible for violating the Standards of Conduct generally will be given one (1) or more administrative sanctions. A student may also be given one (1) or more developmental sanctions.
- (2) Administrative Sanctions.
- (a) Warning. A warning is a written notice to a student that informs them that they have violated the Standards of Conduct, that the misconduct must cease and/or not reoccur, and that further misconduct will likely result in the imposition of more serious sanctions.
  - (b) Disciplinary Probation. Disciplinary probation is imposed for a designated period of time during which the student may continue to be enrolled but must demonstrate conduct that conforms to the Standards of Conduct. Conditions may be placed on the student's continued enrollment. A student may be placed on disciplinary probation for moderate misconduct or in the case of repeated minor misconduct. Also, a student allowed to re-enroll following a suspension will be placed on disciplinary probation. Subsequent violations of the Standards of Conduct during a period of disciplinary probation may result in more serious sanctions such as suspension or expulsion from the University.
  - (c) Deferred Suspension. A deferred suspension is a designated period of time during which a student, while continuing to be enrolled, is given an opportunity to demonstrate the ability to abide by the Standards of Conduct. A student may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student is found responsible for any additional violation(s) of the Standards of Conduct while the student is on deferred suspension, then the sanction of suspension will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Students who are placed on deferred suspension are also generally given developmental sanctions.
  - (d) Suspension. A suspension is an official separation of a student from the University for a designated period of time and/or until certain conditions are met. A suspension may be imposed for serious misconduct and/or for a violation of deferred suspension. Suspension may include conditions that must be satisfied prior to a student being allowed to re-enroll and/or conditions that will be in place if the student is allowed to re-enroll. The effective date of a suspension may be imposed retroactively to the date that the misconduct occurred. While suspended, the student loses all University rights and privileges (e.g., enrollment privileges), shall not represent the University in any official manner, and shall not be present on University-controlled property without the prior approval of the Vice Chancellor for Student Life. The student may be required to meet with an assigned Student Life staff member periodically while suspended to ensure the student is making satisfactory progress regarding the developmental sanctions issued. The Vice Chancellor for Student Life will determine whether the student is eligible for consideration for re-enrollment by the University's admissions office(s). Prior to re-enrollment, the student must satisfy the terms and conditions of all sanction(s) that are required to be completed prior to re-enrollment. Students who are permitted to return to the University following a period of suspension will automatically be placed on disciplinary probation by SCCS for a designated period of time, which is designed to facilitate a smooth transition back to the University community. A student on post-suspension disciplinary probation must abide by the Standards of Conduct and all terms and conditions placed on the student's re-enrollment.
  - (e) Expulsion. Expulsion is a sanction that permanently bars a person from re-enrolling as a student at the University. This sanction generally is imposed when the student's misconduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; and/or when, by the student's repeated misconduct, a student has exhibited a blatant disregard for the health, safety, or welfare of other members of the University community or the University's right to establish rules of conduct. A person who has been expelled shall not be present on University-controlled property without the prior approval of the Vice Chancellor for Student Life.
  - (f) Withholding of Degree. The University may withhold a degree as a disciplinary sanction for

a designated period of time or until the student's completion of all other sanctions imposed, whichever occurs later.

- (g) **Revocation of Degree.** The sanction of the revocation of a degree may be imposed if a student has obtained a degree at least in part through cheating, plagiarism, other academic dishonesty, or through research misconduct. Revocation of a degree shall be approved by the Chancellor before the revocation is effective. If approved by the Chancellor, this sanction will be noted on the student's academic transcript on a permanent basis.
  - (h) **Disciplinary Probation for Student Organizations.** A student organization given the sanction of disciplinary probation is permitted to retain University student organization registration on a probationary status. As a condition of the disciplinary probation, the student organization also may be given developmental sanctions.
  - (i) **Social Probation for Student Organizations.** Social probation prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Vice Chancellor for Student Life.
  - (j) **Deferred Suspension for Student Organizations.** A deferred suspension is a designated period of time during which a student organization, while continuing to be active, is given an opportunity to demonstrate the ability to abide by the Standards of Conduct. A student organization may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student organization is found responsible for any additional violation(s) of the Standards of Conduct while the student organization is on deferred suspension, then the sanction of revocation or suspension of University registration will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Student organizations who are placed on deferred suspension generally also receive disciplinary probation and developmental sanctions.
  - (k) **Revocation or Suspension of University Registration.** In cases of serious or repeated misconduct, a student organization's University registration may be suspended or revoked.
- (3) **Developmental Sanctions.** In addition to an administrative sanction(s), one (1) or more of the following developmental sanctions may be imposed in an effort to foster student learning and development.
- (a) **Educational Activities.** Educational activities are designed to educate the student about why certain conduct was inappropriate. Examples of such activities include, without limitation, offering a formal apology (in writing and/or in person); attending an educational class, training, or workshop; giving or attending a presentation; preparing and submitting a research project or paper on a designated topic; or offering a written reflection responding to a prompt given by SCCS. The student may be held responsible for the payment of reasonable expenses relating to the educational activity.
  - (b) **Restitution.** Restitution is compensation for loss, damage, and/or injury incurred as a result of the student's conduct. Compensation may take the form of money, service, and/or material replacement. Restitution may be required to be made to the University, a specific individual, or a specific organization. Normally, all restitution must be paid or made within two (2) weeks of the imposition of the sanction.
  - (c) **Supervised Work/Service.** A student may be assigned unpaid work or service that is both beneficial to the University community and/or likely to assist the student in understanding the effects of the student's conduct.
  - (d) **Loss or Restriction of Privileges.** Specified student privileges are lost or restricted. Such privileges include, without limitation, representing the University in any official manner, the use of or access to University-controlled property, University parking privileges, or participation in University-affiliated activities (e.g., extracurricular activities).

- (e) University Housing Reassignment or Removal. A student may be assigned to a different residence hall or residence hall room. A student's residence hall contract also may be terminated, and the student may be prohibited from residing in University housing for a definite or indefinite period of time.
- (4) Parental Notifications. If a student accepts responsibility or is found responsible for violating a Standard of Conduct involving drugs or alcohol, and that student is under twenty-one (21) years of age, SCCS shall inform the parent or legal guardian of that student of the violation, as required by state law. Typically, SCCS fulfills the parental notification requirement by mailing written notification to the parent or legal guardian's address listed with the Office of the University Registrar. SCCS may also notify parents or legal guardians through other means when necessary or appropriate. Parental notification is not considered a disciplinary sanction.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.11 HONOR STATEMENT.**

**AMEND** rule 1720-04-03-.11, adding and deleting language in paragraphs (2), (6), and (9), revising the numbering structure in paragraphs (4) and (5), and deleting and replacing paragraphs (7) and (8) in their entirety, so that as amended it shall read as follows:

**1720-04-03-.11 HONOR STATEMENT.**

- (1) Honor Statement. An essential feature of the University is a commitment to maintaining an atmosphere of intellectual integrity and academic honesty. As such the University utilizes an Honor Statement that reads, "As a student of the University, I pledge that I will neither knowingly give nor receive any inappropriate assistance in academic work, thus affirming my own personal commitment to honor and integrity."
- (2) Informing Students and Faculty. The following methods will generally be used to inform students and faculty members about the Honor Statement: (1) the Honor Statement appears on undergraduate and graduate applications for admission, and applicants will be required to acknowledge his/her affirmation of the Honor Statement in writing; (2) information regarding the Honor Statement is included in the undergraduate and graduate catalogs, Hilltopics; (3) the Honor Statement is discussed during student orientation programs; (4) faculty members are encouraged to discuss the Honor Statement with students in their courses;
  - (a) faculty members are encouraged to include the Honor Statement in their course syllabus;
  - (b) implementation methods and alternatives are discussed during faculty orientation programs;and (7) the enforcement of the Honor Statement is through the Standards of Conduct (Section .04(1)) and the student conduct process.
- (3) Academic Dishonesty. The Honor Statement prohibits cheating, plagiarism, and any other type of academic dishonesty.
- (4) Plagiarism. Plagiarism is using the intellectual property or product of someone else without giving proper credit. The undocumented use of someone else's words or ideas in any medium of communication (unless such information is recognized as common knowledge) is a serious offense, subject to disciplinary action that may include failure in a course and/or dismissal from the University. Specific examples of plagiarism include, but are not limited to: 1. using without proper documentation (quotation marks and citation) written or spoken words, phrases, or sentences from any source; 2. summarizing without proper documentation (usually a citation) ideas from another source (unless such information is recognized as common knowledge); 3. borrowing facts, statistics, graphs, pictorial representations, or phrases without acknowledging the source (unless such information is recognized as common knowledge); 4. collaborating on a graded assignment without the instructor's approval; and 5. submitting work, either in whole or partially created by a professional service or used without attribution (e.g., paper, speech, bibliography, or photograph).
- (5) Examples of Other Types of Academic Dishonesty. Specific examples of other types of academic dishonesty include, but are not limited to: 1. providing or receiving unauthorized information during an examination or academic assignment, or the possession and/or use of unauthorized materials during an examination or academic assignment; 2. providing or receiving unauthorized assistance



in connection with laboratory work, field work, scholarship, or another academic assignment; 3. falsifying, fabricating, or misrepresenting data, laboratory results, research results, citations, or other information in connection with an academic assignment; 4. serving as, or enlisting the assistance of, a substitute for a student in the taking of an examination or the performance of an academic assignment; 5. altering grades, answers, or marks in an effort to change the earned grade or credit; 6. submitting without authorization the same assignment for credit in more than one (1) course; 7. forging the signature of another or allowing forgery by another on any class or University-related document such as a class roll or drop/add sheet; 8. gaining an objectively unfair academic advantage by failing to observe the expressed procedures or instructions relating to an exam or academic assignment; and 9. engaging in an activity that unfairly places another student at a disadvantage, such as taking, hiding, or altering resource material, or manipulating a grading system.

- (6) Responsibilities Associated with the Honor Statement. All members of the University community have responsibilities associated with the Honor Statement. These responsibilities are unique to each sector of the University community. Each student is responsible for his/her own personal integrity in academic life. Each student is responsible for knowing and adhering to the terms and conditions of the Honor Statement and may acknowledge his/her adherence to the Honor Statement by writing, "Pledged," and signing on a graded class assignment or examination. Although there is no affirmative duty to report the academic dishonesty of another, each student, given the dictates of his/her own conscience, may choose to report any violation of the Honor Statement to a faculty member or to SCCS. The discouragement of academic dishonesty, and the response to academic dishonesty, is the immediate responsibility of the instructor. However, students are not excused from complying with the Honor Statement because of an instructor's failure to address or discourage academic dishonesty.
- (7) Academic Dishonesty.
  - (a) Notice of Academic Dishonesty and Informal Opportunity to Respond. When an act of alleged academic dishonesty, in violation of Section .04(1) is discovered by, or brought to the attention of, an instructor, the instructor shall notify the student about the alleged academic dishonesty, describe the information supporting the allegation, and give the student an informal opportunity to respond to the allegation(s) and information.
  - (b) Referral By Academic Department to SCCS. After the instructor provides the student with an informal opportunity to respond, and if the instructor still believes that an act of academic dishonesty has occurred, the instructor shall refer the incident to SCCS. In referring the incident to SCCS, the instructor shall include the academic penalty that the instructor plans to impose, if any. The referring instructor will not assign an academic penalty or a final grade for the course pending resolution of the allegation by SCCS. If a grade must be submitted at the end of the grading period, the student will receive a temporary grade of "Incomplete" (I) until the case is resolved. The instructor does not have the authority under the Code to impose a sanction identified in Section .10(2) or Section .10(3).
  - (c) Academic Penalties and Appeals of Academic Penalties. If, at the conclusion of the student conduct process, SCCS determines that a student is not responsible for violating Section .04(1), the instructor shall not impose any academic penalty. If SCCS determines that a student is responsible for violating Section .04(1), the instructor may impose an academic penalty, in addition to any sanctions imposed by SCCS under Section .10(2) or .10(3). Academic penalties may include, without limitation, dismissal from a program of study; a failing or reduced grade in the academic exercise, assignment, examination, and/or course; loss of credit for the work involved; an assignment to repeat the work, to be graded on its merits; and/or a warning. An instructor may impose more than one (1) academic penalty. A student may appeal an academic penalty, as distinct from a student disciplinary sanction, through the appropriate institutional academic misconduct or grade appeal procedures, including the Undergraduate Council Appeal Procedure or Graduate Council Appeal Procedure.
- (8) Academic Dishonesty – Resolution through the Student Conduct Process. After receiving any conduct referral for academic dishonesty, SCCS will proceed with the student conduct process. SCCS may issue a Notice of Allegations for violating Section .04(1) regardless of the response of

the instructor to the alleged academic dishonesty. If SCCS issues a finding of responsibility and Notice of Sanctions for a violation of Section .04(1), then the allegations shall be resolved through a Resolution Agreement, a Formal Hearing, or an Alternative Resolution Process, pursuant to Section .07 of the Code.

- (9) College of Law. The University of Tennessee College of Law has adopted and promulgated its own Code of Academic Conduct, Chapter 1720-04-09. Chapter 1720-04-09 shall control in the event of a conflict between this Code and Chapter 1720-04-09.
- (10) Research Misconduct. Notwithstanding anything in this Code to the contrary, allegations of research misconduct shall be reported, assessed, inquired into, investigated, and resolved consistently with the University's Policy on Misconduct in Research and Service.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.12 AMNESTY FOR INDIVIDUAL GOOD SAMARITANS AND STUDENTS IN NEED OF EMERGENCY MEDICAL ATTENTION.**

**AMEND** rule 1720-04-03-.12 by revising the title of section .12, and adding and deleting language in paragraphs (2) and (5), so that as amended it shall read as follows:

**1720-04-03-.12 AMNESTY FOR INDIVIDUAL GOOD SAMARITANS AND STUDENTS IN NEED OF EMERGENCY MEDICAL ATTENTION.**

- (1) Background. The University of Tennessee holds paramount the health, safety, and welfare of students. Accordingly, all University students are expected to alert appropriate officials in the event of a health, safety, or welfare emergency, including, without limitation, a situation involving the abuse of alcohol or other drugs.
- (2) Expectations. When individual students know or reasonably should have known that other individual students are in need of emergency medical attention, the individual students are expected to: (1) contact appropriate people to report the incident and request assistance (e.g., University staff members, law enforcement), and provide those people with the names and contact information for the individual students reporting the incident and the impaired individual students; and (2) demonstrate cooperation and care by remaining with the impaired individual students and providing reasonable assistance during and after the incident. Individual students who take all of the steps described in this Section .12(2) will be referred to as a "Good Samaritan" under the Code. The individual students in need of emergency medical attention will be referred to as an "individual impaired student" under the Code.
- (3) Amnesty for Individual Good Samaritans. Unless individual Good Samaritans have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual Good Samaritans will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, the individual students who acted as a Good Samaritan may be required to meet with a University staff member to discuss the individual Good Samaritan's misconduct and adhere to appropriate remedial and/or educational recommendations.
- (4) Amnesty for Individual Impaired Students. Unless individual impaired students have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual impaired students will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, the individual impaired students may be required to meet with a University staff member, participate in educational activities, and/or establish that the individual students have addressed issues that contributed to the misconduct.
- (5) Application of Amnesty to Student Organizations. Student organizations, through their officers and members, are also expected to take responsible action in emergency situations. While this Section .012 may not fully apply to a student organization, adherence to steps described in Section .12(2)

by a student organization's officers and/or members will be considered a mitigating factor when determining the outcome or sanction. Additionally, the University will consider a failure of officers and/or members to adhere to steps described in Section .12(2) to be an aggravating factor when determining the outcome or sanction.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.14 MAINTENANCE, DISCLOSURE, AND EXPUNGEMENT OF STUDENT DISCIPLINARY RECORDS.**

**AMEND** rule 1720-04-03-.14 by adding language in subparagraphs (2)(a) and (2)(b), and adding language in paragraph (3), so that as amended it shall read as follows:

**1720-04-03-.14 MAINTENANCE, DISCLOSURE, AND EXPUNGEMENT OF STUDENT DISCIPLINARY RECORDS.**

- (1) Maintenance of Student Disciplinary Records. The University maintains student disciplinary records separately from student academic records.
- (2) Disclosure of Student Disciplinary Records while a Student is Enrolled.
  - (a) While a student is enrolled in the University, SCCS may disclose disciplinary records to University officials who have a legitimate educational interest in the disciplinary records, subject to Section .14(2)(b), or to students who request to inspect their disciplinary records. SCCS may disclose disciplinary records to other persons only in accordance with state or federal law or with the student's consent and in some circumstances will be required by state or federal law to disclose disciplinary records (e.g., subpoena, judicial order).
  - (b) While a student is still enrolled in the University but applying for post-graduation employment or graduate school, SCCS will disclose a student's disciplinary records to persons outside of SCCS only with the student's consent and if one of the following sanctions was imposed on the student while the student was enrolled in the University: suspension; expulsion; withholding of degree; or revocation of degree. Notwithstanding the previous sentence, SCCS will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- (3) Disclosure of Student Disciplinary Records after a Student is no Longer Enrolled. After a student is no longer enrolled in the University, SCCS will disclose a student's disciplinary records to persons outside of SCCS only with the student's consent and if one (1) of the following sanctions was imposed on the student while the student was enrolled in the University: suspension; expulsion; withholding of degree; or revocation of degree. Notwithstanding the previous sentence, SCCS will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- (4) Expungement of Student Disciplinary Records. SCCS permanently maintains student disciplinary records for students who have received the following sanctions (or their equivalents under previous versions of the Code): suspension; expulsion; withholding of degree; or revocation of degree. SCCS expunges student disciplinary records for other students seven (7) years after graduation or the last date of enrollment, except as prohibited by law or a University litigation hold.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.15 DEFINITIONS OF TERMS USED IN THE CODE.**

**AMEND** rule 1720-04-03-.15 by deleting language in paragraph (6), deleting paragraph (13) and renumbering the remaining paragraphs accordingly, revising the numbering structure in new paragraph (16), deleting language in new paragraph (28), and adding and deleting language in new paragraphs (32), (33), (34), and (39), so that as amended it shall read as follows:

**1720-04-03-.15 DEFINITIONS OF TERMS USED IN THE CODE.**

The following words, terms, or phrases, when used in the Code, shall have the following meanings:

- (1) Attend: To participate in a meeting or hearing electronically or in person.
- (2) Business Day: Any weekday not designated by the University as a holiday or administrative closure day. When calculating a time period of business days specified in the Code, the business day of the event that triggers a time period is excluded.
- (3) Chairperson: A faculty or staff member appointed by SCCS to preside over and facilitate a SCB Hearing.
- (4) Code, Code of Conduct, or Student Code of Conduct: The University of Tennessee, Knoxville's Student Code of Conduct, Chapter 1720-04-03.
- (5) Complainant: An individual who may have been subjected to student conduct that violates the Standards of Conduct, regardless of whether that individual makes a complaint or report to SCCS. This term does not imply pre-judgment concerning whether the Respondent violated the Standards of Conduct. SCCS is the final decision maker with respect to whether an individual is a Complainant for purposes of the Code.
- (6) Conduct Officer: A University employee designated by SCCS to present information on behalf of SCCS to the Student Conduct Board.
- (7) Disciplinary Hold: The University hold described in Section .06(3)(c).
- (8) Disciplinary Records: A written record that personally identifies a Respondent and is maintained by SCCS.
- (9) Faculty Member or Instructor: A person hired by the University to conduct teaching, research, or supervised clinical placements.
- (10) Formal Complaint. A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two (2) types of Formal Complaints: (a) Formal Complaints that include Title IX Allegations (as defined under Section .15(29)); and (b) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.
- (11) Formal Hearing: A SCB Hearing, a hearing before a Student Life Hearing Officer, a Title IX Hearing, and/or a UAPA Hearing.
- (12) Good Faith: Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is not communicated in good faith if it is communicated with knowing or reckless disregard for information that would negate the former information.
- (13) Member of the University Community: A person who is a student, University employee, University volunteer, invited visitor to University-controlled property, or participant in a University-affiliated activity.
- (14) Notice or Notify (given to students): Written notice transmitted by United States mail, courier service, or hand delivery to the address the University's Registrar has on file for the student; and/or by e-mail to a student's University-provided e-mail account. When a notice is transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by e-mail, the notice is effective on the date that the e-mail is sent. A student's University-issued email address is the official method of communication used by SCCS.
- (15) Possession: Direct control of a substance or property, actual knowledge of a substance or

property, and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.

- (16) Protected Activity: A person's good faith: (a) opposition to conduct prohibited under the Standards of Conduct; (b) report to the University about conduct prohibited under the Standards of Conduct to the University; (c) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (d) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- (17) Reasonable Person: A sober, objectively reasonable person in the same situation, and with the same sex, gender identity, and sexual orientation as the person whose words and/or conduct are being evaluated.
- (18) Relevant Information: Information having any tendency to make the existence of any fact that is of consequence to determining whether the Respondent violated the Standards of Conduct more probable or less probable than it would be without the information. This definition does not apply to Title IX Hearings.
- (19) Respondent: A student or student organization who has been accused of violating the Standards of Conduct and/or whose conduct is being investigated by SCCS.
- (20) Sanction: An administrative sanction and/or a developmental sanction.
- (21) SCB: Student Conduct Board.
- (22) SCCS: The Office of Student Conduct and Community Standards, which acts through University employees designated by the Director of SCCS to act on behalf of the University in the student conduct process, including, without limitation University employees who work in SCCS and University employees who work in University Housing.
- (23) Sexual Harassment. Conduct on the basis of sex that satisfies one (1) or more of the following: (a) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (b) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (c) sexual assault, dating violence, domestic violence, or stalking.
- (24) Staff Member: A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and controlling efforts to achieve the goals and objectives of the University.
- (25) Standards of Conduct: Chapter 1720-04-03-.04.
- (26) Student: For purposes of the Code, the term "student" means:
  - (a) A person enrolled or registered for study at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree and non-credit programs and courses;
  - (b) A student organization;
  - (c) A person who has completed the immediately preceding academic term and is eligible for re-enrollment;
  - (d) A person who is not officially enrolled but who has a continuing relationship with the University (e.g., on educational leave or other approved leave status);
  - (e) A person who attended the University during a previous academic term and who engaged in misconduct during the time of enrollment; and/or

- (f) A person who has been admitted to the University and later matriculates at the University, with respect to misconduct:
1. That occurs as part of the application process; or
  2. That occurs post-admission and pre-matriculation and falls within the jurisdiction of the Code (e.g., occurs on University-controlled property).
- (27) Student Life Hearing Officer. As more fully described in Section .07(2)(d), a University employee designated by the Director of SCCS to conduct a Formal Hearing.
- (28) Student Organization: An organization composed of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (29) Title IX Allegations. Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section .15(23)) in the University's education program or activity and occurred within the United States.
- (30) Title IX Hearing Officer. As more fully described in Section .09(2), a person or persons appointed to conduct a Title IX Hearing.
- (31) UAPA: Uniform Administrative Procedures Act, Tennessee Code Annotated, §§ 4-5-301 et seq.
- (32) UAPA Hearing: A formal hearing conducted by an administrative judge or hearing officer in accordance with the University's procedures for conducting a contested case hearing pursuant to the UAPA, Chapter 1720-01-05.
- (33) University: The University of Tennessee, Knoxville, which includes the University of Tennessee Institute of Agriculture and the University of Tennessee Space Institute; and their campuses, centers, and constituent parts including, without limitation, their academic, administrative, or auxiliary departments or divisions.
- (34) University-Affiliated Activity: An activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (35) University-Controlled Property: All land, grounds, structures, or any other property owned, controlled, or operated by the University. For purposes of this rule, University-controlled property includes, without limitation, all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, controlled, or operated by the University or funded by the University.
- (36) University Official: An employee of the University, including, without limitation, faculty members and staff members, or, for purposes of this Code, a University-recognized volunteer, when acting in the performance of their duties. Student employees may be considered University officials when acting in the performance of their duties (e.g., event staff, resident assistants, and teaching assistants).
- (37) Vice Chancellor for Student Life: The University's chief student affairs officer, to whom the Chancellor has delegated responsibility for the administration of the Code. For the purposes of the Code, the term also includes any University employee whom the Vice Chancellor for Student Life designates to act in place of the Vice Chancellor for Student Life.
- (38) Weapon: Any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, without limitation, firearms (loaded and unloaded, real firearms and devices that would reasonably appear to a law enforcement officer to be real firearms), ammunition, electronic control devices (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (such as mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term "weapon" does not include pocket knives that fold

(but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.

- (39) Written: To communicate words on paper or electronically. A notice delivered via e-mail constitutes a written notice under the Code.

**Authority:** T.C.A. § 49-9-209(e).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: January 14, 2021

Signature: 

Name of Officer: C. Ryan Stinnett

Title of Officer: General Counsel

**Department of State Use Only**

Filed with the Department of State on: 1/15/2021



Tre Hargett  
Secretary of State

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**RULES  
OF  
THE UNIVERSITY OF TENNESSEE (KNOXVILLE)**

**CHAPTER 1720-04-03  
STUDENT CODE OF CONDUCT**

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**1720-04-03-.01 PREAMBLE.**

- (1) Students at the University of Tennessee are members of both the University community and the larger community of which the University is a part. Accordingly, students are responsible for conducting themselves in a lawful manner as well as in compliance with University rules and policies. In addition, the University has developed a set of aspirational goals titled, Principles of Civility and Community, which encourages all members of the University community to foster a learning environment where diversity is valued, respected, and celebrated. As stated in those Principles, the University of Tennessee affirms the value of each member of the University community and adheres to the principles of inclusivity, diversity, dialogue, collegiality, respect, knowledge, integrity, learning, awareness, and responsiveness. We respect the diverse backgrounds of all members of our community. This includes, but is not limited to, people of any race, color, sex, gender identification, sexual orientation, religion, national origin, age, ancestry, ability status, and military status. We value an environment that facilitates collegial relationships, encourages mutual understanding among diverse individuals and leads to addressing issues and differences in an atmosphere of mutual respect and civility. Therefore, we strive to be welcoming to all and hostile to none.
  
- (2) The University has established the Student Code of Conduct (“Code”) in order to advance the mission of the University and sustain a culture of excellence by: maintaining a safe learning environment; requiring students to conduct themselves in ways that allow for their personal growth and development as well as others, in the most positive manner possible; protecting the rights and privileges of all members of the University community; providing a basis for orderly conduct of the affairs of the University; promoting a positive relationship between the University and its surrounding community; preserving the University’s reputation and property; encouraging students to engage in conduct that brings credit to themselves and the University; and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding citizen.
  
- (3) The University’s behavioral standards are set forth in the Code’s Standards of Conduct (Section .04). Students who engage in conduct that is inconsistent with the Standards of Conduct are subject to University disciplinary action. The process by which the University investigates and resolves alleged violations of the Standards of Conduct is called the student conduct process. The student conduct process resolves allegations of misconduct ~~but also and~~ is an educational process designed to promote learning and development ~~as it relates to appropriate decision making. Therefore, even if behavior does not violate the Standards of Conduct, a University staff member may engage students in voluntary conversations to promote learning and development.~~ The student conduct process is consistent, fair, and provides means of resolution



that are commensurate with the skills and abilities of the participants in the process.

- (4) The effectiveness of the student conduct process rests partially upon the participation of all members of the University community. Active participation in the process by students, faculty, and staff reflects a willingness to address the difficult issues brought before them for the betterment of individual students and the University community. This involvement is vital to the establishment of true community standards.
- (5) Authority and responsibility relating to the Code are delegated to the Vice Chancellor for Student Life, who has delegated certain authority and responsibility to the Office of Student Conduct and Community Standards (“SCCS”).
- (6) The University is committed to respecting students’ constitutional rights. The Code shall be interpreted in a way that does not violate students’ constitutional rights, including, without limitation, the rights protected by the First Amendment and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.
- (7) Students are responsible for being fully acquainted with and for complying with the Code, the applicable undergraduate or graduate catalog, the student handbook (Hilltopics), and other rules and policies relating to students.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.02 JURISDICTION.**

- (1) Geographical Limits. The Code applies to the conduct of a student that occurs on University-controlled property. With respect to a student’s conduct that does not occur on University-controlled property, the University has the discretion to discipline a student for conduct in violation of the Code if the student’s conduct adversely affects the interests of the University, including, without limitation, when the conduct:
  - (a) Occurs during or in connection with a University-affiliated activity, including, without limitation, an overseas study program, clinical or field placement, internship, or in-service experience;
  - (b) Consists of academic dishonesty or research misconduct;
  - (c) Is prohibited by local, state, or federal law;
  - (d) Involves another member of the University community; or
  - (e) Threatens, or indicates that the student may pose a threat to, the health or safety of the student or other person, or the security of any person’s property, including, without limitation, alcohol-related misconduct, drug-related misconduct, arson, battery, fraud, hazing, sexual assault or misconduct, stalking, and theft.
- ~~(2) The Code applies to conduct that occurs on University-controlled property. However, with respect to conduct that occurs off of University controlled property, the University has the discretion under the Code to discipline a student for conduct that violates the Standards of Conduct only if the student’s conduct: (a) occurs in connection with a University-affiliated activity including, without limitation, an overseas study program or a clinical, field, internship, or in-service experience; (b) consists of academic dishonesty or research misconduct; (c) is prohibited by local, state, or federal law, and the conduct was committed within the Knoxville Area (or, for UTSI students, the conduct was committed within Coffee County or Franklin County); (d) is fairly attributable to a student organization based on a consideration of the criteria in Section .02(4); (e) is committed against another member of the University community; or (f) threatens, or indicates that the student poses a threat to, the health, safety, or welfare of others or the security of any person’s property including, without limitation, drug-related offenses, arson, assault, fraud, theft, hazing, participation in group violence, sexual assault,~~

~~dating violence, domestic violence, stalking, and sexual exploitation.~~

- ~~(3)~~(2) Professional and Ethical Standards. Graduate or professional programs within the University may take separate and independent academic action against students for alleged violations of professional and/or ethical standards using procedures other than those contained in the Code.
- ~~(4)~~(3) Responsibility for Conduct. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if his/her conduct is not discovered until after a degree is awarded).
- ~~(5)~~(4) Student Organizations' Responsibility for Violations of the Standards of Conduct. Notwithstanding anything in the Code to the contrary, a student organization may be found responsible for conduct that violates the Standards of Conduct only if the conduct is fairly attributable to the student organization. Whether conduct is fairly attributable to the student organization will be determined by SCCS based on a totality of the following criteria:
- (a) Whether the misconduct was endorsed by one (1) or more officers of the student organization ("endorsed by" means: having prior knowledge that the misconduct was reasonably likely to occur and failing to take reasonable preventative or corrective action; failing to attempt to stop known misconduct while it is occurring; and/or helping to plan, promote, or carry out the misconduct);
  - (b) Whether the misconduct occurred in connection with an activity:
    1. Financed by the student organization and/or one (1) or more members or alumni of the student organization who contributed personal funds in lieu of organizational funds;
    2. Related to initiation into, admission into, affiliation with, or as a condition for continued membership in the student organization; and/or
    3. Advertised, promoted, or publicized in such a way that a reasonable student viewing or hearing the advertisement, promotion, or publication would believe that the activity was affiliated with the student organization.
  - (c) Whether the misconduct occurred on property owned, controlled, rented, leased, and/or used by the student organization and/or any of its members/alumni acting on the student organization's behalf; and/or
  - (d) Whether a member of the student organization attempted to conceal the activity connected with the misconduct or conceal the misconduct of another member of the student organization.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.03 RELATIONSHIP BETWEEN THE CODE AND CRIMINAL LAW.**

- (1) Independent Action. The Code has been adopted in furtherance of the University's interests and serves to supplement, rather than substitute for, the enforcement of civil and criminal law. Accordingly, University disciplinary action may be instituted against a student whose conduct potentially violates both criminal law and the Standards of Conduct without regard to the pending status of criminal charges or civil litigation. At the discretion of SCCS, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students alleged to have violated the Standards of Conduct may not challenge any aspect of the University's student conduct process on the grounds that criminal charges, civil litigation, or other University proceedings

regarding the same incident are pending or have been terminated, dismissed, reduced, or have not yet been adjudicated.

- (2) University's Interaction with Other Entities. The University will cooperate with law enforcement and other government agencies in the enforcement of criminal law on University-controlled property and in the conditions imposed by criminal courts for the rehabilitation of students who have violated the criminal law.
- (3) Withdrawals. If a Respondent voluntarily withdraws from the University before the conclusion of the student conduct process, SCCS retains the right to investigate and resolve the allegations made against the Respondent ~~as a condition of the Respondent being allowed to re-enroll in the University~~. A disciplinary hold may remain in place or be implemented after the student withdraws in order to enforce this Section .03(3).
- (4) Time Extensions and Rescheduling. Any time period described in the Code may be extended for good cause at the discretion of SCCS. Any meeting or hearing described in the Code may be rescheduled for good cause at the discretion of SCCS.
- (5) Voluntary Impairment. A student's voluntary impairment to themselves resulting from the use and/or consumption of alcohol, drugs, chemicals, and/or other substances does not excuse or diminish a violation of the Code, except as provided in Section .12 (~~Policy on~~ Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention).
- (6) Other Rights – Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, or Retaliation. In addition to rights granted in the Code, in cases involving an allegation of sexual harassment, sexual assault, dating or domestic violence, stalking, sexual exploitation, or retaliation, the Complainant and the Respondent shall have the rights outlined in the University's rules, policies, and procedures for investigating and resolving complaints of sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, or retaliation in accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, University rules, and other applicable law.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.04 STANDARDS OF CONDUCT.** Students are prohibited from engaging in the following types of misconduct:

- (1) Academic Dishonesty. Cheating, plagiarism, or any other act of academic dishonesty, including, without limitation, an act in violation of the Honor Statement.
- (2) False Information. Providing false information to a University official.
- (3) Misuse of Information in Connection with University Investigation or Hearing. Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing, except as provided in Section .05(1)(i).
- (4) Misconduct Relating to Records or Identification. Forging, altering, destroying, falsifying, or misusing records or identification, whether in print or electronic form.
- (5) Harm to Others. Causing physical harm to any person; endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to his/her health or safety; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of ~~unlawful~~ violence to a particular individual or group of individuals.
- (6) Discrimination and/or Harassment. Discrimination: Conduct that discriminates against any person(s) or organization(s) based on a characteristic protected by federal, state, or local law

~~prohibiting discrimination; or conduct that violates the University's rules or policies prohibiting discrimination. Harassment: Unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit. Harassment. Unwelcome conduct that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech).~~

- (7) Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, and/or Retaliation. Violating the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking, which includes sexual exploitation and retaliation.
- (8) Invasion of Privacy. Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, without limitation, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in showers, locker rooms, or restrooms. The storing, sharing, and/or distributing of such nonconsensual recordings by any means is also prohibited.
- (9) Private or Public Property. Any of the following conduct with respect to private or public property, including, without limitation, University-controlled property: theft; misappropriation; unauthorized possession, use, sale, duplication, or entry; vandalism; destruction; damage; or conduct that is reasonably likely to cause damage.
- (10) Hazing. Any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. "Hazing" does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization regardless of the student's willingness to participate.
- (11) Disorderly Conduct. Fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.
- (12) Lewd, Indecent, or Obscene Conduct. Engaging in lewd, indecent, or obscene conduct, including, without limitation, public exposure of one's sexual organs, public urinating, and public sexual acts.
- (13) Imminent Lawless Action. Engaging in speech either orally or in writing that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (14) Fire Safety. Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.
- (15) University Keys, Access Cards, and Identification. Possessing, using, or duplicating University keys, University access cards, or University identification cards without authorization from the University.

- (16) Information Technology. Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, without limitation: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's policy on the acceptable use of information technology resources.
- (17) Weapons. Possessing, carrying, using, storing, or manufacturing any weapon if prohibited by federal, state, or local law; or Possessing, carrying, using, storing, or manufacturing any weapon on University--controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or his/her designee or unless federal or state law affirmatively gives a student a right, irrespective of the Code, to possess or carry a weapon on University--controlled property or in connection with a University-affiliated activity.
- (18) Alcohol-Related Conduct – University Property or University Activities. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity unless expressly permitted by University rules or policy.
- (19) Alcohol-Related Conduct Prohibited by Law. Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.
- (20) Providing Alcohol to Underage Person. Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- (21) Drugs and Drug Paraphernalia. Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs, if prohibited by federal, state, or local law; using, manufacturing, possessing, distributing, or selling drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- (22) Failure to Fulfill a University Financial Obligation. Failing to timely fulfill a University bill, account, or other financial obligation owed to the University.
- (23) Failure to Respond, Comply, or Identify. Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of his/her duties, except as provided in Section .05(1)(i); or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.
- (24) Failure to Appear. Failing to appear at a University hearing, including, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.-
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment. Violating the terms of a no-contact directive, an interim restriction, a disciplinary sanction, or a condition of re-enrollment imposed by the University.
- (26) Obstruction or Disruption of University Activity. Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, or the free flow of pedestrian or vehicular

traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.

- (27) Violation of University Policy or Rule. Violating a University policy or rule, including, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, residence halls, and registered student organizations.
- (28) Act Prohibited by Law. Committing an act that is prohibited by local, state, or federal law.
- (29) Attempted Violation; Accessory to Violation. Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.
- (30) Retaliation. Engaging in retaliation. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules. Retaliation violates the Standards of Conduct regardless of whether the underlying allegation of a violation of the Standards of Conduct is ultimately found to have merit. Retaliation can include, without limitation: (a) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (b) an act or omission committed by a student through a third party.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.05 FUNDAMENTAL RIGHTS.**

- (1) Rights of the Respondent. The following summarizes the rights granted to a Respondent in the student conduct process:
  - (a) Right to be assisted by an Advisor during all stages of the student conduct process, in accordance with Section .05(3);
  - (b) Right to an opportunity for an Educational Conference, in accordance with Section .06(5);
  - (c) Right to resolve allegations of misconduct and/or sanctions through a Formal Hearing, in accordance with Section .07(2);
  - (d) Right to receive notice of meetings and hearings at which the Respondent may be present and receive access to records used during those meetings and hearings, as provided in the Code;
  - (e) Right to the presumption that the Respondent is not responsible for the allegations of misconduct (i.e., the University bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct);
  - (f) Right to not be directly questioned in a hearing by anyone other than the Student Life Hearing Officer ("SLHO") or the Chairperson of the Student Conduct Board ("SCB"), except when a Title IX Hearing must be held in accordance with Section .09;
  - (g) Right to challenge the fairness and/or impartiality of a ~~Student Life Hearing Officer~~SLHO, a member of the SCB, a member of the Appellate Board, or a Title IX Hearing Officer;

- (h) Right to have a SLHO Hearing or SCB Hearing conducted in accordance with Section .08, including, without limitation, the right to present information to the SLHO or SCB, the right to propose questions for the SLHO or Chairperson to ask witnesses, the right to request that information be excluded from the SLHO or SCB's consideration, and the right to make a closing statement, except when a Title IX Hearing must be held in accordance with Section .09;
  - (i) Right to refrain from presenting information and witnesses during a hearing before the ~~Student Life Hearing Officer~~SLHO, the SCB, or the Title IX Hearing Officer, and the right to not have the ~~Student Life Hearing Officer~~ SLHO, the SCB, or the Title IX Hearing Officer draw an inference adverse to the Respondent if the Respondent chooses not to present information or witnesses;
  - (j) Right to Notice of Decision of the SLHO, SCB or Title IX Hearing Officer, in accordance with Section .08(5) and Section .09(7);
  - (k) Right to appeal the decisions of the SLHO, SCB or a Title IX Hearing Officer that are contained in the Notice of Decision, in accordance with Section .08(6) and Section .09(9);
  - (l) Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a ~~Student Life Hearing Officer~~SLHO, the SCB, the Appellate Board, and/or a Title IX Hearing Officer (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Complainant's receipt of a copy of the notice of the decision; and
  - (m) Right to appeal a decision issued by SCCS, a ~~Student Life Hearing Officer~~SLHO, -the SCB, or a Title IX Hearing Officer and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information, in accordance with Section .07, Section .08, and Section .09.
- (2) Rights of the Complainant.
- (a) A Complainant shall be granted equivalent rights to the rights granted to a Respondent under the Code including, without limitation:
    1. Right to meet with SCCS to ask questions and receive information about the student conduct process, including, without limitation, the status of an investigation;
    2. Right to receive notice of meetings and hearings at which the Complainant may be present and receive access to records used during those meetings and hearings, as provided in the Code;
    3. Right to be assisted by an Advisor during all stages of the student conduct process, in accordance with Section .05(3);
    4. Right to present information and witnesses during meetings and hearings, including, without limitation, investigations, or hearings before a Student Life Hearing Officer ("SLHO"), the Student Conduct Board ("SCB"), SCB Hearings and or a Title IX Hearing Officers;
    5. Right to not be directly questioned in a hearing by anyone other than the ~~Student Life Hearing Officer~~SLHO or the Chairperson of the Student Conduct Board ("SCB"), except when a Title IX Hearing must be held in accordance with Section .09;
    6. Right to challenge the fairness and/or impartiality of a ~~Student Life Hearing~~

~~Officer~~SLHO, a member of the SCB, a member of the Appellate Board, or a Title IX Hearing Officer;

7. Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a ~~Student Life Hearing Officer~~SLHO, the SCB, the Appellate Board, and/or a Title IX Hearing Officer (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Respondent's receipt of a copy of the notice of the decision;
  8. Right to appeal a decision issued by SCCS, a ~~Student Life Hearing Officer~~SLHO, the SCB, or a Title IX Hearing Officer and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information, in accordance with Section .07, Section .08, and Section .09; and/or
  9. Right to otherwise participate in the student conduct process.
- (b) Notwithstanding any provision of the Code to the contrary, including, without limitation, this Section .05(2), a Complainant shall not have the right to attend a meeting or hearing, receive information concerning, or otherwise participate in the student conduct process if such attendance, receipt of information, or participation would violate state or federal law.
- (3) Right to an Advisor. The Complainant and the Respondent may choose to be assisted by one
- (1) Advisor during all stages of the student conduct process.
    - (a) Selection of an Advisor. SCCS encourages a Complainant or a Respondent who chooses to be assisted by an Advisor to consider selecting a University employee or student who has received training from SCCS about the student conduct process. The Complainant and the Respondent may obtain the names of trained advisors from SCCS. At their own expense, the Complainant and the Respondent may choose a person who is not employed by the University to serve as an Advisor (e.g., friend, attorney). The Complainant and the Respondent should select as an Advisor a person whose schedule allows attendance at the scheduled date, time, and place for meetings and hearings scheduled by SCCS because meeting and hearing delays generally will not be granted due to the scheduling conflicts of an Advisor. If a Complainant or Respondent does not have an Advisor present at a Title IX Hearing, the University must provide one (selected by the University) without fee or charge to that party.
    - (b) Role of an Advisor. The role of an Advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process, including at all meetings, investigative interviews, and hearings. An Advisor is not permitted to speak for or on behalf of a Complainant or Respondent, appear in lieu of a Complainant or Respondent, participate as a witness, or participate directly in any other manner during any phase of the student conduct process, except in a Title IX Hearing. In a Title IX Hearing, the Advisor (who may be, but is not required to be, an attorney) is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses, in accordance with Section .09(5)(f). In a Uniform Administrative Procedures Act ("UAPA") Hearing, the Complainant and the Respondent ~~may be entitled to~~ have an attorney advocate on their behalf, in accordance with state law.
    - (c) Notification of the Right to Have an Advisor. SCCS shall provide written notice to the Complainant and the Respondent of their rights to an Advisor. The notice shall contain an explanation of the role of an Advisor during the student conduct process.

**Authority:** T.C.A. § 49-9-209(e).



## 1720-04-03-.06 STUDENT CONDUCT PROCESS: INITIAL STAGES.

- (1) Receipt and Review of Allegations of Misconduct.
  - (a) Except as stated in Section .06(1)(b), SCCS may initiate the student conduct process on the basis of written allegations received from any source, including, without limitation, a student, a faculty member, a University housing employee, or a law enforcement agency. SCCS also may initiate the student conduct process in the absence of written allegations if SCCS becomes aware, through other means, of potential misconduct committed by a student. Upon receipt of written allegations or other information concerning potential student misconduct, SCCS will review the information and determine whether to initiate the student conduct process. SCCS's determination of whether to initiate the student conduct process generally will be based on: the preliminary investigation by SCCS or other University official(s), if any, into the allegations received by SCCS; SCCS's determination of whether the alleged conduct falls within the jurisdiction of the Code; and SCCS's determination of whether the alleged conduct, if true, violated the Standards of Conduct.
  - (b) In cases involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, SCCS will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: 1. notice of the student conduct process that applies to the allegations; 2. the identities of the parties involved in the incident; 3. the conduct allegedly constituting the violation; 4. the date and location of the incident, if known; 5. a statement that the Respondent is presumed not responsible for the alleged conduct; 6. a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; 7. the parties' right to have an Advisor of their choice, who may be, but is not required to be, an attorney; 8. the parties' right to inspect and review evidence; and 9. notice of the provisions of the Code that prohibit providing false information to a University official.
- (2) Conflicts of Interest.
  - (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias consistent with due process of law.
  - (b) A University employee shall not act on behalf of SCCS in the student conduct process in any case in which: 1. the employee is a Complainant, Respondent, or a witness; or 2. the employee determines, for any other reason (e.g., personal prejudice or bias), that he/she cannot be fair or impartial.
  - (c) In all cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the student conduct process must include protections for the Respondent analogous to, and no less protective than, the conflict of interest provisions of Tennessee Code Annotated § 4-5-303. Notwithstanding the preceding sentence: ~~(1.)~~ an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and ~~(2.)~~ the University is allowed to provide the Complainant with equivalent rights as the Respondent during the student conduct process.
- (3) Interim Administrative Actions.
  - (a) General. In certain situations, the University may impose interim administrative actions prior to the conclusion of the student conduct process. The University shall determine the appropriate interim administrative actions based on the totality of the circumstances. Examples of interim administrative actions include, without limitation, a no-contact

directive (Section .06(3)(b)), a disciplinary hold (Section .06(3)(c)), and interim restrictions (Section .06(3)(d)).

~~(b)~~ (b) No-Contact Directive. In cases involving allegations of assault, injury, sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, retaliation or in other cases where there is reason to believe continued contact between a student and specific persons may interfere with those persons' security, safety or ability to participate effectively in work or studies, the University may issue a written instruction to a student, called a no- contact directive, that prohibits a student from having verbal, physical, written, and/or electronic contact with specific other persons for a definite or indefinite period of time. A no-contact directive also may prohibit a student from being present on designated University-controlled property. Any student, faculty or staff member or other person with a reasonable justification may request that the University issue a no-contact directive ~~be issued~~ to a student. However, the University retains ultimate authority to decide whether or not to issue a no-contact directive.

~~(b)(c)~~ (b)(c) Disciplinary Hold. The Respondent's academic record (including, without limitation, the release of the Respondent's official or unofficial transcript), degree, ability to register for classes, and/or ability to re-enroll may be placed on disciplinary hold by SCCS ~~or by another appropriate University office at the request of SCCS for the following reasons:~~ to require the Respondent to participate in the student conduct process ~~(SCCS will release the hold after the Respondent attends the Educational Conference but may reinstate the hold in order to require the Respondent to participate in other parts of the student conduct process); or (2) to require the Respondent to satisfy the terms and conditions of disciplinary sanctions received (the hold shall be released after the terms and conditions have been satisfied). A student who, at the time of commencement, is subject to a continuing disciplinary penalty or an unresolved disciplinary charge shall not be awarded a degree before the resolution of all disciplinary charges and/or the satisfaction of all sanctions. No diploma shall be given and no grades, academic credit, or degree shall be awarded to a student who has been placed on disciplinary hold.~~

~~(c)(d)~~ (c)(d) Interim Restrictions.

1. Generally, the status of a student alleged to have violated the Standards of Conduct is not affected until the conclusion of the student conduct process (Section .07(5)). However, the Vice Chancellor for Student Life may impose interim restrictions prior to the conclusion of the student conduct process related to the alleged misconduct when the Vice Chancellor for Student Life has reasonable cause to believe that ~~(1.)~~ a Respondent's continued presence on University-controlled property ~~—or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property or (2.)~~ poses an imminent or ongoing threat to the disruption of, or interference with, the normal operations of the University. Interim restrictions shall be confirmed by notice to the Respondent that explains the basis for the interim restrictions and shall remain in effect until the conclusion of the student conduct process, which should be completed without undue delay. Within three (3) business days of the imposition of the interim restrictions, the Respondent shall be offered an opportunity to appear before the Vice Chancellor for Student Life in order to discuss the following issues only: ~~(1.)~~ the reliability of the information concerning the Respondent's conduct; and ~~(2.)~~ whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property or poses an imminent or ongoing threat of disruption of or interference with the normal operations of the University. Examples of interim restrictions include, without limitation, restricting the student's privileges to participate in University affiliated activities, restricting the student's privileges to access University-controlled property, University-owned housing removal and/or

reassignment, and/or interim suspension. Restrictions contained within no-contact directives (Section .06(3)(b)) are not interim restrictions. An interim suspension is an official separation of the student from the University until the conclusion of the student conduct process or the interim suspension is lifted, whichever occurs first. While on interim suspension, the student loses all University rights and privileges (e.g., enrollment privileges) except for the rights and privileges to contest the allegations pursuant to the Code, shall not represent the University in any official manner, and shall not be present on University-controlled property or participate in University-affiliated activities without the prior approval of the Vice Chancellor for Student Life. When placed on interim suspension, the Respondent may receive a grade of "W," or when deemed appropriate by instructor, a grade of "I."~~may be assigned a grade of "W" or "I," whichever is deemed appropriate by the faculty member involved.~~ A Respondent who violates the terms of an interim restriction shall be subject to further disciplinary action and may be treated as a trespasser.

2. Notwithstanding any provision in this Section .06(3)(d), in any case that includes Title IX Allegations, the Vice Chancellor for Student Life may impose an interim suspension on a Respondent only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the Respondent. The Vice Chancellor for Student Life will provide the Respondent notice and an opportunity for the Respondent to challenge an interim suspension within three (3) business days.
- (4) Coursework. Coursework performed during the student conduct process shall be considered conditional. Credit for such coursework may be affected, delayed, denied, and/or revoked based on a final finding of misconduct and/or a sanction imposed under the Code. In addition, subject to the other provisions of the Code, a delay in the granting of a degree may be imposed and/or a degree that was awarded prior to a final decision under the Code may be revoked.
- (5) Educational Conference.
  - (a) Scope of the Educational Conference. The Educational Conference is a meeting between SCCS and the Respondent in which the following generally occurs:
    1. SCCS orally informs the Respondent about the allegations made against the Respondent and, if requested by the Respondent, provides the Respondent with a reasonable opportunity to review the written allegations, if any, received by SCCS.
    2. SCCS provides the Respondent with an opportunity to respond to the allegations, including, without limitation, an opportunity to present information to SCCS concerning the allegations and identify witnesses whom the Respondent believes SCCS should interview to obtain additional information.
    3. Both SCCS and the Respondent may ask questions to each other and seek clarifying information about the allegations, the possible sanction(s), and the student conduct process.
    4. Except in cases that include Title IX Allegations, based on information provided by the Respondent during the Educational Conference, SCCS may issue a no-action determination (Section .07(5)(a)) or continue its investigation in order to determine whether it is more likely than not that the Respondent violated the Standards of Conduct.
  - (b) Notice of Educational Conference. A Notice of Educational Conference is a written notice through which SCCS notifies the Respondent that SCCS has received allegations that the Respondent has engaged in misconduct; instructs the Respondent to attend or

schedule an Educational Conference; and provides the Respondent with other information about the student conduct process. A Notice of Educational Conference generally will include the following information: 1. notice that SCCS has begun or will begin an investigation of allegations SCCS received concerning the Respondent's conduct; 2. notice of a disciplinary hold, if any, that the University has implemented or will implement with respect to the Respondent; 3. a brief description of the Respondent's alleged conduct; 4. a preliminary list of potential violations of the Standards of Conduct, based on the Respondent's alleged conduct; 5. notice of the Respondent's right to be assisted and/or supported by an Advisor throughout the student conduct process, in accordance with Section .05(3), including information about the role of an Advisor; 6. the internet address where the Respondent can review a copy of the Code; 7. a date, time, and place for an Educational Conference with SCCS to discuss the incident, or, in the alternative, an instruction that the Respondent contact SCCS to schedule an Educational Conference within the time frame designated in the Notice of Educational Conference; and 8. notice of the consequences of failing to comply with SCCS's instruction to attend or schedule an Educational Conference.

- (c) Consequences of Failing to Attend or Schedule an Educational Conference. If the Respondent fails to attend or schedule an Educational Conference after SCCS has sent the Respondent a Notice of Educational Conference, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose appropriate sanction(s) for the misconduct (unless the Respondent's absence is excused by SCCS for good cause), unless prohibited by state or federal law. SCCS also may determine that the Respondent's failure to attend the Educational Conference constitutes a separate violation of the Standards of Conduct.

(6) Investigation of Allegations of Misconduct.

- (a) SCCS may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. If SCCS investigates allegations against a Respondent, SCCS will 1. ensure that the burden of proof of gathering evidence rests on the University and not on the parties; 2. provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; and 3. provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate. SCCS is not obligated to interview a witness identified by the Respondent or the Complainant if SCCS believes the witness is not likely to possess relevant information, is not likely to lead SCCS to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by SCCS. SCCS may interview and re-interview the Complainant, the Respondent, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information. Investigations conducted by SCCS will be prompt, thorough, and equitable. In conducting an investigation, SCCS will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to SCCS. Parts of SCCS's investigation may occur before, during, and/or after the Educational Conference (Section .06(5)) and/or any other part of the student conduct process. At the conclusion of its investigation, SCCS may prepare a written investigative report of the findings of the investigation. The investigative report may include an assessment of the credibility of persons interviewed during the investigation and an assessment of whether it is more likely than not that the Respondent violated the Standards of Conduct.
- (b) In cases in which a Complainant or the Title IX Coordinator has filed a Formal Complaint alleging sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, SCCS will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative

report, SCCS will send to each party and the party's Advisor, if any, the evidence subject to inspection and review. The parties must have at least ten (10) business days to submit a written response, which SCCS will consider prior to completion of the investigative report. After the investigative report is final, the parties shall have ten (10) business days to submit a written response to the report. No hearing shall occur until that 10-day period has expired, even if the parties have submitted responses prior to the expiration of the 10-day period.

(7) Notice of Allegations and Notice of Sanctions.

- (a) A Notice of Allegations is a written notice that informs the Respondent that SCCS has concluded that it is more likely than not that the Respondent violated the Standards of Conduct. A Notice of Allegations generally includes, without limitation, the following information: 1. a brief summary of the facts of Respondent's alleged misconduct; 2. notice that SCCS has determined that it is more likely than not that Respondent violated the Standards of Conduct; 3. notice of the specific Standard(s) of Conduct that SCCS has determined the Respondent more likely than not violated; 4. the Respondent's option(s) to elect a Formal Hearing to contest SCCS's determination of responsibility for misconduct and/or the sanction(s); and 5. the names of witnesses likely to present information concerning the alleged misconduct if the Respondent elects to contest the allegations through a Formal Hearing. SCCS may provide the Respondent with a Notice of Allegations during the Educational Conference.
- (b) A Notice of Sanctions is a written notice that informs the Respondent of the disciplinary sanction(s) that SCCS proposes for the violation(s) of the Standards of Conduct. SCCS may provide the Respondent with a Notice of Sanctions during the Educational Conference.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.07 STUDENT CONDUCT PROCESS: RESOLUTIONS.**

(1) Resolution by Agreement.

- (a) Purpose and Effects of a Resolution Agreement. At any time during the student conduct process, a Respondent may resolve allegations of misconduct (other than Title IX Allegations) by signing a Resolution Agreement proposed by SCCS. By signing a Resolution Agreement, the Respondent: 1. accepts responsibility for violating the Standards of Conduct; 2. agrees to the imposition of the sanction(s); and 3. waives all rights the Respondent may have to resolve the allegations through a Formal Hearing. A Resolution Agreement is not valid until it is signed by both the Respondent and SCCS.
- (b) Revocation or Appeal of a Resolution Agreement. The Respondent may not revoke or appeal a Resolution Agreement signed by the Respondent.
- ~~(c)~~ Resolution Agreement – Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, or Retaliation. In a case involving a Formal Complaint of sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation or retaliation that does not include Title IX Allegations, SCCS will notify the Complainant about the proposed Resolution Agreement in writing and provide the Complainant with the opportunity to object to the proposed Resolution Agreement. A Complainant must notify SCCS of his/her objection in writing within five (5) business days from the date that SCCS informs the Complainant about the proposed Resolution Agreement. If the Complainant timely informs SCCS of his/her objection, then SCCS may address the Complainant's objection by modifying the proposed Resolution Agreement that is agreeable to both the Respondent and the Complainant and having the Respondent sign the modified Resolution Agreement. Otherwise, SCCS will continue the student conduct process and resolve the allegations against the Respondent in

accordance with the Code. Formal Complaints of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation that include Title IX Allegations may not be resolved through a Resolution Agreement but may be resolved through an Informal Resolution set forth in Section .07(4).

~~(d)~~—

~~(e)(c) Resolution Agreement—Academic Dishonesty. In order to resolve an allegation that the Respondent violated Section .04(1) (academic dishonesty) through a Resolution Agreement, the Respondent shall agree to the imposition of the instructor's academic penalty in addition to agreeing to the other requirements contained in Section .07(1)(a).~~

(2) Resolution by Formal Hearing.

- (a) Types of Formal Hearings. A Formal Hearing is a process through which a Respondent has a right to contest allegations of misconduct and/or the sanctions proposed by SCCS by presenting information (including, without limitation, witnesses) to a decision maker other than the University employee(s) who conducted the investigation and/or Educational Conference. The Code provides for four (4) types of Formal Hearings, depending on the gravity of the disciplinary sanctions that have been proposed by SCCS and the nature of the allegations:
1. A hearing before a Student Life Hearing Officer, which is described in Section .07(2)(d);
  2. A hearing before the SCB (“SCB Hearing”), which is described in Section .08;
  3. A hearing before a Title IX Hearing Officer (“Title IX Hearing”), which is described in Section .09, and which is the only Formal Hearing provided under the Code for determining responsibility for Title IX Allegations; and
  4. A contested case hearing under the Uniform Administrative Procedures Act (“UAPA Hearing”), which is conducted in accordance with the University’s procedures for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.
- (b) Rights to a Formal Hearing. A Respondent has the right to a Formal Hearing in every case before a Respondent can be found responsible for the alleged violation of the Standards of Conduct. In every case other than those that include Title IX Allegations, the Respondent has the right to resolve allegations of misconduct and/or proposed sanctions through a hearing before a Student Life Hearing Officer. In every case other than those that include Title IX Allegations, a Respondent also has the right to resolve allegations of misconduct and/or the proposed sanctions through a SCB Hearing or a UAPA Hearing when SCCS proposes one (1) or more of the following sanctions: 1. deferred suspension; 2. suspension; 3. expulsion; 4. University housing removal; 5. withholding of degree; 6. revocation of degree; or 7. revocation or suspension of the student organization’s University registration. Both Complainants and Respondents have the right to a Title IX Hearing when a Formal Complaint includes Title IX Allegations.
- (c) How to Request a Formal Hearing. In every case other than those that include Title IX Allegations, a Formal Hearing may be requested by the Respondent only in writing using the form(s) approved by SCCS. Orally requesting a Formal Hearing shall not constitute a valid request for a Formal Hearing. If a Respondent timely requests a Formal Hearing and has a right to have either a UAPA Hearing or a SCB Hearing, then the University will conduct a UAPA Hearing unless the Respondent executes a written waiver of the right to a UAPA Hearing.
- (d) Hearing before a Student Life Hearing Officer. A Student Life Hearing Officer is a University employee designated and trained by SCCS to conduct a Formal Hearing consistently with the procedures outlined in the Code for SCB Hearings (e.g., Section

.08), except as provided in this Section .07(2)(d). In conducting a Formal Hearing, a Student Life Hearing Officer has the same authority of the Chairperson of the SCB except that, unlike the Chairperson of the SCB, but like the voting members of the SCB, the Student Life Hearing Officer is the decision maker concerning whether the Respondent violated the Standards of Conduct, and, if so, what sanction(s) to impose. The decision of a Student Life Hearing Officer may be appealed to the Appellate Board using procedures consistent with the procedures outlined in the Code for appeals of decisions of the SCB.

- (e) Consequences of Failing to Timely Elect a Formal Hearing. If the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS transmitting a Notice of Sanctions in writing to the Respondent, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS (unless SCCS extends the time for the Respondent to request a Formal Hearing for good cause). If SCCS extends the time for the Respondent to request a Formal Hearing and the Respondent fails to elect a Formal Hearing within the additional time granted by SCCS, then the Respondent waives all rights to a Formal Hearing, and SCCS has the discretion to deem the Respondent to have accepted SCCS's determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by SCCS. All cases that include Title IX Allegations will proceed to Title IX Hearing without either party having to elect the hearing, unless an Informal Resolution is reached as set forth in Section .07(4) or a hearing is otherwise not required or permitted by law.

(3) Alternative Resolution.

- (a) Proposal of Alternative Resolution. At any time during the student conduct process, allegations against the Respondent (except for Title IX Allegations which may be resolved through the Informal Resolution process set forth in Section .07(4)) may be resolved through an alternative resolution. An alternative resolution is a resolution that is reached through a process and/or by a sanction or restriction not described in the Code. Before proposing an alternative resolution SCCS shall determine whether an alternative resolution would be appropriate based on the facts and circumstances of the case, and, if so, what type of alternative resolution process should be used. In cases involving sexual harassment, sexual assault, dating violence, domestic violence, stalking, sexual exploitation, or retaliation that are not subject to the Informal Resolution process, SCCS will consult with the Title IX Coordinator in making that determination. Examples of alternative resolution processes that may be proposed by SCCS include but are not limited to mediation, facilitated dialogue, conflict coaching, and restorative justice. The process of trying to reach an alternative resolution is voluntary (i.e., neither the Respondent nor a Complainant is required to participate). If an Alternative Resolution Agreement is not reached, then the student conduct process will proceed, and the allegations against the Respondent will be resolved through one of the other resolution methods in the Code.
- (b) Alternative Resolution Agreement. An Alternative Resolution Agreement is a written agreement that confirms an agreement to resolve the allegations against the Respondent through an alternative resolution. To be valid, an Alternative Resolution Agreement shall in all cases be signed by SCCS and the Respondent, and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations. Prior to the execution of an Alternative Resolution Agreement, if a Complainant has not participated with SCCS in the discussion of an alternative resolution, then SCCS will provide the Complainant with an opportunity to provide a timely objection to the proposed alternative resolution. In appropriate cases, SCCS may request the Complainant to sign an Alternative Resolution Agreement and determine that the Alternative Resolution Agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.

- (4) Informal Resolution. In cases that include Title IX Allegations, at any time prior to reaching a determination regarding responsibility, SCCS may facilitate an informal resolution process that does not involve a full investigation and adjudication. To facilitate an informal resolution, SCCS will (a) provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, and (b) obtain the parties' voluntary, written consent to the informal resolution process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the student conduct process with respect to the Formal Complaint.
- (5) Conclusion of the Student Conduct Process. This Section .07(5) summarizes the different ways in which the student conduct process may be concluded. If more than one (1) of the following events occur, then the student conduct process concludes on the date of the last event to occur. SCCS generally will provide the Respondent with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process. If permitted or required by law, SCCS also will provide the Complainant with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process.
- (a) No Action Determination. The student conduct process concludes when SCCS makes a final determination at any point in the process that no action will be taken (e.g., SCCS determines the preponderance of the evidence does not support a finding that the Respondent violated the Standards of Conduct~~that it is not more likely than not that the Respondent violated the Standards of Conduct~~; a Complainant declines to participate in the student conduct process; ~~and~~ SCCS does not have sufficient information or witnesses to move forward with the student conduct process). SCCS may reinstate the student conduct process upon receipt of new information; however, after SCCS has determined to take no action, SCCS may reinstate the student conduct process after a student has graduated only in cases involving Section .04(1) (academic dishonesty) or a violation of the University's rules or policy on research misconduct. A Complainant who is informed by SCCS of a no action determination may appeal the decision to the SCCS, in writing, within five (5) business days of the date that SCCS transmitted notice of the no action determination to the Complainant. The decision of SCCS is final and may not be appealed.
- (b) Failure to Attend or Schedule an Educational Conference. In accordance with Section .06(5)(c), the student conduct process concludes when: SCCS has issued a Notice of Educational Conference; the Respondent either fails to attend an Educational Conference or fails to comply with SCCS's instruction to contact SCCS to schedule an Educational Conference within the time frame designated in the Notice of Educational Conference Inquiry; and SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.
- (c) Failure to Request a Formal Hearing after Notice of Sanctions. In accordance with Section .07(2)(e), the student conduct process concludes when the Respondent fails to elect a Formal Hearing within five (5) business days of SCCS sending or delivering a Notice of Sanctions to the Respondent, and SCCS does not exercise its discretion to excuse the Respondent's failure for good cause.
- (d) Resolution Agreement. The student conduct process concludes when a Resolution Agreement is executed in accordance with Section .07(1).
- (e) Alternative Resolution Agreement. The student conduct process concludes when an Alternative Resolution Agreement is executed in accordance with Section .07(3).
- (f) Informal Resolution. The student conduct process concludes when an Informal Resolution is agreed upon in accordance with Section .07(4).



- (g) Notice of Decision of a Student Life Hearing Officer – No Valid Appeal. The student conduct process concludes when a Student Life Hearing Officer has issued and transmitted a Notice of Decision and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal.
- (h) Notice of Decision of a Student Conduct Board – No Valid Appeal. The student conduct process concludes when a Student Conduct Board has issued and transmitted a Notice of Decision under Section .08(5) and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal under Section .08(6).
- (i) Notice of Appellate Board Final Decision. The student conduct process concludes when the Appellate Board has issued a Notice of Final Decision.
- (j) Notice of Decision of Title IX Hearing Officer – No Valid Appeal. The student conduct process concludes when a Title IX Hearing Officer has issued a Notice of Decision or written determination regarding responsibility under Section .09(7) and neither the Respondent nor the Complaint has submitted a valid Notice of Appeal.
- (k) Notice of Title IX Appeal Final Decision. The student conduct process concludes when the Vice Chancellor for Student Life has issued a Notice of Title IX Final Decision under Section .09(9).
- (l) UAPA. The student conduct process concludes when the UAPA Hearing process~~a Formal Hearing~~ has concluded, either through a final order, settlement, or otherwise, under the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.
- (m) Expiration and Satisfaction of All Sanctions. ~~The student conduct process concludes~~ A Respondent's SCCS case concludes and is considered closed when SCCS determines that the time periods for all sanctions given to the Respondent have expired (except for the sanction of expulsion, which does not expire), and the Respondent has satisfied all other terms and conditions of all sanctions that the Respondent received.

**Authority:** T.C.A. § 49-9-209(e).

## 1720-04-03-.08 STUDENT CONDUCT BOARD: HEARINGS AND APPEALS.

- (1) Notice of SCB Hearing.
  - (a) When a Notice of SCB Hearing is Sent. If the Respondent requests a SCB Hearing in accordance with Section .07(2), then SCCS will send the Respondent and the Complainant a Notice of SCB Hearing at least seven (7) business days in advance of the date of the hearing.
  - (b) Information in the Notice of SCB Hearing. The Notice of SCB Hearing generally will contain, or be accompanied by, the following information: 1. the date, time, and place of the SCB Hearing (SCCS may reschedule the SCB Hearing for good cause and issue a revised Notice of SCB Hearing that contains a new date, time, and place of the SCB Hearing); 2. a copy of the Notice of Allegations; 3. the sanction(s) that the Conduct Officer will request the SCB impose on the Respondent; 4. the names of all witnesses through whom the Conduct Officer is likely to present information during the SCB Hearing; 5. a notice of the right to the assistance and/or support of an Advisor during the SCB Hearing; and 6. a description of all tangible or electronic information that the Conduct Officer is likely to present to the SCB, such as an investigative report, police report, incident report, witness statements, video or audio recordings, photographs, text messages, or phone records; 7. notice of the right to request a copy of SCCS' investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and 8. notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.
  - (c) More than One Respondent. In cases involving more than one (1) Respondent, SCB Hearings concerning each Respondent's conduct may be conducted separately upon written request of a Respondent submitted at the time of the Respondent's request for a Formal Hearing. SCCS has the discretion to make the final determination of whether to grant such a request and will notify the Respondents of the decision.
  - (d) Consequences of Failing to Attend a SCB Hearing. If the Respondent fails to attend a SCB Hearing, then the Respondent waives all rights to an SCB Hearing. The SCB may: proceed with the SCB Hearing without the Respondent's participation; hold the Respondent accountable for all decisions made in the Respondent's absence, including, without limitation, decisions concerning responsibility for alleged violations of the Standards of Conduct; and may determine that the Respondent's failure to attend the hearing constitutes a separate violation of the Standards of Conduct. If the SCB determines, in the Respondent's absence, that it is more likely than not that the Respondent violated the Standards of Conduct, then SCCS may implement the sanctions imposed by the SCB and conclude the student conduct process.
- (2) Composition of the Student Conduct Board.
  - (a) Eligible Pool. The University shall ~~annually~~ appoint a pool of persons who are eligible to serve on a SCB. The University may appoint University students, University faculty members, or University staff employees; however, an employee who works in SCCS is ineligible to serve on a SCB. Persons appointed by the University will be trained by SCCS to serve on a SCB.
  - (b) Appointment of the SCB.
    1. General. The SCB is appointed ad hoc for each hearing by the Director of SCCS from the pool described in Section .08(2)(a). SCCS shall appoint a SCB consisting of one (1) non-voting Chairperson and seven (7) voting members. SCCS shall not

appoint persons on the basis of how SCCS anticipates that they will vote. The Chairperson shall be a University faculty member or staff employee who has received training from SCCS on how to conduct a SCB Hearing. Five (5) voting members and one (1) non-voting Chairperson constitute a quorum of the SCB that was appointed by SCCS; however, SCCS will make reasonable efforts to seat a SCB consisting of seven (7) voting members. ~~In seating any SCB, except as provided in Section .08(2)(b)2. or Section .08(2)(b)3., the student composition of the voting members of the SCB must be equal to or greater than the sum of the faculty and staff voting members.~~ Regardless of the number of voting members present, all classifications of the University- community (students, faculty, and/or staff) must be represented by at least one (1) voting member, except as provided in Section .08(2)(b)2. or Section .08(2)(b)3.

2. Exception for Cases Involving Allegations of Sexual Misconduct. Notwithstanding anything to the contrary in Section .08(2)(b)1., SCCS shall not appoint students to serve on the SCB in a case involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the SCB hearing their case.
3. Exception for Cases Involving Allegations of Research Misconduct. Notwithstanding anything to the contrary in Section .08(2)(b)1., SCCS shall not appoint students to serve on the SCB in a case involving an allegation of research misconduct.

- (c) Fairness and Impartiality of SCB Members. Any member of the SCB who determines that they cannot decide a case fairly and impartially for any reason (e.g., having a personal prejudice or bias) shall excuse themselves from serving on the SCB, in which case SCCS shall appoint a substitute member of the panel in accordance with the rules in Section .08(2)(b).

(3) General Rules Governing SCB Hearings.

- (a) Required Pre-Hearing Information and Copies – Complainant and Respondent.

1. At least five (5) business days prior to the SCB Hearing, the Complainant and the Respondent must provide the following to SCCS in writing:

- (i) The name of their Advisor, if any, who will attend the SCB Hearing;

- (ii) The names of all witnesses ~~through whom they plan to present information to the SCB~~ and a brief summary of the information that they reasonably anticipate that each witness will provide to the SCB; and

- ~~(iii) — A copy of all tangible or electronic information that they plan to present to the SCB (e.g. including, but not limited to, witness statements, video or audio recordings, photographs, text messages, phone records, medical bills, diagrams). However, they are not required to provide copies of information that is not in a form that -allows copying (e.g., weapon; piece of clothing), in which case they should describe the information in writing.; and~~

- ~~(iv) —~~

- ~~(v)(iii) A copy of a statement, if any, that they want the SCB to consider in determining the appropriate sanction to impose on the Respondent if the SCB finds that the Respondent violated a Standard of Conduct. The Complainant's statement may include a description of the impact of the Respondent's alleged conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigates the alleged misconduct.~~

2. During the SCB Hearing, the Complainant and the Respondent may present witnesses who were not identified in the Notice of Formal Hearing only if they comply with this Section .08(3)(a) (i.e., other witnesses not identified to SCCS in writing at least five (5) business days prior to the SCB Hearing will not be allowed). The Complainant and the Respondent are responsible for contacting witnesses who were not identified in the Notice of Formal Hearing, informing them about the date, time, and place of the SCB Hearing, and securing their attendance at the SCB Hearing.

2-3. During the sanctioning phase of the SCB hearing only, the parties may present statements that they want the SCB to consider in determining the appropriate sanction to impose on the Respondent if the SCB finds that the Respondent violated a Standard of Conduct. The Complainant's statement may include a description of the impact of the Respondent's conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigates the conduct. The Respondent may also present character statements during the sanctioning phase of the hearing only.

- (b) Pre-Hearing Review of Information. Individuals involved with the hearing are responsible for contacting SCCS to arrange a time to review the information prior to the hearing if such review is desired and the information has not been made available electronically. No less than three (3) business days prior to the hearing, SCCS will make copies of information submitted by the Complainant, the Respondent, and the Conduct Officer available for review by the Complainant, Respondent, their respective Advisors, and members of the SCB. Those individuals will be notified by SCCS when materials are available for review. SCCS may make the information available electronically. In their sole discretion, SCCS may redact irrelevant information prior to making information available.
- (c) Recording of the SCB Hearing. The University shall be responsible for making a verbatim record (e.g., digital or other recording) of a SCB Hearing. Deliberations of the SCB shall not be recorded. The record of the SCB Hearing shall be the property of the University. The Complainant and the Respondent may take notes during a SCB Hearing, which shall be their own property, but neither the Complainant nor the Respondent may record the hearing using any other method of recording. However, the University will provide a copy of the verbatim record to the Complainant and the Respondent upon request.
- (d) Attendance and Participation. Attendance during an SCB Hearing generally is limited to members of the SCB, the Conduct Officer, the Complainant and the Complainant's Advisor, the Respondent and the Respondent's Advisor, and witnesses. The Conduct Officer, the Complainant, the Respondent, Advisors, and witnesses may not be present during the deliberations of the SCB. Witnesses may attend the SCB Hearing only while they are presenting information to the SCB, unless the witness is the Complainant or the Respondent. The Chairperson and SCCS have the discretion to allow other persons to attend the SCB Hearing, in accordance with state and federal law. The Complainant and the Complainant's Advisor may attend any part of the SCB Hearing (excluding the deliberations of the SCB), but the Complainant and the Complainant's Advisor shall be excused from the hearing room when the Respondent's Eeducation Rrecords or information obtained from the Respondent's Eeducation Rrecords are disclosed unless the information is also part of the Complainant's Eeducation Rrecords. However, the previous sentence shall not apply, and the Complainant and the Complainant's Advisor shall have the right to attend the entire SCB Hearing, in cases of sexual assault, dating violence, domestic violence, and stalking. The Chairperson may accommodate concerns for the personal safety, well-being, and/or fears of confrontations of the Complainant, the Respondent, and/or witnesses by permitting attendance or participation by closed circuit television, video conferencing, or other appropriate means, as determined in the discretion of the Chairperson. However, the identity of all persons who present information to the SCB must be made known to the Respondent and the Complainant.

The Respondent and the Complainant must be allowed to simultaneously see, hear, otherwise access the communications of any party or witness ~~view and hear a person~~ who is attending or participating by closed circuit television, video conferencing, or other similar means.

(4) Procedural Rules for SCB Hearings.

- (a) Right to Challenge the Selection of a SCB Member. At the beginning of the SCB Hearing, the Chairperson shall allow the Complainant and the Respondent to request the removal of a member of the SCB on the grounds that the person cannot be fair and impartial in deciding the case. If the Chairperson determines that the person cannot be fair and impartial, then SCCS may appoint a substitute member of the SCB in accordance with Section .08(2)(b) or, if a quorum of the SCB still exists, remove the SCB member and allow the SCB Hearing to continue without appointing a substitute member.
- (b) Authority of the Chairperson. The Chairperson has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the SCB Hearing. The Chairperson shall be the final decision maker concerning what, how, and in what order information and witnesses are presented to the SCB.
- (c) Exclusion of Information. Upon the Chairperson's initiation or upon request by the Conduct Officer, the Complainant, the Respondent, or a member of the SCB, the Chairperson may exclude the following information from the SCB's consideration: 1. irrelevant information; 2. information that unreasonably repeats information already provided to the SCB; 3. information that was not provided in advance of the hearing in accordance with Section .08(3)(a), or information from witnesses who were not disclosed in advance of the hearing in accordance with Section .08(3)(a); 4. information that is protected from disclosure under federal or Tennessee law; and/or 5. information about a person's character or character trait, if the information is being presented to show that on a particular occasion the person acted in accordance with the character or character trait. Generally, in cases involving an allegation of sexual misconduct, neither the Complainant's nor the Respondent's prior sexual history is relevant to the issue of whether sexual misconduct occurred and will not be considered by the SCB. However, when the Respondent contends that the Complainant gave consent for a particular sexual act, the prior sexual history between the Complainant and the Respondent may be relevant to assess the manner and nature of communications between the parties, although the mere existence of a current or previous dating, romantic, intimate, or sexual relationship with the other person does not allow a Respondent to imply or infer consent. The Complainant's and the Respondent's prior sexual history may also be relevant in other limited circumstances, such as to show intent, motive, absence of mistake, or to explain an injury or physical finding.
- (d) Persons Who May Present Information. The only persons who may present information and/or witnesses during a SCB Hearing are the Conduct Officer, the Complainant, and the Respondent. The Complainant and the Respondent are responsible for presenting their own information and/or witnesses, if any, to the SCB (an Advisor shall not present information and/or witnesses to the SCB).
- (e) Formal Rules. Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in SCB Hearings. The Chairperson shall decide all procedural questions that arise during a SCB Hearing. The Chairperson may consult with SCCS for assistance in resolving procedural questions fairly and in accordance with the Code.
- (f) Questioning of Witnesses. Witnesses will provide information to the SCB and answer questions from the Chairperson. The Chairperson may ask questions and/or submit a request for additional information to the Respondent, the Complainant, the Conduct Officer, and/or witnesses. The Conduct Officer, the Respondent and/or the Complainant

shall not directly ask questions to each other or other witnesses. The Conduct Officer, the Respondent, the Complainant, and/or members of the SCB may propose questions for the Chairperson to ask witnesses by submitting the proposed questions to the Chairperson in writing during the hearing. The Chairperson has the discretion whether to ask a witness a question proposed by the Conduct Officer, the Respondent, the Complainant, and/or members of the SCB. The method of questioning witnesses outlined in this Section .08(4)(f) is used to preserve the educational tone of the SCB Hearing and to avoid the creation of an adversarial environment.

- (g) Closing Statements. At the close of the SCB Hearing, the Chairperson may allow the Conduct Officer, the Complainant, and the Respondent equal opportunities to make statements to the SCB summarizing the information presented to the SCB and/or advocating the decision that the SCB should reach. ~~The Conduct Officer and the Complainant may advocate that the SCB impose a specific sanction(s), and the Respondent may respond; however, the Respondent's record of student conduct maintained by SCCS shall not be disclosed to the SCB by the Conduct Officer or the Complainant during the hearing except in accordance with Section .08(5)(c).~~
  - (h) Burden of Presenting Information Demonstrating Misconduct. The Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct, as alleged in the Notice of Allegations. Neither the Complainant nor the Respondent is required to present information or witnesses concerning the Respondent's alleged misconduct. The SCB shall not draw an inference adverse to the Conduct Officer, the Complainant, or the Respondent if the Complainant or the Respondent chooses not to present information or witnesses to the SCB.
- (5) Notice of Decision of the Student Conduct Board.
- (a) Deliberation of the SCB. After the Chairperson determines that all relevant information has been received by the SCB, the SCB will deliberate in private and decide, for each Standard of Conduct alleged in the Notice of Allegations to have been violated, whether it is more likely than not that the Respondent violated the Standards of Conduct. The SCB will decide by majority vote whether the Respondent violated the Standards of Conduct. The Chairperson shall not vote on the decision of whether the Respondent is responsible for violating the Standards of Conduct or what sanctions should be imposed unless there is a tie vote of the SCB.
  - (b) Basis of Decision. The SCB shall ~~not~~ base its decision solely on information ~~not~~ presented during the SCB Hearing. However, if the SCB requests that additional information be provided after the SCB Hearing, the SCB may consider and base its decision on the additional information, as long as the Conduct Officer, the Respondent, and the Complainant have had a chance to review and respond to the additional information either in a resumption of the SCB Hearing or in writing.
  - (c) Determination of Sanction(s). If the SCB decides that the Respondent violated the Standards of Conduct, then the SCB will decide the appropriate sanction(s) by majority vote. The Conduct Officer and the Complainant may advocate that the SCB impose a specific sanction(s), and the Respondent may respond. In deciding the appropriate sanctions for a Respondent's misconduct, the SCB may consider any statements provided by the Complainant and/or the Respondent as described in Section .08(3)(a)3. :-(1) statements submitted by the Complainant and/or the Respondent to the SCB concerning the appropriate sanctions; and (2) During the sanctioning phase, the SCB may also consider a statement provided by the Conduct Officer about the Respondent's conduct history, which shall be provided to the Chairperson by SCCS in a sealed envelope prior to the SCB Hearing.
  - ~~(d)~~ Issuance of Notice of Decision. Issuance of Notice of Decision. Within three (3) business

days of the conclusion of the SCB Hearing, the Chairperson shall issue a Notice of Decision and transmit a copy of the Notice of Decision to SCCS. SCCS shall notify the Respondent about the Notice of Decision and provide a copy of the Notice of Decision. If permitted or required under law, SCCS shall notify the Complainant about the Notice of Decision (simultaneously with the notification to the Respondent) and provide a copy of the Notice of Decision to the Complainant.

(d)

Information in Notice of Decision. The following information shall be included in the Notice of Decision: (1) for each Standard of Conduct identified in the Notice of Allegations, the SCB's decision concerning whether it is more likely than not that the Respondent violated the Standard of Conduct and the SCB's rationale for the decision concerning the alleged violation of the Standard of Conduct, including, without limitation, a brief summary of the information upon which the SCB relied in making its decision; (2) the sanction(s), if any, that the SCB has imposed on the Respondent; and

(e) (3) information about the Respondent's and the Complainant's options, if any, to appeal the decision of the SCB.

(6) Appealing Decisions of the Student Conduct Board.

(a) Appealable Decisions. The Conduct Officer, the Complainant and/or the Respondent may appeal the decisions of the SCB that are contained in the Notice of Decision, but the grounds for appeal are limited to those described in Section .08(6)(c).

(b) Notice of Appeal. An appeal is procedurally valid only if all of the following requirements are met: ~~(1.)~~ an appeal shall be submitted in writing by fully completing a form approved by SCCS called a "Notice of Appeal;" ~~(2.)~~ the Notice of Appeal shall be received by SCCS within five (5) business days of the date that SCCS transmitted the Notice of Decision; and ~~(3.)~~ the Notice of Appeal shall not include information that is not included in the record of the SCB Hearing, except the Notice of Appeal may contain a summary of the new information described in Section .08(6)(c)(3).

(c) Grounds for Appeal. The Notice of Appeal shall explain the grounds for the appeal, which shall be limited to one (1) or more of the following grounds:

1. Clearly Unreasonable Sanction. The sanction(s) imposed by the SCB is clearly unreasonable (i.e., has no sound basis or justification in reason).
2. Material Procedural Error. A procedural error occurred prior to or during the SCB Hearing, and the procedural error reasonably could have had a material impact on the SCB in reaching its decision. Neither the failure of the Respondent or the Complainant to secure the attendance of an Advisor or witness nor the failure of an Advisor or witness to attend or otherwise participate in any phase of the student conduct process constitutes a material procedural error. The failure of the Respondent or the Complainant to attend the SCB Hearing does not constitute a material procedural error.
3. New Information. New information has been discovered, the information reasonably could have had a substantial impact on the SCB in reaching its decision, and the person submitting the Notice of Appeal did not know and reasonably could not have known about the information at the time of the SCB Hearing.
4. Personal Prejudice or Bias of a SCB Member. A SCB member had a personal prejudice or bias that precluded them from fairly and impartially hearing the case. The fact that a SCB member voted to find a Respondent responsible or not responsible for violating a Standard of Conduct does not, by itself, demonstrate that the SCB member had a personal prejudice or bias for or against the

Respondent, the Complainant, or the University.

- (d) Effective Date of Sanction. The sanction(s) imposed by the SCB shall not be effective during the period in which a Notice of Appeal may be submitted, or, if a procedurally valid Notice of Appeal has been submitted (as determined by Section .08(6)(b)), until a Notice of Final Decision is issued by the Appellate Board, whichever is later. In cases in which the sanction of degree revocation is imposed, the sanction shall be presented to the Chancellor for approval before the sanction is imposed.
- (e) Appellate Board. The Appellate Board is the University body that considers appeals of decisions of the SCB, after a procedurally valid Notice of Appeal has been submitted to SCCS. SCCS will appoint a pool of persons trained by SCCS who are eligible to serve on an Appellate Board. SCCS may appoint University students, University faculty members, or University staff employees to be members of that pool. SCCS shall not appoint persons on the basis of how SCCS anticipates that they will vote.
- (f) Determination of Procedural Validity of Notice of Appeal. Within five (5) business days after the receipt of a Notice of Appeal, SCCS will determine whether the Notice of Appeal is procedurally valid. A Notice of Appeal is procedurally valid only if it has been fully completed, timely submitted to SCCS, ~~does not contain information outside of the record of the SCB Hearing, and does not contain~~ a valid ground for appeal ~~not~~ listed in Section .08(6)(c). If a Notice of Appeal is procedurally invalid and the time for submitting a Notice of Appeal under this Section .08(6)(f) has expired, then SCCS shall send the Conduct Officer, the Respondent, and the Complainant (if permitted or required by law) a notice that the decision of the SCB has become final and any sanction(s) imposed will become effective immediately. ~~However, in a case in which the Notice of Appeal contains information outside of the record of the SCB Hearing or a ground for appeal not listed in Section .08(6)(c), SCCS may proceed with appointing an Appellate Board after removing from the Notice of Appeal information that was not included in the record of the SCB Hearing and/or the impermissible ground for appeal.~~
- (g) Appointment of Appellate Board. If the Notice of Appeal is procedurally valid, then SCCS shall appoint an Appellate Board to hear the appeal from the pool of persons who are eligible to serve on an Appellate Board. An Appellate Board shall be composed of one (1) non-voting Chairperson and three (3) voting members. At least one (1) voting member of the Appellate Board shall be a University student; except, however, SCCS shall not appoint students to serve on an Appellate Board in a case involving an allegation of research misconduct or involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the Appellate Board hearing their case. The Director of SCCS shall not appoint a person to serve as Chairperson or a voting member of the Appellate Board if the person served as a Chairperson or a voting member of the SCB whose decision is being appealed. In addition, an employee who works in SCCS or whose direct supervisor is the Conduct Officer who participated in the SCB Hearing shall be ineligible to serve as a member of the Appellate Board.
- (h) Transmittal of Notice of Appeal. After the appointment of the members of the Appellate Board, SCCS shall transmit a copy of the Notice of Appeal to persons who have a need to know about the Notice of Appeal, including, without limitation, the members of the Appellate Board and all non-appealing parties (e.g., if the Respondent appeals, the Conduct Officer and the Complainant would be the non-appealing parties). A non-appealing party may submit a written response to the Notice of Appeal to the Appellate Board within ~~five~~ (5) business days of SCCS's transmittal of the Notice of Appeal. The written response shall be limited to: 1. responding to issues raised in the Notice of Appeal and shall not contain information that is not included in the record of the SCB Hearing; and 2. request the removal of a member of the Appellate Board on the grounds that the person cannot be fair and impartial in deciding the case. If SCCS determines that the person cannot be fair and impartial, then SCCS may appoint a substitute member of the



SCB in accordance with Section .08(6)(g).

- (i) Recusal. Any member of the Appellate Board who determines that they cannot decide the appeal fairly and impartially for any reason shall recuse themselves from serving on the Appellate Board, in which case SCCS shall appoint a substitute member of the Appellate Board in accordance with this Section .08(6)(g).
- (j) Review of the Record. The Appellate Board's final decision shall be based on its review of the record of the hearing before the SCB, which shall be limited to: 1. the Notice of Allegations; 2. the Notice of Formal Hearing; 3. the Notice of Decision; 4. the recording and the transcript, if any, of the hearing, and all other information submitted to the SCB during the hearing; and 5. the Notice of Appeal and any written responses, in accordance with Section .08(6)(h).
- (k) Potential Decisions of the Appellate Board. The Appellate Board shall reach one (1) of the following decisions, by a majority vote, if the appeal is determined to be procedurally valid:
  - 1. Affirm both the SCB's finding that the Respondent violated the Standards of Conduct and the sanctions imposed by the SCB;
  - 2. In a case involving a clearly unreasonable sanction, the Appellate Board may modify the sanctions imposed by the SCB by imposing a greater or lesser sanction(s);
  - 3. In a case involving a material procedural error, the Appellate Board shall remand the case for a new hearing to be conducted by a new SCB or the same SCB. The Appellate Board should recommend to the Chairperson how to correct the procedural error. SCCS may appoint a substitute member for any member of the SCB who is unavailable to participate in the new hearing; ~~or~~
  - 4. In a case of new information that fits the criteria described in Section .08(6)(c)3., remand the case to the same SCB for the limited purpose of hearing the new information and reconsidering its decision based on the new information. SCCS may appoint a substitute member for any member of the SCB who is unavailable to participate in hearing the new information or the reconsideration of the decision; ~~or~~
  - 5. In a case in which a SCB member had a personal prejudice or bias, remand the case for a new hearing to be conducted by a new SCB.
- (l) Notice of Final Decision. The Appellate Board shall communicate its decision through a written notice called a Notice of Final Decision. The Notice of Final Decision should be issued within ten (10) business days of the submission of the Notice of Appeal. The Notice of Final Decision shall be sent to SCCS, who will notify the Conduct Officer, the Respondent, the Chairperson of the SCB, and, if permitted or required by law, the Complainant about the Notice of Decision and provide them with a copy of the Notice of Decision. The decision of the Appellate Board is final and is not subject to appeal.
- (7) Other Issues Heard by the SCB. In addition to hearing disputes concerning violations of the Standards of Conduct, the Student Conduct Board shall also be the University body that hears disputes concerning the interpretation of the Student Government Constitution and disputes concerning the results of Student Government elections.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.09 TITLE IX HEARINGS: HEARINGS AND APPEALS.**

- (1) The Title IX Hearing. Any case that includes Title IX Allegations that reaches the Formal Hearing stage will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance with 34 C.F.R. 106.45.
- (2) The Title IX Hearing Officer. The Vice Chancellor for Student Life (or a designee) will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their Advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing. A party may object to the appointment of any Title IX Hearing Officer, in writing to the Vice Chancellor for Student Life. Any objection must be received within three (3) business days of the notice of appointment, and it must state the party's grounds for objecting. The Vice Chancellor for Student Life will decide whether an objection is justified, and that decision is final. If a Title IX Hearing Officer is removed based on an objection, the Vice Chancellor for Student Affairs will appoint a new qualified Title IX Hearing Officer to conduct the Title IX Hearing.
- (3) Notice of Title IX Hearing.
  - (a) When a Notice of Title IX Hearing is Sent. The Title IX Hearing Officer will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.
  - (b) Information in the Notice of Title IX Hearing. The Notice of Title IX Hearing will contain, or be accompanied by, the following information: 1. the date, time, and place of the Title IX Hearing; 2. notice of the right to have an Advisor of the party's choice, who may be, but is not required to be, an attorney, and that, if the party does not have an Advisor present at the hearing, the University must provide an Advisor of the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; 3. notice that any cross-examination of any other party or witness must be conducted by the Advisor, and never by a party personally; and 4. notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.
  - (c) More than One Respondent. In cases involving more than one (1) Respondent, Title IX Hearings concerning each Respondent's conduct may be conducted separately upon written request of a party submitted at least seven (7) business days in advance of the hearing. SCCS has the discretion to make the final determination of whether to grant such a request and will notify the parties of the decision.
  - (d) Consequences of Failing to Attend a Title IX Hearing. If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.
- (4) General Rules Governing Title IX Hearings.
  - (a) The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.
  - (b) The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their Advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing, the location of the hearing, any technology to be used at the hearing, the general rules governing the hearing, including any rules of decorum, the identification of witnesses, and the availability of evidence at the hearing.

- (c) Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's Advisor, if any, or that the party does not have an Advisor so that the University can provide an Advisor.
  - ~~(d)~~ At the request of either party, the University will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer and parties to simultaneously see and hear the party or the witness answering questions.
  - ~~(d)~~(e) Upon request of a party, and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.
- (5) Procedural Rules for Title IX Hearings.
- (a) Authority of the Title IX Hearing Officer. The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision maker concerning what, how, and in what order witnesses are questioned and evidence is examined.
  - (b) Exclusion of Information.
    - 1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
    - 2. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.
    - 3. The University cannot require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
  - (c) Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University rule or policy allegedly violated.
  - (d) Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from SCCS, the Complainant and the Complainant's Advisor, the Respondent and the Respondent's Advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and SCCS have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.
  - (e) Opening Statements. The Complainant and then the Respondent may each make an opening statement to the Title IX Hearing Officer, and they may provide a written

copy of their opening statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written opening statement received to the other party.

- (f) Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties or deemed to have relevant information by the Title IX Hearing Officer. The Title IX Hearing Officer will permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally. Only relevant cross-examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. If a party or witness does not submit to cross-examination at the hearing, the Title IX Hearing Officer must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions. Notwithstanding any provisions in this Section .09(5)(f) to the contrary, alleged verbal conduct by a Respondent that constitutes any part of the Title IX Allegations at issue in the case may be considered by the Title IX Officer in reaching a determination regarding responsibility even if the Respondent does not submit to cross-examination during the Title IX Hearing.
  - (g) Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing Officer may allow the Complainant and the Respondent equal opportunities to make closing statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.
- (6) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript of the hearing and make it available to the parties for inspection and review.
  - (7) Notice of Decision of Title IX Hearing Officer. Within ten (10) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision of Title IX Hearing Officer"). The written determination must include (a) identification of the allegations potentially constituting Sexual Harassment; (b) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; (c) findings of fact supporting the determination; (d) conclusions regarding the application of the Code to the facts; (e) a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and (f) the procedures and permissible bases for the Complainant and Respondent to appeal. If the Respondent is determined responsible, the Title IX Hearing Officer may consider relevant information provided at the hearing by the Complainant, the Respondent, or any other witness in deciding the appropriate sanction for the Respondent's misconduct.
  - (8) Notice of Decision of Title IX Hearing Officer to SCCS. The Title IX Hearing Officer shall transmit a copy of the Notice of Decision of Title IX Hearing Officer to SCCS. SCCS shall notify the Respondent, the Complainant, and their Advisors about the written determination and provide a copy of it simultaneously to the parties and their Advisors.

- (9) Appealing Decisions of the Title IX Hearing Officer.
- (a) **Appealable Decisions.** The Complainant and the Respondent may appeal the decisions of the Title IX Hearing Officer that are contained in the Notice of Decision of Title IX Hearing Officer (as well as a decision by the University to dismiss a Formal Complaint that includes Title IX Allegations), but the grounds for appeal are limited to those described in Section .09(8)(c).
  - (b) **Notice of Appeal.** An appeal is procedurally valid only if all of the following requirements are met: 1. an appeal shall be submitted in writing by fully completing a form approved by SCCS called a "Notice of Appeal;" 2. the Notice of Appeal shall be received by the Vice Chancellor for Student Life, or their designee, within five (5) business days of the date that SCCS transmitted the Notice of Decision; and 3. the Notice of Appeal shall not include information that is not included in the record of the Title IX Hearing, except the Notice of Appeal may contain a summary of the new information described in Section .09(8)(c)3.. SCCS will notify the other party in writing when an appeal is received.
  - (c) **Grounds for Appeal.** The Notice of Appeal shall explain the grounds for the appeal, which shall be limited to one (1) or more of the following grounds:
    - 1. **Clearly Unreasonable Sanction.** The sanction(s) imposed by the Title IX Hearing Officer is clearly unreasonable (i.e., has no sound basis or justification in reason).
    - 2. **Procedural Error.** A procedural irregularity affected the outcome of the matter.
    - 3. **New Evidence.** New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter.
    - 4. **Conflict of Interest or Bias.** The Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
  - (d) **Effective Date of Sanction.** The sanction(s) imposed by the Title IX Hearing Officer shall not be effective during the period in which a Notice of Appeal may be submitted, or, if a procedurally valid Notice of Appeal has been submitted (as determined by Section .09(8)(c)), until a Notice of Title IX Final Decision is issued by the Vice Chancellor for Student Life, whichever is later.
  - (e) **Appeal Process.** Each party may submit a written statement in support of or challenging the outcome of the Title IX Hearing. The written statement must be received by the Vice Chancellor for Student Life within five (5) business days of the date on which the Notice of Appeal was filed, or within five (5) business days on which the non-appealing party received notice that the other party filed a Notice of Appeal. Within five (5) business days of the receipt of the last timely submitted appeal, the Vice Chancellor for Student Life will issue a written decision (Notice of Title IX Final Decision) describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties. The decision of the Vice Chancellor for Student Life is final and not subject to further appeal.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-10 SANCTIONS.**

(1) General Rules.

- (a) Purposes of Sanctions. The purposes of sanctions include, without limitation: (1) to educate the Respondent about appropriate conduct; (2) to promote the personal and professional development of the Respondent; (3) to discourage the Respondent and other students from violating the Standards of Conduct; and (4) to protect other members of the University community. The sanctions imposed on a Respondent should be proportional to the Respondent's misconduct and appropriate for the particular case based on the gravity of the offense (including, without limitation, how the violation affected or reasonably could have affected other members of the University community). Consideration may also be given to the Respondent's conduct record; whether the Respondent acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; the Respondent's academic classification (e.g., undergraduate, graduate, freshman, sophomore, junior, senior); and other aggravating or mitigating factors.
- (b) Administrative and Developmental Sanctions. A student who accepts responsibility or is found responsible for violating the Standards of Conduct generally will be given one (1) or more administrative sanctions. A student may also be given one (1) or more developmental sanctions.

(2) Administrative Sanctions.

- (a) Warning. A warning is a written notice to a student that informs ~~them that they have the student that the student has~~ violated the Standards of Conduct, that the misconduct must cease and/or not reoccur, and that further misconduct will likely result in the imposition of more serious sanctions.
- (b) Disciplinary Probation. Disciplinary probation is imposed for a ~~specified-designated~~ period of time during which the student may continue to be enrolled but must demonstrate conduct that conforms to the Standards of Conduct. Conditions may be placed on the student's continued enrollment. A student may be placed on disciplinary probation for moderate misconduct or in the case of repeated minor misconduct. Also, a student allowed to re-enroll following a suspension will be placed on disciplinary probation. Subsequent violations of the Standards of Conduct during a period of disciplinary probation may result in more serious sanctions such as suspension or expulsion from the University.
- (c) Deferred Suspension. A deferred suspension is a designated period of time during which a student, while continuing to be enrolled, is given an opportunity to demonstrate the ability to abide by the Standards of Conduct. A student may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student is found responsible for any additional violation(s) of the Standards of Conduct while the student is on deferred suspension, then the sanction of suspension will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Students who are placed on deferred suspension are also generally given developmental sanctions.
- (d) Suspension. A suspension is an official separation of a student from the University for a ~~specific-designated~~ period of time and/or until certain conditions are met. A suspension may be imposed for serious misconduct and/or for a violation of deferred suspension. Suspension may include conditions that must be satisfied prior to a student being allowed to re-enroll and/or conditions that will be in place if the student is allowed to re-enroll. The effective date of a suspension may be imposed retroactively to the date that the misconduct occurred. While suspended, the student loses all University rights and privileges (e.g., enrollment privileges), shall not represent the University in any official manner, and shall not be present on University-controlled property without the prior approval of the Vice Chancellor for Student Life. The student may be required to meet

with an assigned Student Life staff member periodically while suspended to ensure the student is making satisfactory progress regarding the developmental sanctions issued. The Vice Chancellor for Student Life will determine whether the student is eligible for consideration for re-enrollment by the University's admissions office(s). Prior to re-enrollment, the student must satisfy the terms and conditions of all sanction(s) that are required to be completed prior to re-enrollment. Students who are permitted to return to the University following a period of suspension will automatically be placed on disciplinary probation by SCCS for a designated period of time, which is designed to facilitate a smooth transition back to the University community. A student on post-suspension disciplinary probation must abide by the Standards of Conduct and all terms and conditions placed on the student's re-enrollment.

- (e) **Expulsion.** Expulsion is a sanction that permanently bars a person from re-enrolling as a student at the University. This sanction generally is imposed when the student's misconduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; and/or when, by the student's repeated misconduct, a student has exhibited a blatant disregard for the health, safety, or welfare of other members of the University community or the University's right to establish rules of conduct. A person who has been expelled shall not be present on University-controlled property without the prior approval of the Vice Chancellor for Student Life.
- (f) **Withholding of Degree.** The University may withhold a degree as a disciplinary sanction for a specified-designated period of time or until the student's completion of all other sanctions imposed, whichever occurs later.
- (g) **Revocation of Degree.** The sanction of the revocation of a degree may be imposed if a student has obtained a degree at least in part through cheating, plagiarism, other academic dishonesty, or through research misconduct. Revocation of a degree shall be approved by the Chancellor before the revocation is effective. If approved by the Chancellor, this sanction will be noted on the student's academic transcript on a permanent basis.
- (h) **Disciplinary Probation for Student Organizations.** A student organization given the sanction of disciplinary probation is permitted to retain University student organization registration on a probationary status. As a condition of the disciplinary probation, the student organization also may be given developmental sanctions.
- (i) **Social Probation for Student Organizations.** Social probation prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Vice Chancellor for Student Life.
- (j) **Deferred Suspension for Student Organizations.** A deferred suspension is a designated period of time during which a student organization, while continuing to be active, is given an opportunity to demonstrate the ability to abide by the Standards of Conduct. A student organization may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student organization is found responsible for any additional violation(s) of the Standards of Conduct while the student organization is on deferred suspension, then the sanction of revocation or suspension of University registration will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Student organizations who are placed on deferred suspension generally also receive disciplinary probation and developmental sanctions.
- (k) **Revocation or Suspension of University Registration.** In cases of serious or repeated misconduct, a student organization's University registration may be suspended or revoked.

(3) Developmental Sanctions. In addition to an administrative sanction(s), one (1) or more of the following developmental sanctions may be imposed in an effort to foster student learning and development.

(a) Educational Activities. Educational activities are designed to educate the student about why certain conduct was inappropriate. Examples of such activities include, without limitation, offering a formal apology (in writing and/or in person); attending an educational class, training, or workshop; giving or attending a presentation; preparing and submitting a research project or paper on a designated topic; or offering a written reflection responding to a prompt given by SCCS. The student may be held responsible for the payment of reasonable expenses relating to the educational activity.

(b) Restitution. Restitution is compensation for loss, damage, and/or injury incurred as a result of the student's conduct. Compensation may take the form of money, service, and/or material replacement. Restitution may be required to be made to the University, a specific individual, or a specific organization. Normally, all restitution must be paid or made within two (2) weeks of the imposition of the sanction.

(c) Supervised Work/Service. A student may be assigned unpaid work or service that is both beneficial to the University community and/or likely to assist the student in understanding the effects of the student's conduct.

(d) Loss or Restriction of Privileges. Specified student privileges are lost or restricted. Such privileges include, without limitation, representing the University in any official manner, the use of or access to University-controlled property, University parking privileges, or participation in University-affiliated activities (e.g., extracurricular activities).

~~(e)~~ (e) University Housing Reassignment or Removal. A student may be assigned to a different residence hall or residence hall room. A student's residence hall contract also may be terminated, and the student may be prohibited from residing in University housing for a definite or indefinite period of time.

~~(f)~~ —

~~Mandatory Education. A student may be required to participate in one (1) or more educational programs, classes, or workshops relating to the student's misconduct, including, without limitation, education concerning alcohol or drugs. The student may be held responsible for the payment of expenses relating to the educational program/class/workshop(s).~~

(4) Parental Notifications. If a student accepts responsibility or is found responsible for violating a Standard of Conduct involving drugs or alcohol, and that student is under twenty-one (21) years of age, SCCS shall inform the parent or legal guardian of that student of the violation, as required by state law. Typically, SCCS fulfills the parental notification requirement by mailing written notification to the parent or legal guardian's address listed with the Office of the University Registrar. SCCS may also notify parents or legal guardians through other means when necessary or appropriate. Parental notification is not considered a disciplinary sanction.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.11 HONOR STATEMENT.**

(1) Honor Statement. An essential feature of the University is a commitment to maintaining an atmosphere of intellectual integrity and academic honesty. As such the University utilizes an Honor Statement that reads, "As a student of the University, I pledge that I will neither knowingly give nor receive any inappropriate assistance in academic work, thus affirming my own personal commitment to honor and integrity."

(2) Informing Students and Faculty. The following methods will generally be used to inform students and faculty members about the Honor Statement: (1) the Honor Statement appears



on undergraduate and graduate applications for admission, and applicants will be required to acknowledge his/her affirmation of the Honor Statement in writing; (2) information regarding the Honor Statement is included in the undergraduate and graduate catalogs, Hilltopics; (3) the Honor Statement is discussed during student orientation programs; (4) faculty members are encouraged to discuss the Honor Statement with students in ~~entry-level English~~ their courses; (a) faculty members are encouraged to include the Honor Statement in their course syllabus; (b) implementation methods and alternatives are discussed during faculty orientation programs; and (7) the enforcement of the Honor Statement is through the Standards of Conduct (Section .04(1)) and the student conduct process.

- (3) Academic Dishonesty. The Honor Statement prohibits cheating, plagiarism, and any other type of academic dishonesty.
- (4) Plagiarism. Plagiarism is using the intellectual property or product of someone else without giving proper credit. The undocumented use of someone else's words or ideas in any medium of communication (unless such information is recognized as common knowledge) is a serious offense, subject to disciplinary action that may include failure in a course and/or dismissal from the University. Specific examples of plagiarism include, but are not limited to: ~~(1.)~~ using without proper documentation (quotation marks and citation) written or spoken words, phrases, or sentences from any source; ~~(2.)~~ summarizing without proper documentation (usually a citation) ideas from another source (unless such information is recognized as common knowledge); ~~(3.)~~ borrowing facts, statistics, graphs, pictorial representations, or phrases without acknowledging the source (unless such information is recognized as common knowledge); ~~(4.)~~ collaborating on a graded assignment without the instructor's approval; and ~~(5.)~~ submitting work, either in whole or partially created by a professional service or used without attribution (e.g., paper, speech, bibliography, or photograph).
- (5) Examples of Other Types of Academic Dishonesty. Specific examples of other types of academic dishonesty include, but are not limited to: ~~(1.)~~ providing or receiving unauthorized information during an examination or academic assignment, or the possession and/or use of unauthorized materials during an examination or academic assignment; ~~(2.)~~ providing or receiving unauthorized assistance in connection with laboratory work, field work, scholarship, or another academic assignment; ~~(3.)~~ falsifying, fabricating, or misrepresenting data, laboratory results, research results, citations, or other information in connection with an academic assignment; ~~(4.)~~ serving as, or enlisting the assistance of, a substitute for a student in the taking of an examination or the performance of an academic assignment; ~~(5.)~~ altering grades, answers, or marks in an effort to change the earned grade or credit; ~~(6.)~~ submitting without authorization the same assignment for credit in more than one (1) course; ~~(7.)~~ forging the signature of another or allowing forgery by another on any class or University-related document such as a class roll or drop/add sheet; ~~(8.)~~ gaining an objectively unfair academic advantage by failing to observe the expressed procedures or instructions relating to an exam or academic assignment; and ~~(9.)~~ engaging in an activity that unfairly places another student at a disadvantage, such as taking, hiding, or altering resource material, or manipulating a grading system.
- (6) Responsibilities Associated with the Honor Statement. All members of the University community have responsibilities associated with the Honor Statement. These responsibilities are unique to each sector of the University community. Each student is responsible for his/her own personal integrity in academic life. Each student is responsible for knowing and adhering to the terms and conditions of the Honor Statement and may acknowledge his/her adherence to the Honor Statement by writing, "Pledged," and signing on a graded class assignment or examination. Although there is no affirmative duty to report the academic dishonesty of another, each student, given the dictates of his/her own conscience, may choose to report any violation of the Honor Statement to a faculty member or to SCCS. The ~~prevention-discouragement~~ of academic dishonesty, and the response to academic dishonesty, is the immediate responsibility of the instructor. However, students are not excused from complying with the Honor Statement because of an instructor's failure to ~~prevent-address~~ or discourage academic dishonesty.

## Academic Dishonesty—Resolution by the Academic Department:

~~Notice of Academic Dishonesty and Informal Opportunity to Respond to Allegations. When an act of alleged academic dishonesty is discovered by, or brought to the attention of an instructor, the instructor shall notify the student about the alleged academic dishonesty, describe the information supporting the allegation, and give the student an informal opportunity to respond to the allegation(s) and information. The instructor may proceed with imposing an academic penalty for academic dishonesty if the student has not responded to the instructor's notice to the student concerning the alleged academic dishonesty within five (5) business days of the notice. The instructor does not have the authority under the Code to impose a sanction identified in Section .09(2) or Section .09(3). An academic penalty shall not take effect until after the deadline for an appeal has passed under Section .10(7)(c), or, if the student appeals the penalty, the student conduct process has concluded and the penalty has been upheld, whichever is later.~~

~~Decision Whether to Impose an Academic Penalty. After giving the student notice and an informal opportunity to respond, if the instructor concludes that the student engaged in academic dishonesty, then the instructor may impose an academic penalty of a failing or reduced grade in the academic exercise, assignment, examination, and/or course; loss of credit for the work involved; an assignment to repeat the work, to be graded on its merits; and/or an oral or written reprimand. An instructor may impose more than one (1) academic penalty. If the instructor decides to impose an academic penalty, then the instructor shall transmit a notice to the student of the allegations, information, findings, academic penalty imposed, and information on the student's options to appeal the findings and/or penalties under Section .10(7)(c). The notice should be countersigned by the department head. Copies of the notice to the student shall be submitted to SCCS, the dean or other chief administrative head of the instructor's academic unit, and, where different, the dean or other chief administrative head of the academic unit in which the student is enrolled. The instructor is not required to notify a student that a complaint has been made to SCCS.~~

~~Appeals of Academic Penalties. Within five (5) business days of the transmittal of the notice to the student described in Section .10(7)(b)2., the student may appeal the academic penalty imposed by the instructor by submitting a written Notice of Appeal of Academic Penalty to SCCS, using a form approved by SCCS. The SCB hears appeals of academic penalties. If SCCS does not issue a Notice of Allegations, then the instructor shall serve as the Conduct Officer in the SCB Hearing. The decision of the SCB, or the Appellate Board if the decision is appealed, shall be the final decision of the University concerning the academic penalty. For example, if the SCB's decision, if not appealed to the Appellate Board, is to reverse a grade of "F" for the course, then SCCS will inform the University's Registrar of the SCB's decision and request the Registrar to enter the grade for the course that the student would have received if the student had not been accused of academic dishonesty. If there is a question about what grade the student would have received if the student had not been accused of academic dishonesty, the question will be referred to the Provost for resolution.~~

### (7) Academic Dishonesty.

- (a) Notice of Academic Dishonesty and Informal Opportunity to Respond. When an act of alleged academic dishonesty, in violation of Section .04(1) is discovered by, or brought to the attention of, an instructor, the instructor shall notify the student about the alleged academic dishonesty, describe the information supporting the allegation, and give the student an informal opportunity to respond to the allegation(s) and information.
- (b) Referral By Academic Department to SCCS. After the instructor provides the student with an informal opportunity to respond, and if the instructor still believes that an act of academic dishonesty has occurred, the instructor shall refer the incident to SCCS. In referring the incident to SCCS, the instructor shall include the academic penalty that the instructor plans

to impose, if any. The referring instructor will not assign an academic penalty or a final grade for the course pending resolution of the allegation by SCCS. If a grade must be submitted at the end of the grading period, the student will receive a temporary grade of "Incomplete" (I) until the case is resolved. The instructor does not have the authority under the Code to impose a sanction identified in Section .10(2) or Section .10(3).

~~(b)~~(c) Academic Penalties and Appeals of Academic Penalties. If, at the conclusion of the student conduct process, SCCS determines that a student is not responsible for violating Section .04(1), the instructor shall not impose any academic penalty. If SCCS determines that a student is responsible for violating Section .04(1), the instructor may impose an academic penalty, in addition to any sanctions imposed by SCCS under Section .10(2) or .10(3). Academic penalties may include, without limitation, dismissal from a program of study; a failing or reduced grade in the academic exercise, assignment, examination, and/or course; loss of credit for the work involved; an assignment to repeat the work, to be graded on its merits; and/or a warning. An instructor may impose more than one (1) academic penalty. A student may appeal an academic penalty, as distinct from a student disciplinary sanction, through the appropriate institutional academic misconduct or grade appeal procedures, including the Undergraduate Council Appeal Procedure or Graduate Council Appeal Procedure.

~~(7)~~(8) Academic Dishonesty – Resolution through the Student Conduct Process. After receiving any conduct referral for academic dishonesty, SCCS will proceed with the student conduct process. SCCS may issue a Notice of Allegations for violating Section .04(1) regardless of the response of the instructor to the alleged academic dishonesty. If SCCS issues a finding of responsibility and Notice of Sanctions for a violation of Section .04(1), then the allegations shall be resolved through a Resolution Agreement, a Formal Hearing, or an Alternative Resolution Process, pursuant to Section .07 of the Code. After receiving notice from the instructor under Section .10(7)(b), SCCS may proceed with the student conduct process and determine of whether to issue a Notice of Allegations for violating Section .04(1). A decision by SCCS not to issue a Notice of Allegations shall not be used by the student to support an appeal of an academic penalty imposed by the student's instructor. In addition, SCCS may issue a Notice of Allegations for violating Section .04(1) regardless of the response of the instructor to the alleged academic dishonesty. If an instructor alleges that a student engaged in academic dishonesty and the student wants to appeal the academic penalty and/or SCCS issues a Notice of Allegations containing an allegation of a violation of Section .04(1), then the allegations against the student and the issue of the appropriate academic penalty shall be resolved through a Resolution Agreement, a Formal Hearing, or an Alternative Resolution Process.

~~(8)~~(9) College of Law. The University of Tennessee College of Law has adopted and promulgated its own Code of Academic Conduct, Chapter 1720-04-09. Chapter 1720-04-09 shall control in the event of a conflict between this ~~Chapter Code~~ and Chapter 1720-04-09.

~~(9)~~(10) Research Misconduct. Notwithstanding anything in this Code to the contrary, allegations of research misconduct shall be reported, assessed, inquired into, investigated, and resolved consistently with the University's Policy on Misconduct in Research and Service.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.12 ~~POLICY ON~~ AMNESTY FOR INDIVIDUAL GOOD SAMARITANS AND STUDENTS IN NEED OF EMERGENCY MEDICAL ATTENTION.**

- (1) Background. The University of Tennessee holds paramount the health, safety, and welfare of students. Accordingly, all University students are expected to alert appropriate officials in the event of a health, safety, or welfare emergency, including, without limitation, a situation involving the abuse of alcohol or other drugs.
- (2) Expectations. When individual students know or reasonably should have known that other individual students are in need of emergency medical attention, the individual students are

expected to: (1) contact appropriate people to report the incident and request assistance (e.g., University staff members, law enforcement), and provide those people with the names and contact information for the individual students reporting the incident and the impaired individual students; and (2) demonstrate cooperation and care by remaining with the impaired individual students and providing reasonable assistance during and after the incident. Individual students who take all of the steps described in this Section .12(2) will be referred to as a “Good Samaritan” under the Code. The individual students in need of emergency medical attention will be referred to as an “individual impaired individual student” under the Code.

- (3) Amnesty for Individual Good Samaritans. Unless individual Good Samaritans have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual Good Samaritans will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan’s report. While no formal University disciplinary action may be taken, the individual students who acted as a Good Samaritan may be required to meet with a University staff member to discuss the individual Good Samaritan’s misconduct and adhere to appropriate remedial and/or educational recommendations.
- (4) Amnesty for Individual Impaired Students. Unless individual impaired students have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual impaired students will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan’s report. While no formal University disciplinary action may be taken, the individual impaired students may be required to meet with a University staff member, participate in educational activities, and/or establish that the individual students have addressed issues that contributed to the misconduct.
- (5) Application of ~~the Amnesty Policy~~ to Student Organizations. Student organizations, through their officers and members, are also expected to take responsible action in emergency situations. While ~~the Policy on Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention~~ this Section .012 may not fully apply to a student organization, adherence to steps described in Section .12(2) by a student organization’s officers and/or members will be considered a mitigating factor when determining the outcome ~~of~~ or sanction ~~for misconduct~~. Additionally, the University will consider a failure of officers and/or members to adhere to steps described in Section .12(2) to be an aggravating factor when determining the outcome ~~of~~ or sanction ~~for misconduct~~.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.13 EMERGENCY POWERS.** When, in the judgment of the University’s Chancellor, conditions are such that it is impractical for the Student Conduct Board to function, the Vice Chancellor for Student Life may suspend these procedural regulations and appoint an ad hoc committee to hear a conduct matter. Any such ad hoc committee shall follow procedures that will insure that the Respondent is provided with due process. The final decision of the ad hoc committee may be appealed to the Vice Chancellor for Student Life, but the grounds for appeal are limited to those outlined in Section .08(6)(c).

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.14 MAINTENANCE, DISCLOSURE, AND EXPUNGEMENT OF STUDENT DISCIPLINARY RECORDS.**

- (1) Maintenance of Student Disciplinary Records. The University maintains student disciplinary records separately from student academic records.
- (2) Disclosure of Student Disciplinary Records while a Student is Enrolled.
  - (a) While a student is enrolled in the University, SCCS may disclose disciplinary records to

University officials who have a legitimate educational interest in the disciplinary records, subject to Section .14(2)(b), or to students who request to inspect their disciplinary records. SCCS may disclose disciplinary records to other persons only in accordance with state or federal law or with the student's consent and in some circumstances will be required by state or federal law to disclose disciplinary records (e.g., subpoena, judicial order).

- (b) While a student is still enrolled in the University but applying for post-graduation employment or graduate school, SCCS will disclose a student's disciplinary records to persons outside of SCCS only with the student's consent and if one of the following sanctions was imposed on the student while the student was enrolled in the University: suspension; expulsion; withholding of degree; or revocation of degree. Notwithstanding the previous sentence, SCCS will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- (3) Disclosure of Student Disciplinary Records after a Student is no Longer Enrolled. After a student is no longer enrolled in the University, SCCS will disclose a student's disciplinary records to persons outside of SCCS only with the student's consent and if one (1) of the following sanctions was imposed on the student while the student was enrolled in the University: suspension; expulsion; withholding of degree; or revocation of degree. Notwithstanding the previous sentence, SCCS will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- (4) Expungement of Student Disciplinary Records. SCCS permanently maintains student disciplinary records for students who have received the following sanctions (or their equivalents under previous versions of the Code): suspension; expulsion; withholding of degree; or revocation of degree. SCCS expunges student disciplinary records for other students seven (7) years after graduation or the last date of enrollment, except as prohibited by law or a University litigation hold.

**Authority:** T.C.A. § 49-9-209(e).

#### **1720-04-03-.15 DEFINITIONS OF TERMS USED IN THE CODE.**

The following words, terms, or phrases, when used in the Code, shall have the following meanings:

- (1) Attend: To participate in a meeting or hearing electronically or in person.
- (2) Business Day: Any weekday not designated by the University as a holiday or administrative closure day. When calculating a time period of business days specified in the Code, the business day of the event that triggers a time period is excluded.
- (3) Chairperson: A faculty or staff member appointed by SCCS to preside over and facilitate a SCB Hearing.
- (4) Code, Code of Conduct, or Student Code of Conduct: The University of Tennessee, Knoxville's Student Code of Conduct, Chapter 1720-04-03.
- (5) Complainant: An individual who may have been subjected to student conduct that violates the Standards of Conduct, regardless of whether that individual makes a complaint or report to SCCS. This term does not imply pre-judgment concerning whether the Respondent violated the Standards of Conduct. SCCS is the final decision maker with respect to whether an individual is a Complainant for purposes of the Code.
- (6) Conduct Officer: A University employee designated by SCCS to present information on behalf of SCCS to the Student Conduct Board. ~~The Conduct Officer shall be employed in the Division of Student Life but is not required to be employed by SCCS. However, in a case involving alleged academic dishonesty in which SCCS has not issued a Notice of Allegations, the~~

~~instructor generally will be designated as the Conduct Officer.~~

- (7) Disciplinary Hold: The University hold described in Section .06(3)(c).
- (8) Disciplinary Records: A written record that personally identifies a Respondent and is maintained by SCCS.
- (9) Faculty Member or Instructor: A person hired by the University to conduct teaching, research, or supervised clinical placements.
- (10) Formal Complaint. A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two (2) types of Formal Complaints: (a) Formal Complaints that include Title IX Allegations (as defined under Section .15(~~2930~~)); and (b) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.
- (11) Formal Hearing: A SCB Hearing, a hearing before a Student Life Hearing Officer, a Title IX Hearing, and/or a UAPA Hearing.
- (12) Good Faith: Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is not communicated in good faith if it is communicated with knowing or reckless disregard for information that would negate the former information.
- ~~(13) Knoxville Area: The geographical area that consists of the following counties in the state of Tennessee: Knox, Anderson, Union, Grainger, Jefferson, Sevier, Blount, Loudon, and Roane.~~
- ~~(14)~~(13) Member of the University Community: A person who is a student, University employee, University volunteer, invited visitor to University-controlled property, or participant in a University-affiliated activity.
- ~~(15)~~(14) Notice or Notify (given to students): Written notice transmitted by United States mail, courier service, or hand delivery to the address the University's Registrar has on file for the student; and/or by e-mail to a student's University-provided e-mail account. When a notice is transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by e-mail, the notice is effective on the date that the e-mail is sent. A student's University-issued email address is the official method of communication used by SCCS.
- ~~(16)~~(15) Possession: Direct control of a substance or property, actual knowledge of a substance or property, and/or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.
- ~~(17)~~(16) Protected Activity: A person's good faith: (~~1a~~) opposition to conduct prohibited under the Standards of Conduct; (~~2b~~) report to the University about conduct prohibited under the Standards of Conduct to the University; (~~3c~~) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (~~4d~~) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- ~~(18)~~(17) Reasonable Person: A sober, objectively reasonable person in the same situation, and with the same sex, gender identity, and sexual orientation as the person whose words and/or

conduct are being evaluated.

~~(19)~~(18) Relevant Information: Information having any tendency to make the existence of any fact that is of consequence to determining whether the Respondent violated the Standards of Conduct more probable or less probable than it would be without the information. This definition does not apply to Title IX Hearings.

~~(20)~~(19) Respondent: A student or student organization who has been accused of violating the Standards of Conduct and/or whose conduct is being investigated by SCCS.

~~(21)~~(20) Sanction: An administrative sanction and/or a developmental sanction.

~~(22)~~(21) SCB: Student Conduct Board.

~~(23)~~(22) SCCS: The Office of Student Conduct and Community Standards, which acts through University employees designated by the Director of SCCS to act on behalf of the University in the student conduct process, including, without limitation University employees who work in SCCS and University employees who work in University Housing.

~~(24)~~(23) Sexual Harassment. Conduct on the basis of sex that satisfies one (1) or more of the following: (a) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (b) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or (c) sexual assault, dating violence, domestic violence, or stalking.

(24) Staff Member: A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and controlling efforts to achieve the goals and objectives of the University.

(25) Standards of Conduct: Chapter 1720-04-03-.04.

(26) Student: For purposes of the Code, the term "student" means:

- (a) A person enrolled or registered for study at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree and non-credit programs and courses;
- (b) A student organization;
- (c) A person who has completed the immediately preceding academic term and is eligible for re-enrollment;
- (d) A person who is not officially enrolled but who has a continuing relationship with the University (e.g., on educational leave or other approved leave status);
- (e) A person who attended the University during a previous academic term and who engaged in misconduct during the time of enrollment; and/or
- (f) A person who has been admitted to the University and later matriculates at the University, with respect to misconduct:
  - 1. That occurs as part of the application process; or
  - 2. That occurs post-admission and pre-matriculation and falls within the jurisdiction of the Code (e.g., occurs on University-controlled property).

- (27) Student Life Hearing Officer. As more fully described in Section .07(2)(d), a University employee designated by the Director of SCCS to conduct a Formal Hearing.
- (28) Student Organization: An organization ~~that is~~ composed solely of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (29) Title IX Allegations. Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section .15(234)) in the University's education program or activity and occurred within the United States.
- (30) Title IX Hearing Officer. As more fully described in Section .09(2), a person or persons appointed to conduct a Title IX Hearing.
- (31) UAPA: Uniform Administrative Procedures Act, Tennessee Code Annotated, §§ 4-5-301 et seq.
- (32) UAPA Hearing: A formal hearing conducted by an University administrative judge or hearing officer in accordance with the University's procedures for conducting a contested case hearing pursuant to the UAPA, Chapter 1720-01-05.
- (33) University: The University of Tennessee, Knoxville; which includes the University of Tennessee Institute of Agriculture and; the University of Tennessee Space Institute; and their campuses, centers, ~~institutes,~~ and constituent parts including, without limitation, their academic, administrative, or auxiliary departments or divisions.
- (34) University-Affiliated Activity: ~~means a~~ An activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (35) University-Controlled Property: All land, grounds, structures, or any other property owned, controlled, or operated by the University. For purposes of this rule, University-controlled property includes, without limitation, all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, controlled, or operated by the University or funded by the University.
- (36) University Official: An employee of the University, including, without limitation, faculty members and staff members, or, for purposes of this Code, a University-recognized volunteer, when acting in the performance of their duties. Student employees may be considered University officials when acting in the performance of their duties (e.g., event staff, resident assistants, and teaching assistants).
- (37) Vice Chancellor for Student Life: The University's chief student affairs officer, to whom the Chancellor has delegated responsibility for the administration of the Code. For the purposes of the Code, the term also includes any University employee whom the Vice Chancellor for Student Life designates to act in place of the Vice Chancellor for Student Life.
- (38) Weapon: Any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, without limitation, firearms (loaded and unloaded, real firearms and devices that would reasonably appear to a law enforcement officer to be real firearms), ammunition, electronic control devices (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (such as mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term "weapon" does not include pocket knives that fold (but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.



(39) Written: To communicate words ~~either~~ on paper ~~and~~/or electronically. ~~For example, a A~~ notice delivered via e-mail constitutes a written notice under the Code.

**Authority:** T.C.A. § 49-9-209(e).

**1720-04-03-.16 REPEALED.**

**Authority:** T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed March 22, 1990; effective June 26, 1990. Repeal filed October 31, 1990; effective January 29, 1991. Amendment filed August 31, 1995; effective December 30, 1995. Amendment to Renumber rule from 1720-04-03-.15 filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal filed May 24, 2017; effective August 22, 2017.

**1720-04-03-.17 REPEALED.**

**Authority:** T.C.A. § 49-9-209(e); Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5; and Public Acts of Tennessee, 1807, Chapter 64. **Administrative History:** Original rule filed May 27, 1986; effective August 12, 1986. Amendment filed August 31, 1995; effective December 30, 1995. Amendment to Renumber rule from 1720-04-03-.16 filed January 13, 1999; effective May 31, 1999. Amendment filed November 17, 2000; effective March 30, 2001. Repeal and new rule filed April 12, 2012; effective September 28, 2012. Repeal filed May 24, 2017; effective August 22, 2017.