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Sequence Number: 02-13-22
Rule ID(s): 9675
File Date: 2/8/2022
Effective Date: 5/9/2022

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Middle Tennessee State University
Division:
Contact Person: James C. Floyd, University Counsel and Board Secretary
Address: 1301 E. Main Street, CAB 209, Murfreesboro, TN
Zip: 37132
Phone: 615-898-2025
Email: James.floyd@mtsu.edu

Revision Type (check all that apply):

☐ Amendment
☒ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0240-07-08	Cases Heard Pursuant to the Uniform Administrative Procedures Act
Rule Number	Rule Title
0240-07-08-.01	Purpose
0240-07-08-.02	Scope
0240-07-08-.03	Authority of the President
0240-07-08-.04	Selection of Administrative Judge, Hearing Officer, or Hearing Committee
0240-07-08-.05	Hearing Procedures
0240-07-08-.06	Suspensions Pending a Contested Case Hearing

Rules of
Middle Tennessee State University

Chapter 0240-07-08
Cases Heard Pursuant to the Uniform Administrative Procedures Act

New Chapter

Table of Contents is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.01 Purpose
0240-07-08-.02 Scope
0240-07-08-.03 Authority of the President
0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee
0240-07-08-.05 Hearing Procedures
0240-07-08-.06 Suspensions Pending a Contested Case Hearing

0240-07-08-.01 Purpose is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.01 Purpose

- (1) This rule describes the circumstances under which Middle Tennessee State University (MTSU or University) may apply the contested case hearing provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. §§ 4-5-101 *et. seq.* and the procedures for UAPA hearings.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.02 Scope is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.02 Scope

- (1) The contested case procedures set forth in the UAPA may be applicable in all cases in which the legal rights, duties, and privileges of a party are required by any statute or constitutional provision to be determined by an agency after an opportunity for a hearing. These procedures may also apply when MTSU rule provides that a hearing take place pursuant to the provisions of the UAPA.

Except as may be set forth by other applicable rule or law, the contested case procedures in the UAPA may apply in the following cases:

- (a) demotion, suspension without pay, or termination of support staff employees where the employee has elected to pursue a UAPA hearing instead of an employee panel hearing as the final step of the grievance process;
- (b) suspension or expulsion of a student who elects a UAPA hearing instead of an institutional hearing;
- (c) revocation of the registration of a student organization who elects a UAPA hearing instead of an institutional hearing; and
- (d) any other case where law requires a contested case hearing and such a hearing is requested.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.03 Authority of the President is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.03 Authority of the President

- (1) The President of MTSU is responsible for implementation of these procedures and has final decision-making authority in any proceeding subject to these procedures.
- (2) The authority and responsibilities of the President set forth herein may be delegated by him/her to individual designees who are members of the staff of MTSU. All references herein to the President include any designee of the President. The President shall be responsible for any action taken under a delegation of his/her authority.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee

- (1) The President shall determine, in his/her discretion, whether the hearing shall be held before an administrative judge appointed by the Administrative Procedures Division of the Office of the Secretary of State, a hearing officer, or a hearing committee.
- (2) The following individuals may serve as administrative judges/hearing officers:
 - (a) A person licensed to practice law who is not employed as an attorney for the University;
 - (b) A former state, county, or municipal judge or former federal judge or magistrate;
 - (c) An employee of the University who has been trained to conduct contested cases, but who does not provide legal representation to the University;
 - (d) An employee of another public institution of higher education who has been trained to conduct contested cases; or,
 - (e) An administrative judge employed by the Office of the Secretary of State pursuant to T.C.A. § 4-5-301(d) to hear contested cases.
- (3) A hearing committee may be appointed by the President from the administrative, professional staff, and/or appropriate employees or students at MTSU. The person appointed by the President as administrative judge/hearing officer shall be deemed to be the chair of the hearing committee for purposes of presiding at the hearing.
- (4) For matters involving sexual assault, dating violence, domestic violence, or stalking, the administrative judge/hearing officer/hearing committee members shall complete training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. §1092(f)), and the federal regulations implementing those statutes, as amended. This training must take place no earlier than twelve (12) months prior to hearing the contested case.

Authority: T.C.A. §§ 49-7-167, 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.05 Hearing Procedures is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.05 Hearing Procedures

- (1) Except as may be set forth by other applicable rule or law, the hearing procedures set forth in T.C.A. §§ 4-5-301, et. seq. and TENN. COMP. R. & REGS. 1360.04.01.01 et seq. shall apply to cases heard pursuant to this rule.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.06 Suspensions Pending a Contested Case Hearing is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.06 Suspensions Pending a Contested Case Hearing

- (1) The President shall have authority to suspend a student or employee pending a contested case hearing in the manner required by University rules.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
J.B. Baker	X				
Tom Boyd	X				
Rick Cottle	X				
Pete DeLay	X				
Darrell Freeman, Sr.	X				
Joey Jacobs	X				
Christine Karbowiak	X				
Stephen Smith	X				
Pamela Wright	X				


I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board on 9/14/2021, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 7/15/2021

Rulemaking Hearing(s) Conducted on: (add more dates). 9/14/2021

Date: 12/7/2021

Signature: 

Name of Officer: James C. Floyd

Title of Officer: University Counsel and Board Secretary

Agency/Board/Commission: Middle Tennessee State University

Rule Chapter Number(s): 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.



Herbert H. Slatery III
Attorney General and Reporter

12/13/2021
Date

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FEB 08 2022

Secretary of State
Division of Publications

Filed with the Department of State on: 2/8/2022

Effective on: 5/9/2022



Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

MTSU received no public comments about this rule.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The rule is not anticipated to have an impact on small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

This rule is not anticipated to have an impact on local government.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule describes the circumstances under which Middle Tennessee State University (MTSU) may utilize contested case hearings under the Uniform Administrative Procedures Act and how administrative judges will be selected to conduct those hearings.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rule is promulgated in accordance with the MTSU Board of Trustees rulemaking authority as established by T.C.A. §§ 49-8-117 and 49-8-203(a)(1)(D) and is further promulgated in conformance with the requirements of § 4-5-102(12).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The MTSU Board of Trustees urges adoption of this rule. MTSU support staff and students are most directly affected by this rule. Neither support staff nor students urged either adoption or rejection of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

MTSU is not aware of an Attorney General opinion or judicial ruling that directly relates to this rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

James C. Floyd, MTSU University Counsel and Board Secretary

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

James C. Floyd, MTSU University Counsel and Board Secretary

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

James C. Floyd, University Counsel and Board Secretary
Middle Tennessee State University
1301 E. Main Street, CAB 209
Murfreesboro, TN 37132
615-898-2025
james.floyd@mtsu.edu

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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0240-07-08-.03 Authority of the President
0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee
0240-07-08-.05 Hearing Procedures
0240-07-08-.06 Suspensions Pending a Contested Case Hearing

0240-07-08-.01 Purpose is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.01 Purpose

- (2) This rule describes the circumstances under which Middle Tennessee State University (MTSU or University) may apply the contested case hearing provisions of the Uniform Administrative Procedures Act (UAPA), T.C.A. §§ 4-5-101 *et. seq.* and the procedures for UAPA hearings.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.02 Scope is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.02 Scope

- (2) The contested case procedures set forth in the UAPA may be applicable in all cases in which the legal rights, duties, and privileges of a party are required by any statute or constitutional provision to be determined by an agency after an opportunity for a hearing. These procedures may also apply when MTSU rule provides that a hearing take place pursuant to the provisions of the UAPA.

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- (f) suspension or expulsion of a student who elects a UAPA hearing instead of an institutional hearing;
- (g) revocation of the registration of a student organization who elects a UAPA hearing instead of an institutional hearing; and
- (h) any other case where law requires a contested case hearing and such a hearing is requested.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

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0240-07-08-.03 Authority of the President

- (3) The President of MTSU is responsible for implementation of these procedures and has final decision-making authority in any proceeding subject to these procedures.
- (4) The authority and responsibilities of the President set forth herein may be delegated by him/her to individual designees who are members of the staff of MTSU. All references herein to the President include any designee of the President. The President shall be responsible for any action taken under a delegation of his/her authority.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.04 Selection of Administrative Judge, Hearing Officer, or Hearing Committee

- (2) The President shall determine, in his/her discretion, whether the hearing shall be held before an administrative judge appointed by the Administrative Procedures Division of the Office of the Secretary of State, a hearing officer, or a hearing committee.
- (2) The following individuals may serve as administrative judges/hearing officers:
 - (e) A person licensed to practice law who is not employed as an attorney for the University;
 - (f) A former state, county, or municipal judge or former federal judge or magistrate;
 - (g) An employee of the University who has been trained to conduct contested cases, but who does not provide legal representation to the University;
 - (h) An employee of another public institution of higher education who has been trained to conduct contested cases; or,
 - (e) An administrative judge employed by the Office of the Secretary of State pursuant to T.C.A. § 4-5-301(d) to hear contested cases.
- (3) A hearing committee may be appointed by the President from the administrative, professional staff, and/or appropriate employees or students at MTSU. The person appointed by the President as administrative judge/hearing officer shall be deemed to be the chair of the hearing committee for purposes of presiding at the hearing.
- (4) For matters involving sexual assault, dating violence, domestic violence, or stalking, the administrative judge/hearing officer/hearing committee members shall complete training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. §1092(f)), and the federal regulations implementing those statutes, as amended. This training must take place no earlier than twelve (12) months prior to hearing the contested case.

Authority: T.C.A. §§ 49-7-167, 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.05 Hearing Procedures is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

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Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).

0240-07-08-.06 Suspensions Pending a Contested Case Hearing is added to Chapter 0240-07-08 Cases Heard Pursuant to the Uniform Administrative Procedures Act and shall read as follows:

0240-07-08-.06 Suspensions Pending a Contested Case Hearing

- (2) The President shall have authority to suspend a student or employee pending a contested case hearing in the manner required by University rules.

Authority: T.C.A. §§ 49-8-101(a)(2)(A) and 49-8-203(a)(1)(D) & 49-8-203(a)(4).