Withdrawal of rules filed August 27, 2020. See page 24.

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number:	06-19-20
Rule ID(s):	9364
File Date:	6/15/2020
Effective Date:	9/13/2020

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:	Austin Peay State University
Division:	
Contact Person:	Dannelle Whiteside
Address:	
Zip:	37044
Phone:	931-221-7580
Email:	whitesided@apsu.edu

Revision Type (check all that apply):

___ Amendment
_x_ 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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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**
0240-05-02	Student and Student Organization Conduct and Disciplinary Sanctions
Rule Number	**Rule Title**
0240-05-02-.01	APSU Policy Statement
0240-05-02-.02	Disciplinary Offenses
0240-05-02-.03	Academic and Classroom Misconduct
0240-05-02-.04	Disciplinary Sanctions
0240-05-02-.05	Disciplinary Procedures

Rules
of
Austin Peay State University

Chapter 0240-05-02
Student and Student Organization Conduct and Disciplinary Sanctions

Division 0240-05 is amended by adding Chapter 02 Student Conduct and Student Organization and Disciplinary Sanctions, a table of contents, and Rules .01, .02, .03, .04, .05 so that it shall read as follows:

0240-05-02-.01 APSU Policy Statement
0240-05-02-.02 Disciplinary Offenses
0240-05-02-.03 Academic and Classroom Misconduct
0240-05-02-.04 Disciplinary Sanctions
0240-05-02-.05 Disciplinary Procedures

0240-05-02-.01 APSU Policy Statement is added to Chapter 0240-05-02 Student and Student Organization Conduct and Disciplinary Sanctions and shall read as follows:

0240-05-02-.01 APSU Policy Statement.

(1) Austin Peay State University ("University" or "APSU") students are expected to conduct themselves as law-abiding members of the community at all times. Admission to APSU carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between APSU and the academic community which it seeks to serve, the APSU Board of Trustees (the Board) has authorized the President of APSU (the President) to take such action as may be necessary to maintain campus conditions and preserve the integrity of APSU and its educational environment.

(2) Pursuant to this authority and in fulfillment of its duties to provide a secure and stimulating atmosphere in which individual and academic pursuits may flourish, the Board has developed the following regulations, intended to govern student conduct on the APSU campus. The University under the jurisdiction of the Board is directed to implement policies subject to, and consistent with, these rules. In addition, students are subject to all federal, state, and local laws and ordinances. If a student's violation of such laws or ordinances also adversely affects APSU's pursuit of its educational objectives, APSU may enforce its own regulations regardless of any proceedings instituted by other authorities. Conversely, violation of any section of these rules may subject a student to disciplinary measures by APSU whether or not such conduct simultaneously violates state, local or national laws.

(3) For the purpose of these rules, a "student" shall mean any person who is admitted and/or registered for study at APSU for any academic period. This shall include, but not be limited to any period of time following admission and/or registration, but preceding the start of classes for any academic period. It will also include any period which follows the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from APSU. Finally, "student" shall also include any person subject to a period of suspension or removal from campus as a sanction which results from a finding of a violation of the policies, rules, and regulations governing student conduct. Students are responsible for compliance with rules and policies including, but not limited to the Policies on Student Conduct and with similar APSU policies at all times.

(4) Disciplinary action may be taken against a student for violation of the policies, rules, and regulations which occur on APSU owned, leased or otherwise controlled property, while participating in international or distance learning programs, and off campus, when the conduct impairs, interferes with, or obstructs any APSU activity or the mission, processes, and functions of APSU. The University may enforce their own rules regardless of the status or outcome of any external proceedings instituted in any other forum, including any civil or criminal proceeding.

(5) These rules, and related material incorporated herein by reference, are applicable to registered student organizations as well as individual students. Registered student organizations are subject to discipline for the conduct and actions of individual members of the organization while acting in their capacity as members of, or while attending or participating in any activity of, the organization.

(6) Confidentiality of Discipline Process. Subject to the exceptions provided pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA) and/or the Tennessee Open Records Act, a student's disciplinary files are considered educational records and are confidential within the meaning of those Acts.

Authority: T.C.A. §§ 4-5-101 et seq.,49-8-203, and § 10-7-504 et seq.

0240-05-02-.02 Disciplinary Offenses is added to Chapter 0240-05-02 Student and Student Organization Conduct and Disciplinary Sanctions and shall read as follows:

0240-05-02-.02 Disciplinary Offenses.

(1) Generally, through appropriate due process procedures, APSU disciplinary measures may be imposed for conduct which adversely affects APSU's pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of APSU's academic community or which endangers property or persons on APSU, or APSU-controlled property.

(2) Individual students or registered student organizational misconduct which is subject to disciplinary sanction may include but not be limited to the following examples:

(a) Conduct dangerous to self or others. Any conduct, or attempted conduct, which poses a direct threat to the safety of others or where the student's behavior is materially and substantially disruptive of APSU's learning environment;

(b) Hazing. Violations of this section include any act of hazing on or off the University campus or APSU controlled property, by an APSU student, group of students or registered student organization. Hazing means any intentional or reckless act on or off the property of any higher education institution by one (1) student acting alone or with others which is directed against any other student, that endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger such student's mental or physical health or safety. 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 organizations;

(c) Discrimination or Discriminatory Harassment. Any student or group of students act against another individual or group in violation of these rules and University policies, as well as federal and/or state laws prohibiting discrimination and discriminatory harassment, including, but not limited to, APSU Policy 6:001 and 6:003, and 6:004;

(d) Disorderly Conduct. Any student or group of students whose behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs or may reasonably provoke other groups or individuals (this may include, but not be limited to verbal abuse, nonverbal gestures and inappropriate behavior resulting from the use of being under the influence of alcohol or drugs), etc.;

(e) Obstruction of or Interference with APSU Activities or Facilities. Any intentional interference with or obstruction of any APSU program, event, or facility including, but not limited to the following:

1. Any unauthorized occupancy of APSU or APSU-controlled facilities or blockage of access to or from such facilities;

2. Interference with the right of any APSU member or other authorized person to gain access to any APSU or APSU-controlled activity, program, event or facility;

3. Any obstruction or delay of a campus security officer, public safety officer, police officer, firefighter, EMT, or any University official in the performance of his or her duty;

4. Any form of disruptive behavior in the classroom, during any campus event; or activity or at any location on campus or

(f) Misuse of or Damage to Property. Any act of misuse, vandalism, malicious or unwarranted damage or destruction, defacing, disfiguring or unauthorized use of property belonging to APSU or property being used, rented, owned or leased by a student, group of students or officially registered student organization not owned by APSU;

(g) Theft, Misappropriation, or Unauthorized Sale. Any act of theft, misappropriation, or unauthorized possession, use or sale of APSU property or any such act against a member or organization of the APSU community or a guest of APSU;

(h) Misuse of Documents or Identification Cards. Any forgery, alteration of or unauthorized use of APSU documents, forms, records or identification cards, including the giving of any false information, or withholding of necessary information, in connection with a student's admission, enrollment or status at APSU or; failure to carry the APSU ID card at all times or to show it upon proper request;

(i) Firearms and Other Dangerous Weapons. Any possession of or use of firearms, dangerous weapons of any kind on APSU property or APSU controlled property. Firearms or dangerous weapons include, but are not limited to: rifles, handguns, replica/toy guns, BB guns, pellet guns, stun guns, non-culinary knives with a blade greater than four (4) inches, martial arts equipment, paint ball guns, water guns, bows and arrows, etc., or other objects with the intent to cause bodily harm, including mace and/or pepper spray;

(j) Explosives, Fireworks, and Flammable Materials. The unauthorized possession, ignition or detonation of any object or article which would cause damage by fire or other means to persons or property or APSU controlled property or possession of any substance which could be considered to be and used as fireworks;

(k) Alcoholic beverages. The use and/or possession of alcoholic beverages and/or public intoxication on APSU-owned or controlled property, violation(s) of any local ordinance or state or federal law concerning alcoholic beverages, on or off campus, or a violation of the terms of the APSU Drug-Free Policy Statement. It shall not be a violation for students twenty-one (21) years of age or older to consume alcohol within areas designated by the President where alcohol is permitted to be served. In addition, officially registered student organizations that sponsor events off campus, where alcoholic beverages are present and available for consumption, must adhere to all local, state and federal laws concerning alcoholic beverages and must follow APSU's Risk Management Guidelines for Student Organizations;

(l) Drugs. The unlawful possession or use of any drug, controlled substance or drug paraphernalia (including, but not limited to, any prescription drug, stimulant, depressant, narcotic or hallucinogenic drug or substance, or marijuana), or sale or distribution of any such drug or controlled substance, or a violation of any terms of the APSU Drug-Free Policy Statement;

(m) Gambling. Participation in any gambling or gambling-related activities on campus or on APSU controlled property or property being used, rented or leased by a student, group of students or registered student organization not owned by APSU that have not been approved and/or administered in accordance with the laws and regulations of the State of Tennessee. Any permitted gambling or gambling-related activity, e.g. raffles, must also be operated under the auspices of the APSU's Foundation;

(n) Financial Irresponsibility. Failure to promptly meet financial responsibilities to APSU including, but not limited to, knowingly passing a worthless check or money order in payment to APSU or to a member of the APSU community acting in an official capacity;

(o) Unacceptable Conduct in hearings. Any conduct at an APSU hearing involving contemptuous, disorderly behavior, or the giving of false testimony or other evidence at any hearing;

(p) Failure to Cooperate with University Officials. Failure to comply with directions of APSU officials acting in the performance of their duties;

(q) Violation of general rules and regulations. Any violation of the general rules and regulations of the University as published in an official APSU publication, whether in print or digital, including but not limited to, the intentional failure to perform any required action or the intentional performance of any prohibited action;

(r) Attempts and aiding and abetting the commission of offenses. Any attempt to commit any of the offenses listed in this document, or the aiding and abetting of the commission of any of the offenses (an attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission);

(s) Violations of state or federal laws. Any violation of state or federal laws or regulations proscribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference;

(t) Violation of imposed disciplinary sanctions. Intentional or unintentional violation of a disciplinary sanction officially imposed by an APSU official or a constituted body including, but not limited to, sanctions contained herein;

(u) Violations of APSU Residence Hall or Apartment policies or regulations. The violation of any policies or regulations which appear in printed materials, whether in print or digital, distributed to resident students (i.e., housing license agreements, handbooks for resident students, etc.);

(v) Sexual Battery/Rape. Any act of sexual battery or rape as defined by state law;

(w) Sexual Misconduct. An offense including acts of sexual assault, domestic violence, dating violence and/or stalking as defined in APSU Policy 6:001. The handling procedures concerning allegations of sexual misconduct are set forth in APSU Policy 6:001;

(x) Tobacco. Smoking, inclusive of electronic smoking devices and vapors, in all APSU buildings, grounds and state-owned vehicles is prohibited (except in otherwise designated areas as provided in APSU policy 9:022). Regardless of whether classes are

in session, smoking is prohibited in APSU all buildings, grounds and state-owned vehicles twenty-four (24) hours a day, year round. Students who want to use smoke-free tobacco products may do so thirty (30) feet from each building exit and entrance. Smoke-free tobacco product use is prohibited in APSU buildings and state-owned vehicles.

(y) Pets. With the exception of service animals, emotional support animals, and animals used for academic research purposes, animals are prohibited on APSU campus except in designated housing areas. Students are required to provide the Office of Disability Services with medical documentation in requesting an accommodation for an emotional support animal.

(z) Filing a false complaint or statement. Any behavior whereby a student knowingly submits a false complaint or statement alleging a violation of these regulations by a student or organization or APSU employee.

(aa) Academic Misconduct includes, but is not limited to plagiarism, cheating, facilitation, fabrication or collusion. For purposes of this section the following definitions apply:

1. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper attribution.

2. Cheating. Using or attempting to use unauthorized materials, information, or aids in any academic exercise or test/examination. The term academic exercise includes all forms of work submitted for credit or hours.

3. Fabrication. Unauthorized falsification or invention of any information or citation in an academic exercise.

4. Facilitation or Collusion. Assisting or attempting to assist another to violate a provision of APSU's student code of conduct regarding academic misconduct.

(bb) Unauthorized Duplication or Possession of Keys. Making, causing to be made or the possession of any key for an APSU facility without proper authorization.

(cc) Litter. Dispersing litter in any form onto the grounds or facilities of the APSU campus;

(dd) Abuse of Computer Resources and Facilities. Misusing and/or abusing computer resources including, but not limited to the following:

1. Distribution or use of a student and/or another person's identification to gain access to APSU computer resources;

2. Use of APSU computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using institutional information technology systems;

3. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file;

4. Unauthorized transfer of a computer or network file;

5. Use of computing resources and facilities to send abusive or obscene correspondence;

6. Use of computing resources and facilities in a manner that interferes with normal operation of the APSU computing system;

7. Use of computing resources and facilities to interfere with the work of another student, faculty member, or APSU official;

8. Violation of any published information technology resources policy; or

9. Unauthorized peer-to-peer file sharing.

(ee) Unauthorized Access to APSU Facilities and/or Grounds. Any unauthorized access and/or occupancy of APSU facilities and grounds is prohibited, including, but not limited to, gaining access to facilities and grounds that are closed to the public, being present in areas of campus that are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings when the student has no legitimate reason to be present;

(ff) Unauthorized Surveillance. Making or causing to be made unauthorized video or photographic images of a person in a location in which that person has a reasonable expectation of privacy, without the prior effective consent of the individual, or in the case of a minor, without the prior effective consent of the minor's parent or guardian. This includes, but is not limited to, taking video or photographic images in shower/locker rooms, residence hall rooms, and men's or women's restrooms, and storing, sharing, and/or distributing of such unauthorized images by any means;

(gg) Uncontrolled or Unsafe Rollerblading/Skateboarding/Other Coasting Device. Individuals are prohibited from using Rollerblades/skateboards/coasting devices in an unsafe and/or reckless manner on APSU campus. must comply with APSU Policy 4:012.

(3) Disciplinary action may be taken against a student or registered student organization for violations of the foregoing rules which occur on APSU owned, leased or otherwise controlled property, or which occur off-campus when the conduct impairs, interferes with, or obstructs any APSU activity or the missions, processes and functions of APSU. In addition, disciplinary action may be taken on the basis of any conduct, on or off campus which violates local, state or federal laws, which violate APSU policies for student organizations, or which poses a substantial threat to persons or property within the APSU community. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree including periods prior to or between semesters. Conduct occurring while a student is registered or enrolled at APSU, but not discovered until after the awarding of a degree is actionable under these provisions and may result in the retroactive application of a disciplinary sanction. Should a student withdraw from APSU with disciplinary action or academic misconduct action pending, the student's record may be encumbered by the appropriate APSU office until the proceedings have been concluded.

Authority: T.C.A. §§ 4-5-101 et seq., 49-7-123(a)(1), and 49-8-203.

0240-05-02-.03 Academic and Classroom Misconduct is added to Chapter 0240-05-02 Student and Student Organization Conduct and Disciplinary Sanctions and shall read as follows:

0240-05-02-.03 Academic and Classroom Misconduct.

(1) The instructor has the primary responsibility for control over classroom behavior and maintenance of academic integrity, and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct that violates the general rules and regulations of APSU. Extended or permanent exclusion from the classroom, beyond the session in which the conduct occurred, or further disciplinary action can be effected only through appropriate procedures established by the Division of Student Affairs.

(2) Academic dishonesty may be defined as any act of dishonesty in academic work. This includes, but is not limited to, plagiarism, the changing or falsifying of any academic documents or materials, cheating and giving or receiving of unauthorized aid in tests, examinations or other assigned work. Students guilty of academic misconduct, either directly or indirectly through participation or assistance, are immediately responsible to the instructor of the class. Penalties for academic misconduct will vary with the seriousness of the offense and may include, but are not limited to, a grade of "F" on the work in question, a grade of "F" in the course, reprimand, probation, suspension and expulsion. The student will be advised of his/her rights. The student may accept the instructor's finding, grade reduction, and/or other sanction and waive his/her hearing right. In the event a student believes he/she has been erroneously accused of academic misconduct, he/she may request a hearing. Hearings will be conducted pursuant to the procedures set forth at Rule 0240-05-02-.05, Disciplinary Procedures, below. If the student is found responsible for the allegation(s) of academic misconduct, the grade as assigned by the instructor will stand. Should the hearing source absolve the student of the allegations of academic misconduct, the faculty member will reassess the student's grade based upon the hearing source's finding. When necessary, grade changes will be made administratively.

(3) Students may appeal a grade assignment associated with a finding of academic misconduct, as distinct from a student disciplinary action, through appropriate APSU academic grade appeal procedures. Courses may not be dropped pending the final resolution of an allegation of academic misconduct.

(4) Disruptive behavior in the classroom may be defined, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., repeated outbursts from a student which disrupts the flow of instruction or prevents concentration on the subject taught, failure to cooperate in maintaining classroom decorum, the presence of non-enrolled visitors in the classroom (including but not limited to minors).), the continued use of any electronic or other noise or light emitting device which disturbs or interrupts the concentration of others (e.g., disturbing noises from beepers, text messaging, cell phones, palm pilots, laptop computers, games, etc.).

(5) Class attendance and punctuality requirements are established by the faculty through the syllabus, whether print or digital, for each course. Students are expected to attend class regularly and on time and are responsible for giving explanations/rationale for absences and lateness directly to the faculty member for each course in which they are enrolled. In cases where student absences are the result of emergency circumstances (e.g., death in the family, a student's serious injury or incapacitating illness), for which student(s) are unable to make immediate contact with faculty, the student may contact the Central Student Affairs office for assistance in providing such immediate notification to faculty. However, the student remains responsible for verifying the emergency circumstances to faculty and for discussing arrangements with faculty for possible completion of coursework requirements, if feasible.

Authority: T.C.A. §§ 4-5-101 et seq. and 49-8-203.

0240-05-02-.04 Disciplinary Sanctions is added to Chapter 0240-05-02 Student and Student Organization Conduct and Disciplinary Sanctions and shall read as follows:

0240-05-02-.04 Disciplinary Sanctions.

(1) APSU shall adopt and publish guidelines, providing notice of potential disciplinary sanctions consistent with these rules applicable to both individuals and organizations. The guidelines may include any appropriate sanction subject to prior review by the APSU Office of Legal Affairs and approval by the Board of Trustees. Upon a determination that a student or student organization has violated any of the disciplinary offenses set forth in these rules, disciplinary policies, general policies, and/or guidelines disciplinary sanctions may be imposed, either singly or in combination, by the appropriate school officials. (Note: Final results of disciplinary proceedings for violations that include violent acts or non-forcible sex offenses, as defined by Tennessee law, may be released without permission of the student perpetrator.)

(2) Definition of Sanctions. The following provides a non-exhaustive list of possible sanctions with corresponding definitions:

(a) Restitution. Restitution may be required in situations which involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. When restitution is required, the student or student organization is obligated by the appropriate judicial authority to monetarily compensate a party or parties for a loss suffered as a result of disciplinary violation(s). Any such monetary payment in restitution shall be limited to actual cost of repair, replacement or financial loss;

(b) Warning. The appropriate APSU official may notify the student or student organization that continuation or repetition of specified conduct may be cause for other disciplinary action;

(c) Reprimand. A written or verbal reprimand or censure may be given to any student or student organization whose conduct violates any part of these rules and provides notice that any further violation(s) may result in more serious penalties;

(d) Restriction. A restriction upon a student's or registered student organization's privileges for a period of time may be imposed. This restriction may include, but is not limited to, the following: denial of the right to represent APSU in any way, denial of the use of APSU facilities and/or parking privileges, restriction of participation in extracurricular activities, restriction of organizational privileges including registration, and restriction of the transfer of academic credit from another institution;

(e) University Probation. Continued enrollment of a student or student organization on probation may be conditioned upon adherence to these rules. Any student or registered student organization placed on probation will be notified of such in writing, either in hard copy or electronic, and will also be notified of the terms and length of probation. Probation may include restrictions upon the extracurricular activities of a student or registered student organization. Any conduct in violation of these rules while on probationary status or the failure to comply with the terms of the probationary period may result in the imposition of a more serious disciplinary sanction;

(f) Suspension. If a student or student organization is suspended, he/she or the organization is separated from APSU for a stated period of time with conditions for readmission stated in the notice of suspension;

(g) Expulsion. Expulsion entails a permanent separation from APSU. The imposition of this sanction is a permanent bar to the student's readmission, or a registered student organization's recognition by APSU. A student or registered student organization that has been expelled may not enter APSU property or facilities without obtaining prior approval from an appropriate campus official with knowledge of the expulsion directive;

(h) Interim or Summary Suspension. As a general rule, the status of a student or student organization accused of violations of these rules should not be altered until a final determination has been made in regard to the charges. Interim or Summary suspension may be imposed upon a finding by the appropriate APSU official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused or of any other member of the APSU community or its guests, destruction of property, or substantial disruption of classroom or other campus activities. In any case of interim suspension, the student, or student organization, shall be given an opportunity at the time of the decision, or as soon thereafter as reasonably possible, to contest the suspension;

(i) Housing Probation. A student or registered student organization placed on housing probation is deemed not to be in good standing with the housing community, and his/her

continued residence is conditioned upon adherence to these rules and the Housing Contract. Any student or registered student organization placed on probation shall be notified in writing or via email of the terms and length of the probation. Probation may include restrictions upon the activities of the housing resident, including any other appropriate special condition(s). Any conduct of a similar or more serious nature in violation of the probation shall result in suspension from housing;

(j) Housing Suspension and Forfeiture. A student or registered student organization suspended from housing may not reside in, visit, or make any use whatsoever of a housing facility or participate in any housing activity during the period for which the sanction is in effect. A suspended student or registered student organization shall be required to forfeit housing fees (including any unused portion thereof and the Housing deposit). A suspended student or registered student organization must vacate the housing unit within forty-eight (48) hours. Housing suspension shall remain a part of the student's disciplinary record;

(k) Service to the University. A student or registered student organization may be required to donate a specified number of service hours to APSU, by way of performing reasonable tasks for the appropriate APSU office or official. This service shall be commensurate to the offense the student or registered student organization is guilty of violating (i.e., service to maintenance staff for defacing APSU property);

(l) Special Educational Program. A student or student organization may be required to participate in any special educational programs relevant to the offense, to attend special seminars or educational programs or to prepare a project or report concerning a relevant topic;

(m) Smoking and Clean Air Policy Violation. There will be graduated fines imposed for violation of the Smoking and Clean Air policy:

1. First Offense- $25.00

2. Second Offense- $50.00

3. Third Offense or more- $100.00 and for additional Disciplinary Charges;

(n) Interim or Summary Suspension from Campus Housing. Though as a general rule, the status of a student or student organization accused of violations of these regulations should not be altered until a final determination has been made in regard to the charges against him or her, interim suspension from campus housing may be imposed upon a finding by the appropriate APSU official that the continued presence of the accused in APSU housing constitutes an immediate threat to the physical safety and well-being of the accused, or of any other member of the APSU community or its guests, or the destruction of property. A final determination of the charges against any student or student organization summarily suspended from campus housing shall be made through appropriate hearing procedures within seven (7) class days of such housing suspension during which time the accused shall forfeit the right to reside in or visit campus housing facilities. The accused student shall be permitted to attend classes during this interim period.

(o) Referral for Intervention, Assessment and/or Counseling. The student is mandated to visit the appropriate APSU official for an initial intervention and assessment which may be followed by required participation and a prescribed plan of action or treatment plan. Parents or legal guardians may be notified;

(p) Fines. Penalties in the form of fines may be enforced against a student or an organization whenever the appropriate hearing officer(s) or hearing body deems necessary. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions.

Failure to pay fines to the Business Office within two (2) weeks of the decision will result in further disciplinary action;

(q) Letter of Apology. A student or student organization may be required to write a letter of apology to APSU or its guests, another student or student organization, faculty or staff member, or any other constituent affected by the behavior for which the student or student organization has been found responsible. The letter shall be written and sent within seven (7) class days of notification of sanction and copies to the appropriate hearing body or official;

(r) Revocation of Admission, Degree, or Credential; and,

(s) Any alternate sanction deemed necessary and appropriate to address the misconduct at issue.

Authority: T.C.A. §§ 4-5-101 et seq. and 49-8-203.

0240-05-02-.05 Disciplinary Procedures is added to Chapter 0240-05-02 Student and Student Organization Conduct and Disciplinary Sanctions and shall read as follows:

0240-05-02-.05 Disciplinary Procedures.

(1) Hearing Procedures:

(a) Procedures conforming to the Uniform Administrative Procedures Act (UAPA). All cases which may result in (i) suspension or expulsion of a student or student organization from APSU for disciplinary reasons, or (ii) revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the UAPA § T.C.A. 4-5-301 et seq. and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Trustees, unless the student or student organization waives those procedures in writing and elects to have his or her case heard by either the University Hearing Board or an Administrative Hearing.

(b) Cases which are not subject to the contested case procedures under the Uniform Administrative Procedures Act and cases in which a student or student organization has waived the contested case procedures in writing shall be processed in accordance with APSU Hearing Procedures. APSU has established two (2) alternate APSU Hearing Procedures:

1. A hearing conducted by one (1) or more Student Affairs Administrators; or

2. A hearing conducted by the University Hearing Board. (Note: This option shall be available until the final ten (10) class days of each semester, or the final five (5) class days of the second summer term, during which time all disciplinary hearings will be conducted by appropriate Student Affairs Administrators, except those subject to UAPA procedures as selected by the accused student or student organization.)

(c) Cases which are not subject to the contested case procedures under the Uniform Administrative Procedures Act and which involve very minor first offenses by students or student organizations may be discussed informally with students or student organizations. In such cases, no formal record will be maintained in the judicial records of APSU. The Dean of Students or other designee, appointed by the Vice President for Student Affairs, shall note the name of the student or student organization involved in his/her personal records. The purpose of this notation is only to determine a student's or student organization's prior involvement in a minor offense, when and if a second offense

occurs at a later date. If the student or student organization is subsequently involved in another violation of regulations, at the discretion of the hearing body, this Informal Record will become a part of the student's or student organization's Formal Disciplinary Records.

(d) Alternative resolution methods may include, but are not limited to, mediation, diversion programs and/or negotiated resolutions.

(e) Jurisdiction of Cases to be heard by Student Affairs Administrators:

1. All formal cases involving incidents which occur in APSU residence halls and/or apartments and which involve on-campus residents shall be heard by the Residence Life staff or designee.

2. All other formal cases shall be heard by the Dean of Students for Student Affairs, or appropriate designee, except in cases where such staff member is unavailable or has a bias toward either party in the pending case. In such cases the Senior Student Affairs Officer shall assign one (1) or more Student Affairs Administrators to hear the case.

(2) Commencement of Disciplinary Proceedings.

(a) A student or registered student organization accused of violating APSU disciplinary policies, rules, or regulations shall be called before the Dean of Students or designee, appointed by the Vice President for Student Affairs, for a preliminary conference at which the student or registered student organization will be orally advised of the following:

1. The charges against him/her/or organization;

2. The rights afforded to him/her/or organization by the hearing procedures which are available;

3. The hearing procedure options available; and

4. The responsibilities of the accused student or registered student organization in the disciplinary procedures.

(b) A student or registered student organization may waive the right to a preliminary conference and an oral explanation of the items listed in (2) (a) above.

(c) Once advised of the hearing options, the accused student or registered student organization may elect to accept the finding and sanction from the Dean of Students or designee, or elect a hearing pursuant to UAPA (where appropriate), or a hearing before the University Hearing Board.

(d) The election must be made within three (3) class days of receipt of notice of pending charges against him/her or organization by completing, and signing, an Election of Procedure form and/or waiver form. Once the election is made, the decision is final and may not be changed during the course of the hearing.

(e) Procedural guidelines for all matters involving allegations of impermissible discrimination, harassment, or retaliation are set forth in an APSU policy that reflects the requirements of that guideline.

(f) Procedural guidelines regarding all matters involving allegations of sexual misconduct and/or stalking are set forth in the procedures outlined in APSU policy 6:001: Sexual Violence and Stalking.

(3) APSU Hearing Rights. These rights shall be afforded the accused student/organization in all APSU Hearings before the appropriate Student Affairs administrator or the University Hearing Board.

(a) The right to choose the appropriate hearing option. (This right must be exercised within three (3) class days of the presentation of charges. Note: This option shall be available until the final ten (10) class days of each semester, or the final five (5) class days of the second summer term, during which time all discipline hearings will be conducted by appropriate Student Affairs administrators, except those subject to UAPA procedures.)

(b) The right to written notice, by United States mail, courier service, hand delivery to the permanent or local address on file for the student, or APSU email, of the time, place, and date of the hearing at least three (3) days in advance of the hearing. A justified delay may be granted. (This right may be waived in writing by the accused student/organization.) When notice is sent by United States Mail.

(c) The right to a written statement of the charges in time and detail sufficient to enable the student/organization to prepare a defense.

(d) The right to be accompanied by an advisor of the student's/organization's choice, but such advisor participation shall be limited to advising the student/organization.

(e) The right to a statement of the possible sanctions that may be imposed as a result of a finding of a violation of the Student Code, at least three (3) days in advance of the hearing.

(f) The right to present witnesses in the student's/registered student organization's behalf and to question any witnesses presented against the student. The student/organization is responsible for the attendance of any witnesses to be present in the student's /organization's behalf.

(g) The right to be informed in writing, delivered either by United States mail, courier service, hand delivery to the permanent or local address on file for the student, or via email, of:

1. The final administrative decision in the case.

2. The proper procedure for appeal.

(h) The right to be provided copies, upon request and in accordance with APSU policies, rules, and guidelines, of all complaints, reports, witness statements and other written materials used in determining the charges.

(i) In cases involving sexual misconduct, the right to the name of each witness APSU expects to present at the student disciplinary proceeding and those APSU may present if the need arises.

(j) In cases involving sexual misconduct, the right to request a copy of the institution's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974.

(k) In cases involving sexual misconduct, the student's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the institution has in its possession, custody, or control and may use to support claims or defenses, unless the use would solely be for impeachment.

(4) Rights of Complainant and/or Victim. The APSU member (student, faculty or staff) who authors "complaints" or "statements" as a victim in the alleged violation shall have the following rights:

(a) To be notified of his/her rights prior to making a statement.

(b) To be informed that any written statement made or signed will be shared with the accused student/organization and that the accused student/organization may request a copy of the statement.

(c) To attend the hearing.

(d) To have an advisor present during the hearing.

(e) To be given the opportunity to question all witnesses and the accused during the hearing.

(f) To be provided a copy of any statement he/she has written or dictated to others.

(g) To be able to submit a list of witnesses to be called to the hearing.

(h) To be permitted to drop the charges only up to the date of the hearing.

(i) To be notified of the outcome of the hearing, including the finding concerning responsibility and any sanctions taken.

(j) In cases involving sexual misconduct, the right to the name of each witness APSU expects to present at the student disciplinary proceeding and those APSU may present if the need arises.

(k) In cases involving sexual misconduct, the right to request a copy of the APSU's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974.

(l) In cases involving sexual misconduct, the student/organization's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that APSU has in its possession, custody, or control and may use to support claims or defenses, unless the use would solely be for impeachment.

(5) APSU Hearing Procedures.

(a) Hearings before a Student Affairs Administrator. The appropriate Student Affairs Administrator shall act as hearing officer in the hearing, shall determine student's/organization's innocence or guilt and shall apply sanctions as appropriate.

(b) Hearings before the University Hearing Board ("Hearing Board"). Procedures for the Board include the following:

1. The Hearing Board shall be composed of nine (9) persons: five (5) students, (two (2) automatically selected from the Student Tribunal Justices of the Student Government Association, and three (3) selected at large from the student body who meet the same qualifications and are selected via the same procedures as those for Student Tribunal Justices as listed in the APSU SGA Constitution), two (2) faculty and two (2) administrators, all appointed by the President, for a term of one (1) academic year. Additionally, student, faculty and administrator alternate members shall be selected to serve in the absence of regular members and shall be appointed by the President for a term of one (1) academic year.

2. The Chair of the Hearing Board shall be appointed by the President.

3. A minimum of five (5) members of the Hearing Board are required to hear a disciplinary case, composed of at least two (2) students, one (1) faculty member, and one (1) administrator.

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

5. The hearing shall be conducted consistent with the rights described above in paragraphs (3) and (4) of this rule.

6. All hearings shall be closed unless the respondent and the complainant both elect in writing to have an open hearing.

7. Formal rules of evidence shall not be applicable. The adjudicating body may exclude evidence which in its judgment is immaterial, irrelevant, or unduly repetitious.

8. The standard of proof required to overturn a finding of violation of the Student Discipline Policy made by the Dean of Students, or designee, shall be the preponderance of the evidence and the charged student bears the burden of proof.

9. The hearing source shall issue a written decision within three (3) class days after the conclusion of the hearing.

10. The student will be advised in writing via ASPU email (and USPS mail if requested by the student) of the Hearing Board or Student Affairs Administrator decision and all sanctions imposed as a result of the disciplinary hearing.

11. Any sanction imposed as a result of a hearing conducted under the Code of Conduct shall be effective immediately upon written notification of the student/organization unless the hearing authority deems a stay of such sanction desirable pending appeal.

12. In any case where the decision results in separation from APSU, the decision shall be reviewed by the Senior Student Affairs Officer prior to notifying the Office of the Registrar and the Academic Department in which the student has been enrolled.

(6) Appeals.

(a) The student may appeal a decision of the University Hearing Board or the Student Affairs Administrator to the Senior Student Affairs Officer, or designee.

(b) An appeal in writing setting forth grounds for the appeal and addressed to the appropriate appellate authority must be received in the Office of the Senior Student Affairs Officer within three (3) class days after the student/organization is notified of the sanction imposed at any hearing or appellate level.

(c) Appeals shall be limited to the following grounds on the following issues:

1. Were procedures properly followed in the hearing?

2. Was the evidence presented at the hearing determined by "preponderance"?

3. Was the sanction imposed proportional to the violation?

4. New information, not available at the time of the original hearing, has become available which would substantially alter the outcome of the hearing.

(d) Review shall be based solely on a consideration of the record generated through the hearing together with the written appeal document and relevant attachments filed by the student.

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

1. Sustain the previous decision including the penalty imposed;

2. Sustain the previous decision but impose a greater or lesser penalty;

3. Remand the case for further consideration; or

4. Reverse the previous decision.

(f) The Senior Student Affairs Officer shall issue a written decision within ten (10) class days after the appeal is filed by the student.

(g) The decision of the Senior Student Affairs Officer is final.

(7) Student Organization Disciplinary Procedures. Sanctions against Student Organizations. Any registered student organization may be given a warning, reprimand, placed on probation, suspension, or restriction or may have its registration withdrawn by the Dean of Students, or by a Student Affairs Administrator appointed by the Senior Student Affairs Officer. Such actions may be taken after having a hearing conducted in accordance with the procedures outlined in these rules for disciplinary procedures. In the case of Withdrawal of Registration of an organization, the procedures to be used will be the contested case provisions of the UAPA, unless those provisions have been waived in writing by an authorized representative of the student organization. Such action may be taken for any one of the following reasons:

(a) The organization fails to maintain compliance with the initial requirements for registration.

(b) The organization ceases to operate as an active organization.

(c) The organization requests withdrawal.

(d) The organization operated or engaged in any activity in violation of the policies, rules, and regulations of APSU, of any governing body of federal or state laws.

Authority: T.C.A. §§ 4-5-101 et seq. and 49-8-203.

* 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)
Billy Atkins	X				
Katherine Cannata	X				
Larry Carroll	X				
Don Jenkins	X				
Gary Luck	X				
Valencia May	X				
Robin Mealer	X				
Mike O'Malley	X				
Mickey Wadia	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by Austin Peay State University on 11/22/19, 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: *09/16/19*

Rulemaking Hearing(s) Conducted on: (add more dates). *11/05/19*

VERONICA JACKSON
STATE OF TENNESSEE NOTARY PUBLIC
MONTGOMERY COUNTY

Date: 12/10/19

Signature:

Name of Officer: Dannelle Whiteside

Title of Officer: Vice President for Legal Affairs and General Counsel

Subscribed and sworn to before me on: 1/30/20

Notary Public Signature: Veronica Jack

My commission expires on: 12/16/20

Agency/Board/Commission: Austin Peay State University

Rule Chapter Number(s): 0240-05-02

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

Herbert H. Slatery III
Attorney General and Reporter

5/20/2020
Date

Department of State Use Only

Filed with the Department of State on: 6/15/2020

Effective on: 9/13/2020

Tre Hargett
Secretary of State

RECEIVED
2020 JUN 15 AM 11:35
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

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

There were no comments received regarding 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.

These rules only affect students enrolled at Austin Peay State University and no small businesses will be impacted by their promulgation.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

These rules only affect students enrolled at Austin Peay State University and will not have an impact on local governments.

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 that students are expected to conduct themselves as law-abiding members of each community at all times and authorizes the President of Austin Peay State University to take such action as may be necessary to maintain campus conditions and preserve the integrity of APSU and its educational environment. The rule further prescribes what disciplinary action can be taken against a student for violation of the policies and regulations which occur on APSU owned, leased or otherwise controlled property; while participating in international or distance learning programs; and off campus, when the conduct impairs, interferes with, or obstructs any APSU activity or the mission, processes, and functions of APSU. Finally, the rule describes the due process procedures for a student who wishes to contest a suspension or expulsion of a student or student organization from APSU.

(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;

T.C.A. §§ 4-5-101 et seq., 49-7-123(a)(1), and 49-8-203.

(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;

All students enrolled at Austin Peay State University will be affected by this rule. The Board urges adoption 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;

Not applicable.

(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;

Not applicable.

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

Dr. Eric Norman
Vice President for Student Affairs
Austin Peay State University

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

Dannelle Whiteside
General Counsel
Austin Peay State University

Dr. Eric Norman
Vice President for Student Affairs
Austin Peay State University

(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

Dannelle Whiteside
General Counsel
Austin Peay State University
931-221-7580
whitesided@apsu.edu

Dr. Eric Norman
Vice President for Student Affairs
Austin Peay State University
931-221-7341
singletong@apsu.edu

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

None.

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 08-34-20
Rule ID(s): N/A
File Date: 8/27/2020
Effective Date: 8/27/2020

Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission:	Austin Peay State University
Division:	
Contact Person:	Corey Harkey
Address:	
Zip:	37044
Phone:	931-221-7580
Email:	harkeyc@apsu.edu

Type of Action on Rule:

X **Notice of Withdrawal of Rules**

Rule Filing Date: 06/15/2020
Rule Effective Date: 09/13/2020

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 enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	**Chapter Title**
0240-05-02	Student and Student Organization Conduct and Disciplinary Sanctions
Rule Number	**Rule Title**
0240-05-02-.01	APSU Policy Statement
0240-05-02-.02	Disciplinary Offenses
0240-05-02-.03	Academic and Classroom Misconduct
0240-05-02-.04	Disciplinary Sanctions
0240-05-02-.05	Disciplinary Procedures

Date: August 27, 2020

Signature: Corey Harkey

Name of Officer: Corey Harkey

Title of Officer: Interim General Counsel

Department of State Use Only

Filed with the Department of State on: 8/27/2020

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED

2020 AUG 27 PM 3:25

SECRETARY OF STATE
PUBLICATIONS