

Proposed Amendments
of
The University of Tennessee - 1720
The University of Tennessee at Chattanooga
1720-2-5

Student Code

Presented herein are proposed amendments of The University of Tennessee submitted pursuant to Tennessee Code Annotated, Section 4-5-202, in lieu of a rulemaking hearing. It is the intent of The University of Tennessee to promulgate these amendments without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in Room 719, Andy Holt Tower, The University of Tennessee, Knoxville, Tennessee 37996-0170, and in the Department of State, 8th Floor, William R. Snodgrass Tennessee Tower, 312 8th Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the proposed amendments, contact Ronald C. Leadbetter, Associate General Counsel, The University of Tennessee, Office of General Counsel, 719 Andy Holt Tower, Knoxville, TN 37996-0170, telephone number (865) 974-3247.

The text of the proposed amendments is as follows:

Amendments

Chapter 1720-2-5 is amended by deleting the current language and substituting new language so that, as amended, the chapter shall read:

Chapter 1720-2-5
Student Code

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1720-2-5-.01 Jurisdiction.

- (1) The supervision of student discipline is delegated by the Chancellor to the Vice Chancellor for Student Development, and the Vice Chancellor for Student Development, may in turn, identify appropriate University officials to assist in this duty and/or to serve as University Hearing Officers.

- (2) The University Student Code shall apply to conduct that occurs on University premises, at University sponsored activities, and to off-campus conduct that adversely affects a member of the University Community. Each student shall be responsible for his or 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 their conduct is not discovered until after a degree is awarded). The Student Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending.
- (3) Disputes between organizations (except in fraternity/sorority cases which may be within the jurisdiction of the appropriate Greek governing council and/or the Dean of Students office) shall be subject to the jurisdiction of the Vice Chancellor for Student Development or his or her designee.
- (4) The Vice Chancellor for Student Development or his or her designee shall have jurisdiction over disputes between individual students and organizations when such arbitration is requested by either of the parties involved.
- (5) The Honor Code applies to academic matters primarily, although its purpose has implications for all student conduct. The Honor Code regulates certain activities of all students and faculty members in any college or division of the University during all sessions.

1720-2-5-.02 Regulations Governing Student Conduct.

- (1) All students violating Civil or Criminal Law, whether on University property or not, are answerable to civil or criminal authorities. In addition, students at the University will be responsible for abiding by the regulations governing student conduct. Specific violations are:
 - (a) Failure to adhere to the Honor Code Pledge.
 - (b) Forgery, alteration, destruction, falsification or misuse of University documents, records, or identification, or acting in a conspiracy or assisting others to perform or commit any of the aforementioned acts.
 - (c) Knowingly provide false information to the University or other similar forms of dishonesty in University-related affairs.
 - (d) Disruption, obstruction, or interruption of teaching, research, administration, conduct procedures or other University activities, including its public service functions, or other authorized University activities. In no event shall this rule be construed to prevent speech protected by the First Amendment to the United States Constitution.
 - (e) Threat or harassment of any person, or conduct which poses a clear and present danger to the health, safety or well-being of any person on University-owned or controlled property or at University supervised functions.
 - (f) Physical abuse of any person, or other conduct which threatens or endangers the health or safety of any person, whether such conduct occurs on or off University property. In no event shall this rule be

construed to prevent speech protected by the First Amendment to the United States Constitution.

- (g) Vandalism, malicious destruction, damage, or misuse of private or public property, including library material.
- (h) Theft, misappropriation, unauthorized possession, sale, or damage to property belonging to the University, an organization affiliated with the University, a member of the University community, or a campus visitor.
- (i) Violations of properly constituted rules and regulations governing the use of motor vehicles on University-owned property.
- (j) Lewd, obscene, indecent, or disorderly conduct on University-owned or controlled property or at University-supervised functions.
- (k) Possession, while on University-owned or –controlled property or at University-supervised activity, of any weapon such as, but not limited to, rifles, shotguns, ammunition, handguns, air guns, explosives such as firecrackers, and bladed weapons, unless authorized by the Vice Chancellor for Student Development or his or her designee.
- (l) Unauthorized use of or entry into University facilities and/or unauthorized possession or duplication of keys to University facilities.
- (m) Use, possession, or being under the influence of alcoholic beverages on University-owned property.
- (n) Gambling on University-owned or –controlled property.
- (o) Unlawful use, manufacture, possession, distribution or dispensing of drugs or alcohol on University property or during University activities.
- (p) Failure to comply with the directions of any University official, acting in the normal discharge of their duties.
- (q) Any act of arson, falsely reporting a fire or other emergency, falsely setting off a fire alarm, tampering with or removing from its proper location fire extinguishers, hoses, or any other fire emergency equipment except when done with real need for such equipment.
- (r) Violation of local, state, or federal law, whether on or off campus, when it appears that the student has acted in a way which adversely affects or seriously interferes with the University's normal educational function, or which injures or endangers the welfare of any member of the University community. Such violation includes, but is not limited to, violation of state or federal drug laws, commission of or attempt or threat to commit rape, violent or non-violent sexual offenses, murder, felonious assault, arson or any other felonious crime against person or property.
- (s) Unauthorized use or misuse of the University's computing facilities. This includes:

1. Logging on an account without the knowledge and permission of the owner.
 2. Changing, deleting, and adding to the programs, files and data without authorization of the owner.
 3. Theft of program data and machine resources.
 4. Attempts to thwart security of the computer system(s).
 5. Attempts to disrupt the normal operations of the computer system(s), including hardware and software.
- (t) An attempt to commit or to be an accessory to the commission of any act in violation of the student code.
- (u) Participation of students in hazing activities. "Hazing" means any intentional or reckless act, on or off University property, by one 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 his or her mental or physical health or safety, and includes treatment of a violent, abusive, shameful, insulting, or humiliating nature, whether the student voluntarily participates or not. Such action is prohibited when connected with initiation into or affiliation with an organization and does not include participation in customary athletic events or similar competition.

1720-2-5-.03 Investigations of Student Conduct.

- (1) All University investigations shall be conducted in an ethical manner, keeping in mind the rights of students. The following regulations shall be strictly observed.
- (2) Inspection and Search Policy. Entry by University officials into occupied rooms in residence halls will be divided into three categories: inspection, search, and emergency. Inspection is defined as the entry into an occupied room by University officials in order to ascertain the health and safety conditions in the room, or to make repairs on facilities, or to perform cleaning and janitorial operations. Search is defined as the entry into an occupied room by on-campus authorities for the purpose of investigating suspected violations of campus regulations and/or city, state, or federal law. An emergency situation exists when the delay necessary to obtain search authorization constitutes a danger to persons, property, or the building itself.
 - (a) Inspection: Scheduled inspections by University officials, with the exception of daily janitorial and maintenance operations, shall be preceded, if possible, by twenty-four hours notice to the residents. During the inspection, there will be no search of drawers or closets or personal belongings.
 - (b) Search: University officials will not enter a room for purposes of search except in compliance with state law or with the permission of the resident or the written permission of the Vice Chancellor for Student Development or his or her designee. University officials shall have, if possible, the Resident Director or his or her designee accompany them on the search.

1720-2-5-.04 Due Process and Student Rights.

- (1) Due process shall guarantee to the accused student the following:
 - (a) The right to be informed of charges in writing prior to the hearing.
 - (b) The right of reasonable time in which to prepare a defense.
 - (c) The right to a fair and just hearing.
 - (d) The right to challenge all charges and testimony used against the accused student and to question witnesses.
 - (e) The right to be informed in writing of:
 1. The final decision of his or her case.
 2. The proper procedure for appeal.
 - (f) The right to be accompanied by an advisor he or she chooses, at his or her own expense.
 1. The accused student is responsible for presenting his or her own information, and therefore, advisors are not to speak or participate directly in a University hearing.
 2. Students should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the University hearing.
 3. Delays will not normally be allowed due to the scheduling conflicts of an advisor.
- (2) Any student or student organization shall be formally charged in writing with the alleged offense. The date, time, and place of occurrence of the offense shall be stated on the statement of charges.
- (3) The Dean of Students office must keep accurate records of each hearing and the disposition of each case.

1720-2-5-.05 Student Conduct Hearing Procedures

- (1) Complaints.
 - (a) Any member of the University community may present a complaint to the Dean of Students office against a student for violations of the Student Code. Any complaint should be submitted as soon as possible after the event takes place. Any charge(s) shall be prepared in writing by the Dean of Students office.
 - (b) All charges shall be presented to the accused student in written form.
- (2) Hearing Options.

- (a) An accused student desiring to contest the charge(s) against him or her must do so by requesting a hearing within five (5) days of his or her receipt of written notice of the charge(s).
 - (b) The accused student(s) may, at his or her option, request a hearing before a panel of individuals (Student Conduct Board) or by a University Hearing Officer selected by the Vice Chancellor for Student Development (or his or her designee). A hearing before a Student Conduct Board will be chaired by a University Hearing Officer similarly selected. Board members and hearing officers shall be impartial and anyone lacking such impartiality shall recuse him/herself or may be removed by the Vice Chancellor for Student Development upon request of any party to a University hearing.
 - (c) A requested hearing shall be scheduled promptly after receipt of the request.
 - (d) In the absence of a voluntary written waiver of the accused student's right to a hearing under the provisions of the Tennessee Uniform Administrative Procedures Act (T.C.A. § 4-5-108 et seq.), a requested hearing will be conducted in accordance with the University's APA hearing procedures and these procedures shall not apply.
- (3) Hearing Procedures – The Student Conduct Board or University Hearing Officer sitting alone will conduct the hearing within the following general guidelines:
- (a) All University hearings shall be closed to the public.
 - (b) The accused student (and certain “victims” where permitted by law) and his or her advisor, if any, shall be allowed to attend the entire portion of the University Hearing at which information is received (excluding deliberations).
 - (c) Each party will be afforded a full and fair opportunity to present all evidence, including witnesses, reasonably relating to the charge or action at issue; evidence which is irrelevant, immaterial, repetitious or voluminous may be limited.
 - (d) All procedural questions are determined by the University Hearing Officer.
 - (e) The Student Conduct Board or University Hearing Officer sitting alone will consider all evidence presented, giving due consideration to the credibility or weight of each item presented; technical rules of evidence will not apply.
 - (f) The University will have the burden of proving, by a preponderance of the evidence, the truth of the charge(s) at issue.
 - (g) Following the conclusion of the University hearing, the Student Conduct Board or University Hearing Officer sitting alone will consider the evidence and present written findings.
 - (h) An appropriate record will be made of the hearing procedures. Deliberations shall not be recorded. Defects in the record will not invalidate the proceedings.

1720-2-5-.06 Disciplinary Actions and Penalties.

(1) Disciplinary actions are taken and penalties are assigned by the Student Conduct Board or University Hearing Officer sitting alone on the basis of all attendant circumstances.

(a) The penalties which may be assessed for violation of the Student Code are:

1. Loss of Privilege. This penalty may involve loss of scholarship, stipend, right to participate in certain extracurricular activities, etc.
2. Educational Sanction.
3. Housing Probation. Housing probation means a student is permitted to remain in University housing on a probationary status.
4. Disciplinary Reprimand. Disciplinary reprimands are used for minor infractions or misconduct where it is evident the misconduct occurred with knowledge and awareness of the University regulations. Reprimands are given to students in either verbal or written form. Any specific conditions on the student's behavior or activities may be described in a personal letter to the student.
5. Disciplinary Probation. Disciplinary probation means that a student is permitted to remain in the University with a probationary status. Should a violation of regulations occur during probation, the student is normally suspended. Any specific conditions are described in a personal letter to the student.
6. Suspension. Suspension is used in cases of serious misconduct, or violation of probation, and means that the student is required to cancel his registration and is not eligible to apply for readmission for a designated period of time. Suspension may be indefinite or for a specified time, and a suspension may be deferred pending good behavior. (Persons suspended from the University may not return to the campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member.)
7. Dismissal. Dismissal is used when the misconduct is serious enough to warrant the decision that the student is not to return to the University.

(b) The following sanctions may be imposed upon groups or organizations:

1. Those sanctions listed above in sections 1., 2., 5., 6.
2. Deactivation. Loss of all privileges, including University recognition, for a specified period of time.

1720-2-5-.07 Appeals.

- (1) Decisions of the Student Conduct Board or University Hearing Officer sitting alone may be appealed to the Vice Chancellor for Student Development by delivering a signed statement containing:
 - (a) A statement that he/she appeals the decision;
 - (b) A brief statement of grounds of appeal. The appeal must be submitted within five (5) business days of receiving written notification of the decision.
- (2) The Vice Chancellor may:
 - (a) Uphold the decision
 - (b) Amend the decision
 - (c) Return case for reconsideration
 - (d) Overturn decision
- (3) Either Party may appeal to the Chancellor of the University.

1720-2-5-.08 Parking Appeals. Appeals of student parking tickets are reviewed by the Student Parking Appeals Board. Decisions concerning the appeals are based on a majority vote of the Board.

1720-2-5-.09 Composition of Student Parking Appeals Board.

- (1) The Student Parking Appeals Board shall be composed of six student members plus a Chair and six alternates. Two students will be appointed by the Student Senate from the general student body. Two students will be appointed by the faculty, one appointed by the President of SGA, and one appointed by the Office of Student Development. Each appointing body shall also appoint the alternates. An alternate will serve when a regular member cannot be present or when a member is excused for reasons such as personal friendship with the principals.
- (2) All members must have a 2.00 cumulative grade point average and be enrolled as full time students and not be on any form of probation.
- (3) The Chair will be elected by the Board and votes in case of tie.
- (4) A temporary chair will be elected by the members of the board in the event:
 - (a) The Chair is a party to the case.
 - (b) The Chair is absent.
 - (c) The Chair removes himself from the case.
- (5) Once appointed, students remain on the Student Parking Appeals Board until they terminate at the University, cease to be eligible to serve, or resign voluntarily.

1720-2-5-.10 Emergency Situations.

When in the opinion of the Chancellor, conditions are such that there exists a clear and immediate danger to the physical safety or well-being of the members of the University community or safety of University property, he or she may direct that the accused student or organization be suspended pending initiation (and completion) of normal disciplinary proceedings provided those procedures are offered as soon as can reasonably be accomplished. The Chancellor may delegate this authority to the Vice Chancellor for Student Development.

1720-2-5-.11 Withdrawal or Temporary Suspension Due to Physical or Psychological Illness.

- (1) When a student is unable to pursue his or her academic work effectively, or when his or her behavior is disruptive to the normal educational processes of the University, or constitutes a threat to members of the University community, due to, among other things, the use of alcohol, drugs, or other psychologically incapacitating illnesses or conditions, he or she may be withdrawn or temporarily suspended from the University as hereinafter provided.
 - (a) **Withdrawal.** A student may be withdrawn from the University only after an evaluation of his or her mental, physical condition, or behavior by a panel of at least three persons appointed by the Vice Chancellor for Student Development. The student shall be notified of the reasons for the evaluation and given an opportunity to present evidence to the committee. He or she shall enjoy the rights of normal due process procedures. The committee's findings and recommendations shall be forwarded to the Vice Chancellor for Student Development who will notify the student in writing of his or her decision. A student withdrawn under this procedure shall not be readmitted to the University without the approval of the Vice Chancellor for Student Development.
 - (b) **Grades.** When a student is suspended or withdrawn from the University for reasons described in this section, he or she will be assigned a grade of "W".
 - (c) **Committee Composition and Hearing.** The panel referred to herein will include at least one member of the faculty at large and representative of the Counseling Center or a psychologist. The Dean of Students or his or her designee would normally have responsibility for preparing the charges and presenting the case. The student in question would have the right to normal due process provisions.
- (2) **Temporary Suspension.** Whenever a student, because of his or her mental or physical condition, is unable to pursue his or her academic work effectively, or is disruptive to educational processes or constitutes a danger to persons or property, he or she may be suspended from the University for a reasonable period of time by the Vice Chancellor for Student Development. The University will then schedule a hearing within 5 class days of the beginning of the suspension. If the University does not withdraw the student after the hearing, he or she may return to the University at the end of the suspension period.

Authority: Tenn. Code Ann. § 49-9-209(e).

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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

James S. Hicks
Associate Dean of Student Life

The roll-call vote by the Board of Trustees of The University of Tennessee on these rules was as follows:

<u>Name</u>	<u>Aye</u>	<u>No</u>	<u>Abstain</u>
Governor Bredesen			
Commissioner Seivers	X		
Commissioner Givens			
Dr. Petersen	X		
Dr. Rhoda	X		
Mrs. Amonette	X		
Ms. Carroll	X		
Mrs. Castleman	X		
Mr. Driver	X		
Mr. Ennis			
Mr. Haslam	X		
Mr. Hickman	X		
Dr. Hurd	X		
Mr. Jackson	X		
Mrs. Loughry	X		
Mr. Murphy	X		
Dr. Pfeffer	X		
Ms. Prevost	X		
Dr. Rice	X		
Mr. Schledwitz	X		
Mr. Stansberry	X		
Mr. Stokely	X		
Mr. Sturdivant	X		
Mr. Thornton	X		
Mrs. Williams	X		
Mr. Wolford	X		

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I certify that this is an accurate and complete copy of rules lawfully promulgated and adopted by The University of Tennessee on the ____ day of October, 2005.

The Secretary of State is hereby instructed that, in the absence of a petition for rulemaking hearing being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Ronald C. Leadbetter
Associate General Counsel

Subscribed and sworn to before me this the ____ day of _____, 2006.

Notary Public

My commission expires on the _____.

All proposed 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.

Paul G. Summers
Attorney General and Reporter

The proposed rules set out herein were properly filed in the Department of State on the 22nd day of June, 2006, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 27th day of October, 2006.