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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).

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Revision Type (check all that apply):

☐ Amendment
☒ New
☐ Repeal
☐ Content based on previous emergency rule filed on _____
☐ Content is identical to the emergency rule

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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
1720-07-01	Student Code of Conduct
Rule Number	Rule Title
1720-07-01-.01	Introduction
1720-07-01-.02	Definitions
1720-07-01-.03	Jurisdiction
1720-07-01-.04	Standards of Conduct
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1720-07-01-.13	Amnesty for Individual Good Samaritans and Students in Need of Emergency Medical Attention
1720-07-01-.14	Emergency Powers
1720-07-01-.15	Severability

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

RULES OF THE UNIVERSITY OF TENNESSEE (SOUTHERN)

CHAPTER 1720-07-01 STUDENT CODE OF CONDUCT

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1720-07-01-.01 INTRODUCTION.

- (1) Students at the University of Tennessee (the "University") are members of both the University community and the larger community of which the University is a part. Accordingly, students are responsible for conducting themselves in a lawful manner and in compliance with University rules and policies. The University has established the Student Code of Conduct ("Code") in order to advance the mission of the University by maintaining a safe and secure learning environment; protecting the rights and privileges of all members of the University community; providing a basis for orderly conduct of the affairs of the University; promoting a positive relationship between the University and its surrounding community; preserving institutional integrity and property; encouraging students to engage in conduct that brings credit to themselves and the University; and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and law-abiding citizen.
- (2) The University is committed to respecting students' constitutional rights. The Code shall be interpreted in a way that does not violate students' constitutional rights, including, without limitation, the rights protected by the First Amendment to the United States Constitution.
- (3) Students are responsible for being fully acquainted with and for complying with the Code, the University catalog, handbook, and other rules and policies relating to students. Failure or refusal to comply with the rules and policies established by the University may subject a student to disciplinary action up to and including expulsion from the University.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.02 DEFINITIONS. The following words, terms, or phrases, when used in the Code, shall have the following meanings:

- (1) **Business Day:** Any weekday not designated by the University as a holiday or administrative closure day. When calculating a time period of business days specified in this Code, the business day of the event that triggers a time period is excluded.
- (2) **Complainant:** An individual who may have been subjected to student conduct that violates the Standards of Conduct, regardless of whether that individual makes a complaint or report to OSC. This term does not imply pre-judgment concerning whether the Respondent violated the Standards of Conduct. OSC is the final decision maker with respect to whether an individual is a Complainant for purposes of the Code.

- (3) **Conduct Officer:** A University employee designated by OSC to hold administrative hearings or to present information on behalf of OSC to the Student Conduct Board.
- (4) **Disciplinary Hold:** The University hold described in Section .11(3) of these rules.
- (5) **Faculty Member or Instructor:** A person hired by the University to conduct teaching, research, or supervised clinical placements.
- (6) **Good Faith:** Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. Information is not communicated in good faith if it is communicated with knowing or reckless disregard for information that would negate the former information.
- (7) **Formal Complaint:** A document filed by a Complainant (or signed by the Title IX Coordinator) alleging that a Respondent engaged in sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, and requesting that the University investigate the allegation. There are two (2) types of Formal Complaints: (i) Formal Complaints that include Title IX Allegations (as defined under Section .02(20)); and (ii) Formal Complaints that do not include Title IX Allegations, but do otherwise include allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation.
- (8) **Member of the University Community:** A person who is a student, University employee, University volunteer, invited visitor to University-controlled property, or participant in a University-affiliated activity.
- (9) **Notice:** Written notice transmitted by United States mail, courier service, or hand delivery to the address the University's Registrar has on file for the student; and/or by e-mail to a student's University-provided e-mail account. When a notice is transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by e-mail, the notice is effective on the date that the e-mail is sent. A student's University-issued email address is the official method of communication used by the University.
- (10) **OSC:** Office of Student Conduct, which acts through University employees designated by the Associate Vice Chancellor of Student Affairs to act on behalf of the University in the student conduct process, including, without limitation University employees who work in OSC and University employees who work in University Housing.
- (11) **Possession:** Direct control of a substance or property, actual knowledge of a substance or property, and/or being in such close proximity to the substance or property that it is a reasonable presumption that a person had knowledge of the substance or property.
- (12) **Protected Activity:** A person's good faith: (a) opposition to conduct prohibited under the Standards of Conduct; (b) report to the University about conduct prohibited under the Standards of Conduct; (c) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (d) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- (13) **Respondent:** A student or student organization who has been accused of violating the Standards of Conduct and/or whose conduct is being investigated by OSC.
- (14) **SCB:** Student Conduct Board.
- (15) **Sexual Harassment:** Conduct on the basis of sex that satisfies one (1) or more of the following: (a) an employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct; (b) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it

effectively denies a person equal access to the University's education program or activity; or (c) sexual assault, dating violence, domestic violence, or stalking.

- (16) Staff Member: A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and/or controlling efforts to achieve the goals and objectives of the University.
- (17) Standards of Conduct: Rule 1720-07-01-.04.
- (18) Student: For purposes of the Code, the term "student" means:
 - (a) A person enrolled or registered for study at the University, either full-time or part-time, pursuing undergraduate, graduate, or professional studies, as well as non-degree and non-credit programs and courses;
 - (b) A student organization;
 - (c) A person who has completed the immediately preceding Fall or Spring academic term and is eligible for re-enrollment;
 - (d) A person who is not officially enrolled but who has a continuing relationship with the University (e.g., on educational leave or other approved leave status);
 - (e) A person who attended the University during a previous academic term and who engaged in misconduct during the time of enrollment; and/or
 - (f) A person who has been admitted to the University and later matriculates at the University, with respect to misconduct:
 - 1. That occurs as part of the application process; or
 - 2. That occurs post-admission and pre-matriculation and falls within the jurisdiction of the Code (e.g., occurs on University-controlled property).
- (19) Student Organization: An organization composed of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (20) Title IX Allegations: Allegations within a Formal Complaint that a Respondent's conduct constitutes Sexual Harassment (as defined under Section .02(15)) in the University's education program or activity and occurred within the United States, as defined in federal regulations, 34 C.F.R. 106.30(a).
- (21) Title IX Hearing Officer: As more fully described in Section .09(2), a person or persons appointed to conduct a Title IX Hearing.
- (22) UAPA: Uniform Administrative Procedures Act, T.C.A. § 4- 5-101 et seq.
- (23) University: The University of Tennessee (Southern), including without limitation its campuses, centers, institutes, and constituent parts.

- (24) **University-Affiliated Activity:** An activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (25) **University-Controlled Property:** All land, grounds, structures, or any other property owned, controlled, or operated by the University. For purposes of this Code, University-controlled property includes, without limitation, all streets, alleys, sidewalks, and public ways abutting such property. University-controlled property also includes computers and network systems owned, controlled, or operated by the University or funded by the University.
- (26) **University Official:** An employee of the University, including, without limitation, faculty members and staff members, or, for purposes of this Code, a University-recognized volunteer, when acting in the performance of their duties. Student employees may be considered University officials when acting in the performance of their University duties.
- (27) **Weapon:** Any device, instrument, or substance that is designed to, or reasonably could be expected to, inflict a wound, incapacitate, or cause serious bodily injury or death, including, without limitation, firearms (loaded and unloaded, real firearms and devices that would reasonably appear to a law enforcement officer to be real firearms), ammunition, electronic control devices (including but not limited to tasers and stun guns), devices designed to discharge an object (including but not limited to bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (including but not limited to mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term "weapon" does not include pocket knives that fold (but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment-related duties.
- (28) **Written:** To communicate words on paper or electronically. A notice delivered via e-mail constitutes a written notice under this rule.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.03 JURISDICTION.

- (1) **Jurisdiction.** The Code applies to the conduct of a student that occurs on University-controlled property. With respect to conduct that does not occur on University-controlled property, the University has the discretion to discipline a student for conduct in violation of the Code if the student's conduct adversely affects the interests of the University, including, without limitation, when the conduct:
 - (a) Occurs during or in connection with a University-affiliated activity, including, without limitation, an overseas study program, clinical or field placement, internship, or in-service experience;
 - (b) Consists of academic dishonesty or research misconduct;
 - (c) Is prohibited by local, state, or federal law;
 - (d) Involves another member of the University community; or
 - (e) Threatens, or indicates that the student may pose a threat to, the health or safety of the student or other person, or the security of any person's property, including, without limitation, alcohol-related misconduct, drug-related misconduct, arson, battery, fraud, hazing, sexual assault or misconduct, stalking, or theft.
- (2) **Relation to Criminal and Civil Legal Proceedings.** The Code has been adopted in furtherance of the University's interests and serves to supplement, rather than substitute for, the enforcement of the civil and criminal law. Accordingly, University disciplinary action may be instituted against

a student charged with conduct that potentially violates both the criminal law and the Standards of Conduct without regard to the pendency of criminal charges or civil litigation. At the discretion of the Associate Vice Chancellor of Student Affairs, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students accused of violating the Standards of Conduct may not challenge the University disciplinary proceedings on the grounds that criminal charges, civil litigation, or other University proceedings regarding the same incident are pending or have been terminated, dismissed, reduced, or not yet adjudicated.

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

Authority: T.C.A. §§ 4-5-101, *et seq.*

1720-07-01-.04 STANDARDS OF CONDUCT. Students are prohibited from engaging in the following types of misconduct:

- (1) Academic Dishonesty. Cheating, plagiarism, or any other act of academic dishonesty, including, without limitation, an act in violation of the Honor Code.
- (2) False Information. Providing false information to a University official.
- (3) Misuse of Information in Connection with University Investigation or Hearing. Falsifying, distorting, misrepresenting, or withholding information in connection with a University investigation or hearing.
- (4) Misconduct Relating to Records or Identification. Forging, altering, destroying, falsifying, or misusing records or identification, whether in print or electronic form.
- (5) Harm to Others. Causing physical harm to any person; endangering the health, safety, or welfare of any person; engaging in conduct that causes a reasonable person to fear harm to their health or safety; or making an oral or written statement that an objectively reasonable person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
- (6) Harassment. Unwelcome conduct that is so severe, pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech).
- (7) Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, and/or Retaliation. Violating the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking, which includes sexual exploitation and retaliation.
- (8) Invasion of Privacy. Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, without limitation, using electronic or other means to make a video or photographic record of any person in a location in which the person has a reasonable expectation of privacy, without the person's knowledge or consent. This includes, but is not limited to, making a video or photographic record of a person in shower/locker rooms or restrooms. The storing, sharing, and/or distributing of such nonconsensual recordings by any means is also prohibited.
- (9) Private or Public Property. Any of the following conduct with respect to private or public property, including, without limitation, University-controlled property: theft; misappropriation; unauthorized possession, use, sale, duplication, or entry; vandalism; destruction; damage; or conduct that is reasonably likely to cause damage.
- (10) Hazing. Any intentional or reckless act, on or off University-controlled property, by one (1) student, acting alone or with others, which is directed against any other student, which endangers the mental or physical health, safety, or welfare of that student, or which induces or coerces a student to endanger his or her mental or physical health, safety, or welfare. Hazing does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization, regardless of the student's willingness to participate.
- (11) Disorderly Conduct. Fighting or other physically violent or physically threatening conduct; creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; making noise that could unreasonably disturb others who are carrying on lawful activities; or conduct that breaches the peace.
- (12) Lewd, Indecent, or Obscene Conduct. Engaging in lewd, indecent, or obscene conduct,

including, without limitation, public exposure of one's sexual organs, public urinating, and public sexual acts.

- (13) **Imminent Lawless Action.** Engaging in speech, whether orally, in writing, or by electronic means, that is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.
- (14) **Fire Safety.** Any act of arson; falsely reporting a fire, the presence of an explosive or incendiary device, or other emergency; setting off a false fire alarm; or tampering with, removing, or damaging fire alarms, fire extinguishers or any other safety or emergency equipment from its proper location except when removed in a situation in which there is a reasonable belief of the need for such equipment.
- (15) **University Keys, Access Cards, and Identification.** Possessing, using, or duplicating University keys, University access cards, or University identification cards without authorization from the University.
- (16) **Information Technology.** Theft, misuse, or unauthorized use of information technology facilities, resources, or access codes, including, without limitation: unauthorized entry into or transfer of a file; using another person's identification and/or password without that person's consent; using information technology facilities or resources to interfere with the work of another student, faculty member, staff member, or other member of the University community; using information technology facilities or resources to interfere with normal operation of a University information technology system or network; circumventing University information technology system or network security; using information technology facilities or resources in violation of copyright laws; falsifying an e-mail header; and conduct that violates the University's policy on the acceptable use of information technology resources.
- (17) **Weapons.** Possessing, carrying, using, storing, or manufacturing any weapon if prohibited by federal, state, or local law; or possessing, carrying, using, storing, or manufacturing any weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Director of Safety and Security or unless federal or state law affirmatively gives a student a right, irrespective of this Chapter, to possess or carry a weapon on University-controlled property or in connection with a University-affiliated activity.
- (18) **Alcohol-Related Conduct – University Property or University Activities.** Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on University-controlled property or in connection with a University-affiliated activity unless expressly permitted by University rules or policy.
- (19) **Alcohol-Related Conduct Prohibited by Law.** Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.
- (20) **Providing Alcohol to Underage Person.** Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- (21) **Drugs and Drug Paraphernalia.** Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs, if prohibited by federal, state, or local law; using, manufacturing, possessing, distributing, or selling drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- (22) **Failure to Fulfill a University Financial Obligation.** Failing to timely fulfill a University bill, account, or other financial obligation owed to the University.
- (23) **Failure to Respond, Comply, or Identify.** Failing to respond to a request to report to a University administrative office; failing to comply with a lawful directive of a University employee or other public official acting within the scope of their duties; or failing to identify oneself to a University

employee or other public official acting within the scope of their duties when requested to do so.

- (24) Failure to Appear. Failing to appear at a University hearing, including, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness, unless the student has a right to not appear under state or federal law.
- (25) Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re-Enrollment. Violating the terms of a no-contact directive, an interim restriction (e.g., interim suspension), a disciplinary sanction, or a condition of re-enrollment imposed by the University.
- (26) Obstruction or Disruption of University Activity. Obstructing or disrupting teaching, learning, studying, research, public service, administration, disciplinary proceedings, emergency services, or any other University-affiliated activity, whether the activity is in person or remote, or the free flow of pedestrian or vehicular traffic on University-controlled property. In no event shall this rule be construed to discipline a student for speech protected by the First Amendment to the United States Constitution.
- (27) Violation of University Policy or Rule. Violating a University policy or rule, including, without limitation, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research misconduct, finder's fees relating to clinical investigations involving human subjects or access to University data or materials, University libraries, dining services, parking or transportation, University identification card use, sexual harassment, residence halls, and registered student organizations.
- (28) Act Prohibited by Law. Committing an act that is prohibited by federal, state, or local law.
- (29) Attempted Violation; Accessory to Violation. Attempting to commit a violation of a Standard of Conduct or being an accessory to the commission of an act or attempted act in violation of a Standard of Conduct.
- (30) Retaliation. Engaging in retaliation. Retaliation is an act or omission committed by a student because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity, including, without limitation, any act or omission constituting "retaliation" under the University's Policy on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking and University rules. Retaliation violates the Standards of Conduct regardless of whether the underlying allegation of a violation of the Standards of Conduct is ultimately found to have merit. Retaliation can include, without limitation: (a) an act or omission committed against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing; and (b) an act or omission committed by a student through a third party.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-7-123(b)
T.C.A. § 49-9-209(e).

1720-07-01-.05 NO-CONTACT DIRECTIVES. In cases involving allegations of assault, injury, sexual abuse, harassment, or in cases where there is reason to believe continued contact between a student and specific persons may interfere with those persons' security, safety or ability to participate effectively in work or studies, the University may issue a written instruction to a student, called a no-contact directive, that prohibits a student from having verbal, physical, written, and/or electronic contact with specific other persons for a definite or indefinite period of time. A no-contact directive also may prohibit a student from being present on designated University-controlled property. Any student, faculty, or staff member or other person with a reasonable justification may request that the University issue a no-contact directive to a student. However, the University retains ultimate authority to decide whether or not to issue a no-contact directive. Restrictions in a no-contact directive are not interim restrictions.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.06 INTERIM RESTRICTIONS.

- (1) When the Associate Vice Chancellor of Student Affairs has reasonable cause to believe that a Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health or safety of others or to property or poses an ongoing threat to the disruption of, or interference with, the normal operations of the University, the Associate Vice Chancellor of Student Affairs may impose interim restrictions prior to the conclusion of the student conduct process. Examples of interim restrictions include, without limitation, restricting the student's privileges to participate in University-affiliated activities, restricting the student's privileges to access University-controlled property, University-owned housing removal and/or reassignment, and/or interim suspension.
- (2) Interim restrictions shall be confirmed by written notice to the Respondent that explains the basis for the interim restrictions and shall remain in effect until the conclusion of the student conduct process, which shall be completed without undue delay.
- (3) Within three (3) business days of the imposition of interim restrictions, the Respondent shall be offered an opportunity to appear personally before the Associate Vice Chancellor of Student Affairs in order to discuss the following issues only: (a) the reliability of the information concerning the Respondent's conduct; and (b) whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health or safety of others or to property or poses an imminent threat of disruption of or interference with the normal operations of the University.
- (4) An interim suspension is an official separation of the Respondent from the University until the conclusion of the student conduct process or the interim suspension is lifted, whichever occurs first. While on interim suspension, the Respondent loses all University rights and privileges (e.g., enrollment privileges) except for the rights and privileges to contest the allegations pursuant to the Code, shall not represent the University in any official manner, and shall not be present on University-controlled property or participate in University-affiliated activities without the prior approval of the Associate Vice Chancellor of Student Affairs.
- (5) When a Respondent is placed on interim suspension from the University, the Respondent may be assigned a grade of "W" or "I," whichever is deemed more appropriate by the faculty member involved.
- (6) Notwithstanding any other provision in this Section .06, in any case in which a Formal Complaint is filed that includes Title IX Allegations, the Associate Vice Chancellor of Student Affairs may impose an interim suspension on a Respondent only after undertaking an individualized safety and risk analysis, and determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal of the Respondent. The Associate Vice Chancellor of Student Affairs will provide the Respondent notice and an opportunity for the Respondent to challenge an interim suspension or removal within three (3) business days.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.07 STUDENT RIGHTS AND PRE-HEARING PROCEDURES.

- (1) Conflicts of Interest.
 - (a) The student conduct process must be carried out in a manner that is free from conflicts of interest or bias and is consistent with due process of law.
 - (b) In all cases involving allegations of sexual assault, dating violence, domestic violence, or stalking, the student conduct process must include protections for the Respondent analogous to, and no less protective than, the conflict of interest provisions of T.C.A. § 4-5-303. Notwithstanding the preceding sentence: 1. an attorney for the University is allowed to provide legal advice to multiple University employees who serve in different roles in the process of disciplining a student; and 2. the University is allowed to provide

the Complainant with equivalent rights as the Respondent during the student conduct process.

- (2) **Burden of Proof and Standard of Proof.** The Respondent has the right to the presumption that the Respondent is not responsible for the allegations of misconduct. The University bears the burden of presenting information demonstrating that the Respondent is responsible for any violations of the Standards of Conduct. The University uses the preponderance of the evidence standard when making determinations about whether a Respondent is responsible for violating a Standard of Conduct, meaning the information must demonstrate that it is more likely than not that the Respondent violated a Standard of Conduct.
- (3) **Right to an Advisor.** The Complainant and the Respondent each may be assisted by one (1) advisor of their choice and at their own cost during all stages of the student conduct process. The advisor may be, but is not required to be, an attorney. The role of an advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process, including at all meetings, investigative interviews, and hearings. An advisor is not permitted to speak for or on behalf of a Complainant or Respondent, appear in lieu of a Complainant or Respondent, participate as a witness, or participate directly in any other manner during any phase of the student conduct process, except in a Title IX Hearing. If a Complainant or Respondent does not have an advisor present at a Title IX Hearing, the University must provide one (1) (selected by the University) without fee or charge to that party. In a Title IX Hearing, the advisor is permitted to speak on behalf of a Complainant or Respondent for the purposes of asking questions of the other party and witnesses in accordance with Section .09(5)(f) of this Chapter.
- (4) **Allegations of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Exploitation.** In cases involving allegations of sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, the student conduct process is initiated upon the filing of a Formal Complaint by a Complainant or by the Title IX Coordinator. As soon as practicable after the filing of a Formal Complaint, OSC will provide a Notice of Receipt of Formal Complaint to the parties who are known. The Notice of Receipt of Formal Complaint shall include the following information: (a) notice of the student conduct process that applies to the allegations; (b) the identities of the parties involved in the incident; (c) the conduct allegedly constituting the violation; (d) the date and location of the incident, if known; (e) a statement that the Respondent is presumed not responsible for the alleged conduct; (f) a statement that a determination regarding responsibility is made at the conclusion of the student conduct process; (g) the parties' right to have an advisor of their choice, who may be, but is not required to be, an attorney; (h) the parties' right to inspect and review evidence; and (i) notice of the provisions of the Code that prohibit providing false information to a University official.
- (5) **Investigations.**
 - (a) OSC may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. If OSC investigates allegations against a Respondent, OSC will 1. ensure that the burden of proof of gathering evidence rests on the University and not on the parties; 2. provide an equal opportunity for the parties to identify and present witnesses for interview, including fact witnesses and expert witnesses, and other inculpatory and exculpatory evidence; and 3. provide written notice of the date, time, location, participants, and purpose of all investigative interviews and other meetings, with sufficient time to prepare to participate. OSC is not obligated to interview a witness identified by the Respondent or the Complainant if OSC believes the witness is not likely to possess relevant information, is not likely to lead OSC to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by OSC. OSC may interview and re-interview the Complainant, the Respondent, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information. Investigations conducted by OSC will be prompt, thorough, and equitable. In conducting an investigation, OSC will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to OSC. At the conclusion of its investigation, OSC may prepare a written investigative report of the findings of the investigation. The investigative report may include an assessment of the

credibility of persons interviewed during the investigation and an assessment of whether it is more likely than not that the Respondent violated the Standards of Conduct.

- (b) In cases in which a Complainant or the Title IX Coordinator has filed a Formal Complaint alleging sexual harassment, sexual assault, dating violence, domestic violence, stalking, or sexual exploitation, OSC will provide both parties with an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. Prior to completion of the investigative report, OSC will send to each party and the party's advisor, if any, the evidence subject to inspection and review. The parties must have at least ten (10) business days to submit a written response, which OSC will consider prior to completion of the investigative report. After the investigative report is final, the parties shall have ten (10) business days to submit a written response to the report. No hearing shall occur until that 10-day period has expired, even if the parties have submitted responses prior to the expiration of the 10-day period.

(6) Notice of Allegations and Notice of Sanctions.

- (a) A Notice of Allegations is a written notice that informs the Respondent that OSC has concluded that it is more likely than not that the Respondent violated the Standards of Conduct. A Notice of Allegations generally includes, without limitation, the following information: 1. a brief summary of the facts of Respondent's alleged misconduct; 2. notice that OSC has determined that it is more likely than not that Respondent violated the Standards of Conduct; 3. notice of the specific Standard(s) of Conduct that OSC has determined the Respondent more likely than not violated; 4. the Respondent's option(s) to elect a hearing to contest OSC's determination of responsibility for misconduct and/or the sanction(s); and 5. the names of witnesses likely to present information concerning the alleged misconduct if the Respondent elects to contest the allegations through a hearing.
- (b) A Notice of Sanctions is a written notice that informs the Respondent of the disciplinary sanction(s) that OSC proposes for the violation(s) of the Standards of Conduct.
- (c) If the Respondent fails to elect a hearing option available under Section .07(7) within seven (7) business days of OSC transmitting a Notice of Allegations and Notice of Sanctions in writing to the Respondent, then the Respondent waives all rights to a hearing, and OSC has the discretion to deem the Respondent to have accepted OSC's determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by OSC (unless OSC extends the time for the Respondent to request a Formal Hearing for good cause).
- (d) This Section .07(6) does not apply to Formal Complaints that include Title IX Allegations.

(7) Hearing Options. A Respondent shall have the following options for a hearing:

- (a) An administrative hearing before the Conduct Officer, which is described in Section .07(9);
- (b) A hearing before the Student Conduct Board, which is described in Section .08;
- (c) A hearing before a Title IX Hearing Officer ("Title IX Hearing"), which is described in Section .09 and which is the only hearing option provided under the Code for determining responsibility for Title IX Allegations; or
- (d) A contested case hearing under the Uniform Administrative Procedures Act, which is conducted in accordance with the University's procedures for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.

(8) Alternative Resolution and Informal Resolution.

- (a) **Alternative Resolution.** At any time during the student conduct process, allegations against the Respondent (except for Title IX Allegations which may be resolved through the Informal Resolution process set forth in Section .07(8)(b)) may be resolved through an alternative resolution. An alternative resolution is a resolution that is reached through a process and/or by a sanction or restriction not described in the Code. An alternative resolution concludes with a written agreement that confirms an agreement to resolve the allegations against the Respondent. To be valid, an alternative resolution agreement shall be signed by OSC and the Respondent, and shall include a waiver of the Respondent's right, if any, to have a hearing on the allegations. Prior to the execution of an alternative resolution agreement, if a Complainant has not participated with OSC in the discussion of an alternative resolution, then OSC will provide the Complainant with an opportunity to provide a timely objection to the proposed alternative resolution. In appropriate cases, OSC may request the Complainant to sign an alternative resolution agreement and determine that the alternative resolution agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an alternative resolution agreement after that party has signed the agreement. If an alternative resolution agreement is not reached, then the student conduct process will proceed, and the allegations against the Respondent will be resolved through one (1) of the other resolution methods in the Code.
- (b) **Informal Resolution.** In cases that include Title IX Allegations, at any time prior to reaching a determination regarding responsibility, OSC may facilitate an informal resolution process that does not involve a full investigation and adjudication. To facilitate an informal resolution, OSC will (a) provide to the parties a written notice disclosing the allegations and the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a Formal Complaint arising from the same allegations, and (b) obtain the parties' voluntary, written consent to the informal resolution process. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the student conduct process with respect to the Formal Complaint.
- (9) **Administrative Hearing Before Conduct Officer.** A Respondent has a right to resolve a disciplinary case through an administrative hearing with the Conduct Officer by accepting responsibility for violating the Standards of Conduct. Following the Respondent's written acceptance of responsibility and written waiver of the right to a hearing under the UAPA, if applicable, the Conduct Officer will assess a sanction that is appropriate under Chapter 1720-07-01-.11. Following the assessment of the sanction, the Respondent may acknowledge the acceptance of the sanction in writing or appeal the sanction to the Associate Vice Chancellor of Student Affairs in accordance with Chapter 1720-07-01-.10. A Respondent who resolves a disciplinary case through an administrative hearing with the Conduct Officer may only appeal the sanction to the Associate Vice Chancellor of Student Affairs. A Respondent may not revoke a written acceptance of responsibility or a written acceptance of sanctions.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.08 STUDENT CONDUCT BOARD HEARINGS.

- (1) **Notice of SCB Hearing.**
 - (a) **When a Notice of SCB Hearing Is Sent.** If the Respondent requests a SCB hearing in accordance with Section .07(7)(b), then OSC will send the Respondent and the Complainant a Notice of SCB Hearing at least seven (7) business days in advance of the date of the hearing.
 - (b) **Information in the Notice of SCB Hearing.** The Notice of SCB Hearing generally will contain, or be accompanied by, the following information: 1. the date, time, and place of the SCB hearing (OSC may reschedule the SCB hearing for good cause and issue a revised Notice of SCB hearing that contains a new date, time, and place of the SCB hearing); 2. a copy of the Notice of Allegations; 3. the sanction(s) that the Conduct Officer will request the SCB impose on the Respondent; 4. the names of all witnesses through whom the Conduct Officer

is likely to present information during the SCB hearing; 5. a notice of the right to the assistance and/or support of an Advisor during the SCB hearing; 6. a description of all tangible or electronic information that the Conduct Officer is likely to present to the SCB, such as an investigative report, police report, incident report, witness statements, video or audio recordings, photographs, text messages, or phone records; 7. notice of the right to request a copy of OSC's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and 8. notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.

- (c) **More than One Respondent.** In cases involving more than one (1) Respondent, SCB hearings concerning each Respondent's conduct may be conducted separately upon written request of a Respondent submitted at the time of the Respondent's request for a hearing. OSC has the discretion to make the final determination of whether to grant such a request and will notify the Respondents of the decision.
- (d) **Consequences of Failing to Attend a SCB Hearing.** If the Respondent fails to attend a SCB hearing, then the Respondent waives all rights to an SCB hearing. The SCB may: proceed with the SCB hearing without the Respondent's participation; hold the Respondent accountable for all decisions made in the Respondent's absence, including, without limitation, decisions concerning responsibility for alleged violations of the Standards of Conduct; and may determine that the Respondent's failure to attend the hearing constitutes a separate violation of the Standards of Conduct. If the SCB determines, in the Respondent's absence, that it is more likely than not that the Respondent violated the Standards of Conduct, then OSC may implement the sanctions imposed by the SCB and conclude the student conduct process.

(2) **Composition of the Student Conduct Board.**

- (a) **Eligible Pool.** The University shall appoint a pool of persons who are eligible to serve on a SCB. The University may appoint University students, University faculty members, or University staff employees; however, an employee who works in OSC is ineligible to serve on a SCB. Persons appointed by the University will be trained by OSC to serve on a SCB.
- (b) **Appointment of the SCB.** The SCB is an ad hoc board composed of three (3) members of the eligible pool and one (1) non-voting member of the eligible pool designated as the Chairperson. The SCB and the Chairperson are appointed by the Associate Vice Chancellor of Student Affairs.
- (c) **Fairness and Impartiality of SCB Members.** Any member of the SCB who determines that they cannot decide a case fairly and impartially for any reason (e.g., having a personal prejudice or bias) shall excuse themselves from serving on the SCB. The Complainant and the Respondent have the right to request the removal of any member of the SCB, including the Chairperson, on the grounds that the person cannot be fair and impartial in deciding the case. Any request for the removal of a member of the SCB must be made in writing to the Associate Vice Chancellor of Student Affairs at least three (3) business days in advance of the date of the hearing. If the Associate Vice Chancellor of Student Affairs decides that any member of the SCB cannot be fair and impartial, then the Associate Vice Chancellor of Student Affairs shall appoint a new member of the eligible pool.

(3) **General Rules Governing SCB hearings.**

- (a) **Required Pre-Hearing Information and Copies – Complainant and Respondent.**
 - 1. At least five (5) business days prior to the SCB hearing, the Complainant and the Respondent must provide the following to OSC in writing:
 - (i) The name of their advisor, if any, who will attend the SCB hearing;

- (ii) The names of all witnesses and a brief summary of the information that they reasonably anticipate that each witness will provide to the SCB; and
 - (iii) A copy of all tangible or electronic information that they plan to present to the SCB (including, but not limited to, witness statements, video or audio recordings, photographs, text messages, phone records, medical bills, diagrams). However, they are not required to provide copies of information that is not in a form that allows copying (e.g., weapon; piece of clothing), in which case they should describe the information in writing.
- 2. During the SCB hearing, the Complainant and the Respondent may present witnesses who were not identified in the Notice of SCB Hearing only if they comply with this Section .08(3)(a) (i.e., other witnesses not identified to OSC in writing at least five (5) business days prior to the SCB hearing will not be allowed). The Complainant and the Respondent are responsible for contacting witnesses who were not identified in the Notice of SCB Hearing, informing them about the date, time, and place of the SCB hearing, and securing their attendance at the SCB hearing.
- 3. During the sanctioning phase of the SCB hearing only, the parties may present statements that they want the SCB to consider in determining the appropriate sanction to impose on the Respondent if the SCB finds that the Respondent violated a Standard of Conduct. The Complainant's statement may include a description of the impact of the Respondent's conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigates the conduct. The Respondent may also present character statements during the sanctioning phase of the hearing only.
- (b) Pre-Hearing Review of Information. Individuals involved with the hearing are responsible for contacting OSC to arrange a time to review the information prior to the hearing if such review is desired and the information has not been made available electronically. No less than three (3) business days prior to the hearing, OSC will make copies of information submitted by the Complainant, the Respondent, and the Conduct Officer available for review by the Complainant, Respondent, their respective advisors, and members of the SCB. Those individuals will be notified by OSC when materials are available for review. OSC may make the information available electronically. In its sole discretion, OSC may redact irrelevant information prior to making information available.
- (c) Recording of the SCB Hearing. The University shall be responsible for making a verbatim record (e.g., digital or other recording) of a SCB hearing. Deliberations of the SCB shall not be recorded. The record of the SCB hearing shall be the property of the University. The Complainant and the Respondent may take notes during a SCB hearing, which shall be their own property, but neither the Complainant nor the Respondent may record the hearing using any other method of recording. However, the University will provide a copy of the verbatim record to the Complainant and the Respondent upon request.
- (d) Attendance and Participation. Attendance during an SCB hearing generally is limited to members of the SCB, the Conduct Officer, the Complainant and the Complainant's advisor, the Respondent and the Respondent's advisor, and witnesses. The Conduct Officer, the Complainant, the Respondent, advisors, and witnesses may not be present during the deliberations of the SCB. Witnesses may attend the SCB hearing only while they are presenting information to the SCB, unless the witness is the Complainant or the Respondent. The Chairperson and OSC have the discretion to allow other persons to attend the SCB hearing, in accordance with state and federal law. The Complainant and the Complainant's advisor may attend any part of the SCB hearing (excluding the deliberations of the SCB), but the Complainant and the Complainant's advisor shall be excused from the hearing room when the Respondent's education records or information obtained from the Respondent's education records are disclosed unless the information is also part of the Complainant's education records. However, the previous sentence shall not apply, and the Complainant and the Complainant's advisor shall have the right to attend the entire SCB hearing, in cases of sexual assault, dating violence, domestic violence, and stalking. The

Chairperson may accommodate concerns for the personal safety, well-being, and/or fears of confrontations of the Complainant, the Respondent, and/or witnesses by permitting attendance or participation by closed circuit television, video conferencing, or other appropriate means, as determined in the discretion of the Chairperson. However, the identity of all persons who present information to the SCB must be made known to the Respondent and the Complainant. The Respondent and the Complainant must be allowed to simultaneously see, hear, and otherwise access the communications of any party or witness who is attending or participating by closed circuit television, video conferencing, or other similar means.

(4) Procedural Rules for SCB Hearings.

- (a) Authority of the Chairperson. The Chairperson has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the SCB hearing.
- (b) Exclusion of Information. Upon the Chairperson's initiation or upon request by the Conduct Officer, the Complainant, the Respondent, or a member of the SCB, the Chairperson may exclude the following information from the SCB's consideration: 1. irrelevant information; 2. information that unreasonably repeats information already provided to the SCB; 3. information that was not provided in advance of the hearing in accordance with Section .08(3)(a), or information from witnesses who were not disclosed in advance of the hearing in accordance with Section .08(3)(a); 4. information that is protected from disclosure under federal or Tennessee law; and/or 5. information about a person's character or character trait, if the information is being presented to show that on a particular occasion the person acted in accordance with the character or character trait. Generally, in cases involving an allegation of sexual misconduct, neither the Complainant's nor the Respondent's prior sexual history is relevant to the issue of whether sexual misconduct occurred and will not be considered by the SCB. However, when the Respondent contends that the Complainant gave consent for a particular sexual act, the prior sexual history between the Complainant and the Respondent may be relevant to assess the manner and nature of communications between the parties, although the mere existence of a current or previous dating, romantic, intimate, or sexual relationship with the other person does not allow a Respondent to imply or infer consent. The Complainant's and the Respondent's prior sexual history may also be relevant in other limited circumstances, such as to show intent, motive, absence of mistake, or to explain an injury or physical finding.
- (c) Persons Who May Present Information. The only persons who may present information and/or witnesses during a SCB hearing are the Conduct Officer, the Complainant, and the Respondent. The Complainant and the Respondent are responsible for presenting their own information and/or witnesses, if any, to the SCB (an advisor shall not present information and/or witnesses to the SCB).
- (d) Formal Rules. Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in SCB hearings. The Chairperson shall decide all procedural questions that arise during a SCB hearing. The Chairperson may consult with OSC for assistance in resolving procedural questions fairly and in accordance with the Code.
- (e) Questioning of Witnesses. Witnesses will provide information to the SCB and answer questions from the Chairperson. The Chairperson may ask questions and/or submit a request for additional information to the Respondent, the Complainant, the Conduct Officer, and/or witnesses. The Conduct Officer, the Respondent and/or the Complainant shall not directly ask questions to each other or other witnesses. The Conduct Officer, the Respondent, the Complainant, and/or members of the SCB may propose questions for the Chairperson to ask witnesses by submitting the proposed questions to the Chairperson in writing during the hearing. The Chairperson has the discretion whether to ask a witness a question proposed by the Conduct Officer, the Respondent, the Complainant, and/or members of the SCB. The method of questioning witnesses outlined in this Section .08(4)(e) is used to preserve the educational tone of the SCB hearing and to avoid the creation of an adversarial environment.

- (f) **Closing Statements.** At the close of the SCB hearing, the Chairperson may allow the Conduct Officer, the Complainant, and the Respondent equal opportunities to make statements to the SCB summarizing the information presented to the SCB and/or advocating the decision that the SCB should reach.
 - (g) **Burden of Presenting Information Demonstrating Misconduct.** The Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Standard of Conduct, as alleged in the Notice of Allegations. Neither the Complainant nor the Respondent is required to present information or witnesses concerning the Respondent's alleged misconduct. The SCB shall not draw an inference adverse to the Conduct Officer, the Complainant, or the Respondent if the Complainant or the Respondent chooses not to present information or witnesses to the SCB.
- (5) **Notice of Decision of the Student Conduct Board.**
- (a) **Deliberation of the SCB.** After the Chairperson determines that all relevant information has been received by the SCB, the SCB will deliberate in private and decide, for each Standard of Conduct alleged in the Notice of Allegations to have been violated, whether it is more likely than not that the Respondent violated the Standards of Conduct. The SCB will decide by majority vote whether the Respondent violated the Standards of Conduct.
 - (b) **Basis of Decision.** The SCB shall base its decision solely on information presented during the SCB hearing. However, if the SCB requests that additional information be provided after the SCB hearing, the SCB may consider and base its decision on the additional information, as long as the Conduct Officer, the Respondent, and the Complainant have had a chance to review and respond to the additional information either in a resumption of the SCB hearing or in writing.
 - (c) **Determination of Sanction(s).** If the SCB decides that the Respondent violated the Standards of Conduct, then the SCB will decide the appropriate sanction(s) by majority vote. The Conduct Officer and the Complainant may advocate that the SCB impose a specific sanction(s), and the Respondent may respond. In deciding the appropriate sanctions for a Respondent's misconduct, the SCB may consider any statements provided by the Complainant and/or the Respondent as described in Section .08(3)(a)3. During the sanctioning phase, the SCB may also consider a statement provided by the Conduct Officer about the Respondent's conduct history.
 - (d) **Issuance of Notice of Decision.** Issuance of Notice of Decision. Within three (3) business days of the conclusion of the SCB hearing, the Chairperson shall issue a Notice of Decision and transmit a copy of the Notice of Decision to OSC. OSC shall notify the Respondent about the Notice of Decision and provide a copy of the Notice of Decision. If permitted or required under law, OSC shall notify the Complainant about the Notice of Decision (simultaneously with the notification to the Respondent) and provide a copy of the Notice of Decision to the Complainant.
 - (e) **Information in Notice of Decision.** The following information shall be included in the Notice of Decision: 1. for each Standard of Conduct identified in the Notice of Allegations, the SCB's decision concerning whether it is more likely than not that the Respondent violated the Standard of Conduct and the SCB's rationale for the decision concerning the alleged violation of the Standard of Conduct, including, without limitation, a brief summary of the information upon which the SCB relied in making its decision; 2. the sanction(s), if any, that the SCB has imposed on the Respondent; and 3. information about the Respondent's and the Complainant's options, if any, to appeal the decision of the SCB.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.09 TITLE IX HEARINGS.

- (1) **The Title IX Hearing.** Any case that includes Title IX Allegations that reaches the hearing stage will be resolved through a Title IX Hearing. The Title IX Hearing must be conducted in accordance

with 34 C.F.R. 106.45.

- (2) The Title IX Hearing Officer. The Associate Vice Chancellor of Student Affairs (or a designee) will appoint a qualified Title IX Hearing Officer to conduct the Title IX Hearing and will notify the parties and their Advisors, if any, of the appointment. The Title IX Hearing Officer may be a University employee, a team of University employees, an external person engaged to conduct the Title IX Hearing, or a team of external people engaged to conduct the Title IX Hearing. The appointed Title X Hearing Officer will comply with the training requirements of Title IX. A party may object to the appointment of any Title IX Hearing Officer, in writing to the Associate Vice Chancellor of Student Affairs. Any objection must be received within three (3) business days of the notice of appointment, and it must state the party's grounds for objecting. The Associate Vice Chancellor of Student Affairs will decide whether an objection is justified, and that decision is final. If a Title IX Hearing Officer is removed based on an objection, the Associate Vice Chancellor of Student Affairs will appoint a new qualified Title IX Hearing Officer to conduct the Title IX Hearing.

(3) Notice of Title IX Hearing.

- (a) When a Notice of Title IX Hearing is Sent. The Title IX Hearing Officer will send the Respondent and the Complainant a Notice of Title IX Hearing at least ten (10) business days in advance of the date of the hearing.
- (b) Information in the Notice of Title IX Hearing. The Notice of Title IX Hearing will contain, or be accompanied by, the following information: 1. the date, time, and place of the Title IX Hearing; 2. notice of the right to have an advisor of the party's choice, who may be, but is not required to be, an attorney, and that, if the party does not have an advisor present at the hearing, the University must provide an advisor of the University's choice, without fee or charge, to ask the other party and any witnesses all relevant questions and follow-up questions on behalf of that party; 3. notice that any cross-examination of any other party or witness must be conducted by the advisor, and never by a party personally; and 4. notice that all of the evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint will be available to the parties at the hearing. Other pre-hearing information may also be included in the Notice of Title IX Hearing. Any Title IX Hearing may be rescheduled by the Title IX Hearing Officer or upon request of any party and for good cause shown.
- (c) More than One Respondent. In cases involving more than one (1) Respondent, Title IX Hearings concerning each Respondent's conduct may be conducted separately upon written request of a party submitted at least seven (7) business days in advance of the hearing. OSC has the discretion to make the final determination of whether to grant such a request and will notify the parties of the decision.
- (d) Consequences of Failing to Attend a Title IX Hearing. If a party fails to attend a Title IX Hearing, the Title IX Hearing Officer may proceed with the Title IX Hearing without that party's participation.

(4) General Rules Governing Title IX Hearings.

- (a) The Title IX Hearing will take place no sooner than ten (10) business days after the parties' receipt of the written investigative report.
- (b) The Title IX Hearing Officer may conduct pre-hearing meetings or conferences with the parties and their advisors, if any, to discuss any pre-hearing issues, including but not limited to, the date of the hearing, the location of the hearing, any technology to be used at the hearing, the general rules governing the hearing, including any rules of decorum, the identification of witnesses, and the availability of evidence at the hearing.
- (c) Each party must notify the Title IX Hearing Officer at least five (5) business days before the hearing of the identity of the party's advisor, if any, or that the party does not have an advisor so that the University can provide an advisor.
- (d) At the request of either party, the University will provide for the hearing to occur with the parties located in separate rooms with technology enabling the Title IX Hearing Officer

and parties to simultaneously see and hear the party or the witness answering questions.

- (e) Upon request of a party, and for good cause shown, the Title IX Hearing Officer may permit the participation of witnesses who were not identified by the party to the investigator, or the inclusion of evidence at the Title IX Hearing that was not provided by the party to the investigator.

(5) Procedural Rules for Title IX Hearings.

- (a) Authority of the Title IX Hearing Officer. The Title IX Hearing Officer has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the Title IX Hearing. The Title IX Hearing Officer shall be the final decision maker concerning what, how, and in what order witnesses are questioned and evidence is examined.

- (b) Exclusion of Information.

1. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.
2. The University cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.
3. The University cannot require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

- (c) Preliminary Matters. The Title IX Hearing Officer shall begin the hearing by explaining the substance of the allegations and the specific University rule or policy allegedly violated.

- (d) Attendance and Participation. Attendance during a Title IX Hearing generally is limited to the Title IX Hearing Officer, a representative from OSC, the Complainant and the Complainant's advisor, the Respondent and the Respondent's advisor, and witnesses. Witnesses may attend the Title IX Hearing only while they are presenting information to the Title IX Hearing Officer, unless the witness is the Complainant or the Respondent. The Title IX Hearing Officer and OSC have the discretion to allow other persons to attend the Title IX Hearing, in accordance with state and federal law.

- (e) Opening Statements. The Complainant and then the Respondent may each make an opening statement to the Title IX Hearing Officer, and they may provide a written copy of their opening statements to the Title IX Hearing Officer at the hearing. The Title IX Hearing Officer will provide a copy of any written opening statement received to the other party.

- (f) Questioning the Witnesses. Following any opening statements, the Title IX Hearing Officer will question the Complainant, the Respondent, and any witnesses requested by the parties or deemed to have relevant information by the Title IX Hearing Officer. The Title IX Hearing Officer will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. Only relevant cross-

examination and other questions may be asked of a party or witness. Before the Complainant, the Respondent, or any witness answers a cross-examination or other question, the Title IX Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Title IX Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions. Alleged verbal conduct by a Respondent that constitutes any part of the Title IX Allegations at issue in the case may be considered by the Title IX Officer in reaching a determination regarding responsibility even if the Respondent does not submit to cross-examination during the Title IX Hearing.

- (g) Closing Statements. At the close of the Title IX Hearing, the Title IX Hearing Officer may allow the Complainant and the Respondent equal opportunities to make closing statements summarizing the information presented to the Title IX Hearing Officer and/or advocating the decision that the Title IX Hearing Officer should reach.
- (6) Recording of the Title IX Hearing. The University will create an audio or audiovisual recording or transcript of the hearing and make it available to the parties for inspection and review.
- (7) Notice of Decision of Title IX Hearing Officer. Within ten (10) business days of the hearing, the Title IX Hearing Officer must issue a written determination regarding responsibility ("Notice of Decision of Title IX Hearing Officer"). The written determination must include: 1. identification of the allegations potentially constituting Sexual Harassment; 2. a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held; 3. findings of fact supporting the determination; 4. conclusions regarding the application of the Code to the facts; 5. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions imposed on the Respondent, and whether remedies designed to restore or preserve equal access to the University's education program or activity will be provided by the University to the Complainant; and 6. the procedures and permissible bases for the Complainant and Respondent to appeal. If the Respondent is determined responsible, the Title IX Hearing Officer may consider relevant information provided at the hearing by the Complainant, the Respondent, or any other witness in deciding the appropriate sanction for the Respondent's misconduct.
- (8) Notice of Decision of Title IX Hearing Officer to OSC. The Title IX Hearing Officer shall transmit a copy of the Notice of Decision of Title IX Hearing Officer to OSC. OSC shall notify the Respondent and the Complainant about the written determination and provide a copy of it simultaneously to the parties.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.10 APPEALS.

- (1) A decision of the Student Conduct Board, a decision of the Title IX Hearing Officer, or a decision of the Conduct Officer concerning a sanction following an administrative hearing, may be appealed to the Associate Vice Chancellor of Student Affairs. Both Respondent and the Complainant (if any) may appeal a decision.
 - (a) The request for appeal shall be submitted in writing to the Associate Vice Chancellor of Student Affairs within five (5) business days of written notice of the decision being appealed. The request for appeal shall contain:
 - 1. A statement identifying the decision from which the student is appealing; and
 - 2. A brief statement of the grounds for the appeal.
 - (b) All appeals to the Associate Vice Chancellor of Student Affairs are heard based upon

the record made during the hearing, with the exception of an appeal based on new evidence in Section .10(d)2. below.

- (c) Pending the outcome of an appeal, the penalty specified in the decision on appeal shall not be imposed.
- (d) Grounds for Appeal. The grounds for the appeal shall be limited to one (1) or more of the following grounds:
 - 1. Procedural Error. A procedural irregularity affected the outcome of the matter.
 - 2. New Evidence. New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter.
 - 3. Conflict of Interest or Bias. The Conduct Officer or member of the Student Conduct Board, or in the case of a Title IX Hearing, Title IX Coordinator, the investigator(s), or the Title IX Hearing Officer, had a conflict of interest or bias that affected the outcome of the matter.
 - 4. Clearly Unreasonable Sanction. The sanction(s) imposed by the Conduct Officer, Student Conduct Board, or Title IX Hearing Officer is clearly unreasonable (i.e., has no sound basis or justification in reason).
- (e) Appeal Process. A Complainant or a Respondent may submit a written statement in support of or challenging a decision of the Student Conduct Board, a decision of the Title IX Hearing Officer, or a decision of the Conduct Officer concerning a sanction following an administrative hearing. The written statement must be received by the Associate Vice Chancellor of Student Affairs within five (5) business days of the date on which request for appeal was filed, or within five (5) business days of the date on which the non-appealing party received notice that the other party requested an appeal. Within five (5) business days of the receipt of the last written statement, the Associate Vice Chancellor of Student Affairs will issue a written decision describing the result of the appeal and the rationale for the result, which will be provided simultaneously to both parties.
- (f) The Associate Vice Chancellor of Student Affairs may:
 - 1. Affirm the decision;
 - 2. Amend the decision;
 - 3. Return the case to the Conduct Officer, Student Conduct Board, or Title IX Hearing Officer with instructions for reconsideration of the case; or
 - 4. Overturn the decision of the Conduct Officer, Student Conduct Board, or Title IX Hearing Officer.

- (2) The decision of the Associate Vice Chancellor of Student Affairs is final and not appealable.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-9-209(e).

1720-07-01-.11 SANCTIONS.

- (1) Disciplinary sanctions are primarily intended to educate students and student organizations about appropriate behavior, encourage students and student organizations to take responsibility for misconduct, promote the personal and professional development of students, discourage other students and student organizations from violating the Standards of Conduct, and protect members of the University community. The sanctions imposed should be appropriate for the

particular case based on the gravity of the offense (including without limitation how the violation affected or reasonably could have affected other members of the University community). Consideration may also be given to the student's or student organization's conduct record; the student's or student organization's responsiveness to the conduct process; whether the student acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; student academic classification; and other aggravating or mitigating factors.

- (2) The following sanctions may be imposed on any student found to have violated the Standards of Conduct:
- (a) **Warning.** A warning is a notice that the student has violated the Standards of Conduct, that the misconduct must cease and/or not reoccur, and that further misconduct will likely result in the imposition of more serious sanctions.
 - (b) **Loss of Privilege.** Specified student privileges are lost or restricted. Such privileges include, without limitation, representing the University in any official manner, the use of or access to University-controlled property, University parking privileges, or participation in University-affiliated activities (e.g., extracurricular activities).
 - (c) **Educational Activities.** Educational activities are designed to educate the student about why certain conduct was inappropriate. Examples of such activities include, without limitation, offering a formal apology (in writing and/or in person); attending an educational class, training, or workshop; giving or attending a presentation; preparing and submitting a research project or paper on a designated topic; or offering a written reflection responding to a prompt given by OSC. The student may be held responsible for the payment of reasonable expenses relating to the educational activity.
 - (d) **Restitution.** Restitution may be required in situations that involve destruction, damage, or loss of property, or unreimbursed medical expenses resulting from physical injury. Restitution may take the form of a monetary payment or appropriate service to repair or otherwise compensate for the destruction, damage, or loss.
 - (e) **Disciplinary Probation.** Disciplinary probation is imposed for a specified designated period of time during which the student may continue to be enrolled but must demonstrate conduct that conforms to the Standards of Conduct. Conditions may be placed on the student's continued enrollment. A student may be placed on disciplinary probation for moderate misconduct or in the case of repeated minor misconduct. Also, a student allowed to re-enroll following a suspension will be placed on disciplinary probation. Subsequent violations of the Standards of Conduct during a period of disciplinary probation may result in more serious sanctions such as suspension or expulsion from the University.
 - (f) **Suspension.** A suspension is an official separation of a student from the University for a specific designated period of time and/or until certain conditions are met. A suspension may be imposed for serious misconduct. Suspension may include conditions that must be satisfied prior to a student being allowed to re-enroll and/or conditions that will be in place if the student is allowed to re-enroll. The effective date of a suspension may be imposed retroactively to the date that the misconduct occurred. While suspended, the student loses all University rights and privileges (e.g., enrollment privileges), shall not represent the University in any official manner, and shall not be present on University-controlled property without the prior approval of the Associate Vice Chancellor of Student Affairs. The student may be required to meet with an assigned University staff member periodically while suspended to ensure the student is making satisfactory progress regarding the developmental sanctions issued. The Associate Vice Chancellor of Student Affairs will determine whether the student is eligible for consideration for re-enrollment by the University's admissions office(s). Prior to reenrollment, the student must satisfy the terms and conditions of all sanction(s) that are required to be completed prior to re-enrollment. Students who are permitted to return to the University following a period of suspension will automatically be placed on disciplinary probation for a designated period of time, which is designed to facilitate a smooth transition back to the University community. A student on post-suspension disciplinary probation must abide by the Standards of Conduct and all terms and conditions placed on the student's re-enrollment.

- (g) **Expulsion.** Expulsion is a sanction that permanently bars a person from re-enrolling as a student at the University. This sanction generally is imposed when the student's misconduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; and/or when, by the student's repeated misconduct, a student has exhibited a blatant disregard for the health, safety, or welfare of other members of the University community or the University's right to establish rules of conduct. A person who has been expelled shall not be present on University-controlled property without the prior approval of the Associate Vice Chancellor of Student Affairs.
 - (h) **Revocation of Degree.** The sanction of the revocation of a degree may be imposed if a student has obtained a degree at least in part through cheating, plagiarism, other academic dishonesty, or through research misconduct. Revocation of a degree shall be approved by the Chancellor before the revocation is effective. If approved by the Chancellor, this sanction will be noted on the student's academic transcript on a permanent basis
- (3) A disciplinary hold may be placed on a student's account until the completion of the student disciplinary process and/or until the student satisfies the terms and conditions of any sanctions imposed. A student who, at the time of commencement, is subject to a continuing disciplinary sanction or an unresolved disciplinary charge shall not be awarded a degree before the conclusion of all sanctions and/or resolution of all disciplinary charges.
 - (4) In addition to the sanctions in Section .11(2), the following sanctions may be imposed on a student organization found to have violated the Standards of Conduct:
 - (a) **Social Probation.** Social probation prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Associate Vice Chancellor of Student Affairs or his/her designee.
 - (b) **Disciplinary Probation.** Disciplinary probation means that a student organization is permitted to retain University registration on a probationary status. Violation of the Standards of Conduct during the period of disciplinary probation may result in more serious sanctions, including revocation of University registration.
 - (c) **Revocation or Suspension of University Registration.** In cases of serious or repeated misconduct, a student organization's University registration may be suspended or revoked.
 - (5) More than one (1) of the sanctions listed above may be imposed for any single violation of the Standards of Conduct.
 - (6) Voluntary intoxication or impairment because of alcohol, drugs, chemicals, or other substances does not diminish or excuse a violation of the Standards of Conduct.
 - (7) Except for interim restrictions, disciplinary sanctions shall not become effective until after opportunities for appeal have been exhausted. Sanctions may be applied retroactively to the date of the offense. Coursework performed while disciplinary charges are pending or disciplinary proceedings are underway shall be considered conditional. Coursework may be affected or disregarded based on a final finding of misconduct or the sanction imposed, which may result in loss of course credit, a loss of tuition and/or fees, a delay in the awarding of a degree, or revocation of a degree that was awarded prior to a final decision in the disciplinary proceeding.
 - (8) **Parental Notifications.** If a student accepts responsibility or is found responsible for violating a Standard of Conduct involving drugs or alcohol, and that student is under twenty-one (21) years of age, OSC shall inform the parent or legal guardian of that student of the violation, as required by state law. Typically, OSC fulfills the parental notification requirement by mailing written notification to the parent or legal guardian's address listed with the Office of the University

Registrar. OSC may also notify parents or legal guardians through other means when necessary or appropriate. Parental notification is not considered a disciplinary sanction.

Authority: T.C.A. §§ 4-5-101, *et seq.*
T.C.A. § 49-7-146
T.C.A. § 49-9-209(e).

1720-07-01-.12 HONOR STATEMENT.

- (1) Honor Statement. An essential feature of the University is a commitment to maintaining an atmosphere of intellectual integrity and academic honesty. As such the University utilizes an Honor Statement that reads, "As a student of the University, I pledge that I will neither knowingly give nor receive any inappropriate assistance in academic work, thus affirming my own personal commitment to honor and integrity." Each student is responsible for knowing and adhering to the terms and conditions of the Honor Statement.
- (2) Academic Dishonesty. The Honor Statement prohibits cheating, plagiarism, and any other type of academic dishonesty.
- (3) Plagiarism. Plagiarism is using the intellectual property or product of someone else without giving proper credit. The undocumented use of someone else's words or ideas in any medium of communication (unless such information is recognized as common knowledge) is a serious offense, subject to disciplinary action that may include failure in a course and/or dismissal from the University. Specific examples of plagiarism include, but are not limited to: (a) using without proper documentation (quotation marks and citation) written or spoken words, phrases, or sentences from any source; (b) summarizing without proper documentation (usually a citation) ideas from another source (unless such information is recognized as common knowledge); (c) borrowing facts, statistics, graphs, pictorial representations, or phrases without acknowledging the source (unless such information is recognized as common knowledge); (d) collaborating on a graded assignment without the instructor's approval; and (e) submitting work, either in whole or in part created by a professional service or used without attribution (e.g., paper, speech, bibliography, or photograph).

- (4) Examples of Other Types of Academic Dishonesty. Specific examples of other types of academic dishonesty include, but are not limited to: 1. providing or receiving unauthorized information during an examination or academic assignment, or the possession and/or use of unauthorized materials during an examination or academic assignment; 2. providing or receiving unauthorized assistance in connection with laboratory work, field work, scholarship, or another academic assignment; 3. falsifying, fabricating, or misrepresenting data, laboratory results, research results, citations, or other information in connection with an academic assignment; 4. serving as, or enlisting the assistance of, a substitute for a student in the taking of an examination or the performance of an academic assignment; 5. altering grades, answers, or marks in an effort to change the earned grade or credit; 6. submitting without authorization the same assignment for credit in more than one (1) course; 7. forging the signature of another or allowing forgery by another on any class or University-related document such as a class roll or drop/add sheet; 8. gaining an objectively unfair academic advantage by failing to observe the expressed procedures or instructions relating to an exam or academic assignment; and 9. engaging in an activity that unfairly places another student at a disadvantage, such as taking, hiding, or altering resource material, or manipulating a grading system.
- (5) Academic Dishonesty.
- (a) Notice of Academic Dishonesty and Informal Opportunity to Respond. When an act of alleged academic dishonesty, in violation of Section .04(1) is discovered by, or brought to the attention of, an instructor, the instructor shall notify the student about the alleged academic dishonesty, describe the information supporting the allegation, and give the student an informal opportunity to respond to the allegation(s) and information.
- (b) Referral By Academic Department to OSC. After the instructor provides the student with an informal opportunity to respond, and if the instructor still believes that an act of academic dishonesty has occurred, the instructor shall refer the incident to OSC. In referring the incident to OSC, the instructor shall include the academic penalty that the instructor plans to impose, if any. The referring instructor will not assign an academic penalty or a final grade for the course pending resolution of the allegation by OSC. If a grade must be submitted at the end of the grading period, the student will receive a temporary grade of "Not Reported" (NR) until the case is resolved. The instructor does not have the authority under the Code to impose a sanction identified in Rule 1720-07-01-.11.
- (c) Academic Penalties and Appeals of Academic Penalties. If, at the conclusion of the student conduct process, OSC determines that a student is not responsible for violating Section .04(1) of this Chapter, the instructor shall not impose any academic penalty. If OSC determines that a student is responsible for violating Section .04(1) of this Chapter, the instructor may impose an academic penalty, in addition to any sanctions imposed by OSC under Section .11(2) of this Chapter. Academic penalties may include, without limitation, dismissal from a program of study; a failing or reduced grade in the academic exercise, assignment, examination, and/or course; loss of credit for the work involved; an assignment to repeat the work, to be graded on its merits; and/or a warning. An instructor may impose more than one (1) academic penalty. A student may appeal an academic penalty, as distinct from a student disciplinary sanction, through the appropriate institutional academic misconduct or grade appeal procedures.
- (6) Academic Dishonesty – Resolution through the Student Conduct Process. After receiving any conduct referral for academic dishonesty, OSC will proceed with the student conduct process. OSC may issue a Notice of Allegations for violating Section .04(1) of this Chapter regardless of the response of the instructor to the alleged academic dishonesty. If OSC issues a finding of responsibility and Notice of Sanctions for a violation of Section .04(1) of this Chapter, then the allegations shall be resolved through one of the hearing processes pursuant to Section .07(7) of the Code.

Authority: T.C.A. §§ 4-5-101, et seq.
T.C.A. § 49-9-209(e).

1720-07-01-.13 AMNESTY FOR INDIVIDUAL GOOD SAMARITANS AND STUDENTS IN NEED OF EMERGENCY MEDICAL ATTENTION.

- (1) **Background.** The University of Tennessee holds paramount the health, safety, and welfare of students. Accordingly, all University students are expected to alert appropriate officials in the event of a health, safety, or welfare emergency, including, without limitation, a situation involving the abuse of alcohol or other drugs.
- (2) **Expectations.** When individual students know or reasonably should have known that other individual students are in need of emergency medical attention, the individual students are expected to: 1. contact appropriate people to report the incident and request assistance (e.g., University staff members, law enforcement), and provide those people with the names and contact information for the individual students reporting the incident and the impaired individual students; and 2. demonstrate cooperation and care by remaining with the impaired individual students and providing reasonable assistance during and after the incident. Individual students who take all of the steps described in this Section .13(2) will be referred to as a "Good Samaritan" under the Code. The individual students in need of emergency medical attention will be referred to as an "individual impaired student" under the Code.
- (3) **Amnesty for Individual Good Samaritans.** Unless individual Good Samaritans have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual Good Samaritans will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, the individual student who acted as a Good Samaritan may be required to meet with a University staff member to discuss the individual Good Samaritan's misconduct and adhere to appropriate remedial and/or educational recommendations.
- (4) **Amnesty for Individual Impaired Students.** Unless individual impaired students have engaged in a repeated or serious violation of the Standards of Conduct (e.g., physical or sexual assault, property destruction, disorderly behavior, theft, second incident of misconduct involving alcohol or drugs), individual impaired students will not be subject to formal University disciplinary action for misconduct discovered by the University as a result of the Good Samaritan's report. While no formal University disciplinary action may be taken, the individual impaired students may be required to meet with a University staff member, participate in educational activities, and/or establish that the individual students have addressed issues that contributed to the misconduct.
- (5) **Application of Amnesty to Student Organizations.** Student organizations, through their officers and members, are also expected to take responsible action in emergency situations. While this Section .13 may not fully apply to a student organization, adherence to steps described in Section .13(2) by a student organization's officers and/or members will be considered a mitigating factor when determining the outcome or sanction. Additionally, the University will consider a failure of officers and/or members to adhere to steps described in Section .13(2) to be an aggravating factor when determining the outcome or sanction.

Authority: T.C.A. §§ 4-5-101, et seq.
T.C.A. § 49-9-209(e).

1720-07-01-.14 EMERGENCY POWERS. When, in the judgment of the University's Chancellor, conditions are such that an emergency exists which makes it impossible for the Student Conduct Board to function, the Chancellor may suspend these procedural regulations and appoint an ad hoc committee to hear a conduct matter. Any such ad hoc committee shall follow procedures that will insure that the Respondent is provided with due process. The final decision of the ad hoc committee may be appealed to the Associate Vice Chancellor of Student Affairs, but the grounds for appeal are limited to those outlined in Section .10(1)(d).

Authority: T.C.A. §§ 4-5-101, et seq.
T.C.A. § 49-9-209(e).

* 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)
John Compton	X				
Brad Box	X				
Lane Gutridge (non-voting)					
Commissioner Charles Hatcher				X	
Decosta Jenkins	X				
Shanea McKinney	X				
Amy Miles	X				
Chris Patterson	X				
William Rhodes, III	X				
Donnie Smith	X				
David Watson	X				
Jamie Woodson				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the University of Tennessee Board of Trustees (board/commission/other authority) on 06/24/2022 (mm/dd/yyyy), 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: 02/17/2022

Rulemaking Hearing(s) Conducted on: (add more dates). 04/19/2022

Date: 09/27/2022

Signature: C. Ryan Stinnett


Name of Officer: C. Ryan Stinnett

Title of Officer: General Counsel

Agency/Board/Commission: University of Tennessee

Rule Chapter Number(s): 1720-07-01

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.


Jonathan Skrmetti
Attorney General and Reporter
August 14, 2023
Date

Department of State Use Only

Filed with the Department of State on: 8/21/2023

Effective on: 11/19/2023

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Division of Publications



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.

The University received no public comments on 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 University of Tennessee anticipates that this rule will have minimal to no impact on small business.

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."

The University of Tennessee anticipates that this rule will have minimal to no 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 is the new student code of conduct for the University of Tennessee Southern. Among other topics, the rule addresses the following: the types of student misconduct that are prohibited; guidelines for no-contact directives and interim restrictions when allegations of misconduct occur; student rights and pre-hearing procedures, including applicable burdens and standards of proof and a student's right to have an advisor; the investigation process that is conducted by the Office of Student Conduct, including how a notice of allegations and notice of sanctions are provided to the respondent and the multiple hearing options and alternative and informative resolutions available to the parties; the process for hearings before a conduct officer and a student conduct board; the process for Title IX hearings involving students; the process for appealing a decision of a conduct officer, the student conduct board, or the Title IX officer to the Associate Vice Chancellor of Student Affairs; the disciplinary sanctions that may be imposed for violations of the Student Code; the UT Southern "Honor Statement," which prohibits cheating, plagiarism, and any other type of academic dishonesty; and amnesty for individual good Samaritans and students in need of emergency medical attention.

- (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;

Tenn. Code Ann. § 4-5-102 and §§ 4-5-201 *et seq.*

- (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 University of Tennessee Southern and its students are most directly affected by this rule. The University's Board of Trustees urges adoption of the 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;

None

- (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;

C. Ryan Stinnett
General Counsel
University of Tennessee
505 Summer Place
Knoxville, TN 37902
865-974-3245

ryanstinnett@tennessee.edu

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

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- (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

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

None