

Proposed Rules  
of  
The Tennessee Board of Regents  
State University and Community College System of Tennessee  
Austin Peay State University

Chapter 0240-03-01  
Student Disciplinary Rules

Presented herein are proposed rules and repeals of the Tennessee Board of Regents submitted pursuant to Tennessee Code Annotated § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Board of Regents to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules and repeals are published. Such petition to be effective must be filed in Suite 350 of the Genesco Park Building located at 1415 Murfreesboro Road, Nashville, TN 37217 and in the Department of State, Eighth Floor, Tennessee Tower, William R. Snodgrass Building, 312 Eighth Avenue, North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Mary M. Slater, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217, Tennessee Board of Regents, 615-366-4437.

The text of the proposed rule is as follows:

New Rule

0240-03-01-.06      Smoking/Clean Air Policy Enforcement

- (1) A student found smoking in an unauthorized area can be charged with violating 2.(q) of the APSU Code of Student Conduct, which states: "Violation of general rules and regulations. Any violation of the general rules and regulations of the University published in an official University publication, including the intentional failure to perform any required action or the intentional performance of prohibited actions."
  - (a) Enforcement of this policy will be provided primarily by Public Safety with assistance from University officials.
  - (b) A student may be charged even if he/she extinguishes the cigarette/cigar/pipe - seeing the student smoking in an unauthorized area is sufficient.
  - (c) Students seen smoking in non-designated areas will be required to produce their APSU Gov's Card upon request.
    1. If the student does not have the Card on his/her person, he/she will be asked for an alternative picture ID. Student may be

charged with 2.(n) of the APSU Code of Student Conduct, which states: "Misuse of Austin Peay State University documents of identification. Any. .failure to carry the APSU ID card at all times or to show it upon proper request."

2. If the student refuses to produce their APSU Gov's Card and/or another form of picture ID, then he/she may additionally be charged with 2.(p) of the APSU Code of Student Conduct which states: "Failure to cooperate with University officials: Failure to comply with directions of University officials in the performance of their duties."
  3. A student on APSU property, without any identification, may be detained by Campus Police and/or denied access to the campus.
- (d) Students who are verbally abusive or threatening toward any person attempting to enforce the policy may be charged with additional violations such as 2.(c) of the APSU Code of Student Conduct, Harassment, and/or 2. (d) of the APSU Code of Student Conduct, disorderly conduct.
  - (e) Public Safety will issue a citation to the student for violation of the policy. The citation will contain information regarding the possible penalties and disciplinary process.
  - (f) A campus official or student observing the violation should complete a Disciplinary Complaint Form in the Central Student Affairs Office. This will result in a citation being issued to the student accused of violating the policy.
  - (g) Students will be cited for violation of the policy and fined as provided for in the Code under disciplinary sanction 2.(n): "Fines. Penalties in the form of fines may be enforced against a student . . . whenever the appropriate hearing officer(s) or hearing body deems necessary. The sanction of fines may be imposed in addition to other disciplinary sanctions. Failure to pay fines to the Business Office within two weeks of the decision will result in further disciplinary action." If the student pays the fine, then there is an inherent assumption that the student is pleading guilty, and the hearing officer, as the chief judicial officer, is imposing the sanction.
  - (h) There will be graduated fines automatically imposed for violation of the policy:
    1. First Offense - \$25.00;
    2. Second Offense - \$50.00; and
    3. Third Offense or more - \$100.00 and referral for Formal Disciplinary Charges.
  - (i) A faculty or staff member found in violation of the policy will be subject to employee disciplinary procedures.
  - (j) Non-students violating the Smoking/Clean Air Policy may be charged with trespassing.

(2) Appeal Process.

- (a) Upon receipt of a citation, a student has three (3) class days to submit a written appeal. Appeals submitted after three (3) days will not be considered.
- (b) The appeal form can be obtained from the Central Student Affairs Office or can be completed online.
- (c) The issuing official will be afforded the opportunity to comment on appeals before being presented to the appeal authority.
- (d) In addition to the Student Tribunal's authority to adjudicate traffic and parking violations, the Student Tribunal also shall hear and decide all cases involving the appeal of smoking violation citations by students. The Tribunal will consist of a minimum of three (3) members and decide by majority vote.
- (e) The Tribunal will meet, at a minimum, every two (2) weeks and report findings in writing to the student, the chief judicial officer and the Business Office.

Authority: T.C.A. § 49-8-203.

Chapter 0240-03-01-.06 Repealed and replaced with new rule.

The proposed rules set out herein were properly filed in the Department of State on the 20th day of September, 2007, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of January, 2008. (FS 09-10-07; DBID 2679)