

Proposed Rules  
of  
The Tennessee Board of Regents  
State University and Community College System of Tennessee  
Systemwide Student Rules

Chapter 0240-02-03  
Student Conduct and Disciplinary Sanctions

Presented herein are proposed amendments 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 amendments 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 rule, 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 amendments is as follows:

Amendments

Rule 0240-02-03-.01 Institution Policy Statement is amended by adding a new paragraph (3) so that as amended the paragraph shall read:

(3) For the purpose of these regulations, a "student" shall mean any person who is registered for study at a State Board of Regents institution for any academic period. A person shall be considered a student during any period which follows the end of an academic period which the student has completed until the last day for registration for the next succeeding regular academic period, and during any period while the student is under suspension from the institution.

Authority: T.C.A.. § 49-8-203.

Subparagraph (a) of paragraph (2) of Rule 0240-02-03.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting the following language so that as amended the subparagraph shall read:

(a) Conduct Dangerous to Self or Others. Any conduct which constitutes a danger to any person's health, safety, or personal well being, including, but not limited to, the following:

1. Physical and/or verbal abuse
2. Threats and/or intimidation
3. Harassment of any kind
4. Harm inflicted on self;

Subparagraph (h) of paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting the following language so that as amended the subparagraph shall read:

(h) Firearms and Other Dangerous Weapons. Any possession of or use of firearms or dangerous weapons of any kind including BB guns, Pellet guns, Paintball guns, water guns, cap guns, or other weapons that simulate a firearm;

Subparagraph (k) of paragraph (2) of rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a sentence at the end of the subparagraph so that as amended the subparagraph shall read:

(k) Drugs. The unlawful possession or use of any drug or controlled substance (including any stimulant, depressant, narcotic or hallucinogenic drug, substance or marijuana), sale or distribution of any such drug or controlled substance. This offense includes the violation of any local ordinance or controlled property where an affiliated group or organization has drugs or controlled substances present and available for consumption;

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (l) and relettering the subsequent subparagraphs so that as amended the subparagraph shall read:

(l) Drug Paraphernalia. The use or possession of equipment, products or materials which is used or intended for use in manufacturing, growing, using or distributing any drug or controlled substance;

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (m) and relettering the subsequent subparagraphs so that as amended the subparagraph shall read:

(m) Public Intoxication. Appearing on institution owned or controlled property or at an institutional sponsored event while under the influence of a controlled substance or of any other intoxicating substance;

Subparagraph (p) (formerly (n)) of paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding additional language to the end of the subparagraph so that as amended the subparagraph shall read:

(p) Unacceptable Conduct in Hearings. Any conduct at any institution or school hearing involving contemptuous, disrespectful or disorderly behavior, giving false testimony or other evidence at any hearing, any attempt to influence the impartiality of a member of a judicial body, verbal or physical harassment or intimidation of a judicial board member, complainant, respondent or witness in a judicial proceeding;

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (s) and relettering the subsequent subparagraphs so that as amended the subparagraph shall read:

(s) Attempts and Aiding and Abetting the Commission of Offenses. Any attempt to commit any of the offenses listed under this section, or the aiding or abetting of the commission of any of the offenses listed under this section (an attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission). Being present during the planning or commission of any offense listed under this section

will be considered as aiding and abetting. Students who anticipate or observe an offense should remove themselves from the situation and are encouraged to report the offense.

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (z) so that as amended the subparagraph shall read:

(z) Academic Misconduct. Plagiarism, cheating, fabrication or facilitating any such act. For purposes of this section, the following definitions apply:

1. Plagiarism. The adoption or reproduction of ideas, words, statements, images, or works of another person as one's own without proper acknowledgment.
2. Cheating. Using or attempting to use unauthorized materials, information, or student aids in any academic exercise. The term academic exercise includes all forms of work submitted for credit or hours.
3. Fabrication. Unauthorized falsification or invention of any information or citation in an academic exercise.
4. Facilitation. Helping or attempting to help another to violate a provision of the institutional code of academic misconduct;

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (aa) so that as amended the subparagraph shall read:

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

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (bb) so that as amended the subparagraph shall read:

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

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (cc) so that as amended the subparagraph shall read:

(cc) Pornography. Public display of literature, films, pictures or other materials which an average person applying contemporary community standards would find, (1) taken as a whole, appeals to the prurient interest, (2) depicts or describes sexual conduct in a patently offensive way, and (3) taken as a whole, lacks serious literary, artistic, political or scientific value;

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (dd) so that as amended the subparagraph shall read:

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

1. Use of another person's identification to gain access to institutional computer resources;
2. Use of institutional computer resources and facilities to violate copyright laws, including, but not limited to, the act of unauthorized distribution of copyrighted materials using institutional information technology systems;

3. Unauthorized access to a computer or network file, including but not limited to, altering, using, reading, copying, or deleting the file;
4. Unauthorized transfer of a computer or network file;
5. Use of computing resources and facilities to send abusive or obscene correspondence;
6. Use of computing resources and facilities in a manner that interferes with normal operation of the institutional computing system;
7. Use of computing resources and facilities to interfere with the work of another student, faculty member, or institutional official;
8. Violation of any published information technology resources policy;
9. Unauthorized peer to peer file sharing:

Students are hereby notified that engaging in acts of unauthorized copying, performance and distribution of copyrighted material, including but not limited to, unauthorized peer to peer file sharing, may subject them to civil and criminal penalties in addition to institutional disciplinary sanctions. The law provides that infringers can be imprisoned and subjected to criminal fines in cases where there has been a willful infringement. The potential civil penalties as set forth in the federal copyright law for violations of the copyright laws include, but are not limited to, imposition of an award of statutory damages for all infringements involved in the action, with respect to any one (1) work in a sum of not less than seven hundred fifty dollars (\$750.00) or more than thirty thousand dollars (\$30,000.00) as the court considers just and if the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than one hundred fifty thousand dollars (\$150,000.00). In addition, the court can also impose injunctive relief against the infringer to prevent or restrain infringement of a copyright and require forfeiture, impoundment, or destruction of the infringing articles / material in the possession of the infringer and require payment of actual damages and disgorgement of any profit; as well as payment of costs and attorney's fees;

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (ee) so that as amended the subparagraph shall read:

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

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (ff) so that as amended the subparagraph shall read:

(ff) Providing False Information to an Institutional Official. Giving any false information to any identifiable institutional official acting in the performance of his/her duties, or withholding of

necessary information, in connection with a student's admission, enrollment, or status in the institution;

Paragraph (2) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by adding a new subparagraph (gg) so that as amended the subparagraph shall read:

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

Paragraph (3) of Rule 0240-02-03-.02 Disciplinary Offenses is amended by deleting the text of the paragraph and substituting the following language so that as amended the paragraph shall read:

(3) Disciplinary action may be taken against a student for violations of the foregoing regulations which occur at or in association with enrollment at an institution or school governed by the State Board of Regents for any academic period. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree even when the conduct occurs prior to the beginning of classes and in between semesters. This includes conduct that is discovered after the awarding of a degree. Should a student choose to withdraw from the institution with disciplinary action or academic misconduct action pending, the student's record may be encumbered by the appropriate institutional office.

Authority: T.C.A.. § 49-8-203.

Subparagraph (a) of paragraph (2) of Rule 0240-02-03-.04 Disciplinary Sanctions is amended by deleting the text of the subparagraph and substituting the following language so that as amended the subparagraph shall read:

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

Subparagraph (c) of paragraph (2) of Rule 0240-02-03-.04 Disciplinary Sanctions is amended by adding the word "Written" at the beginning of the paragraph so that as amended the subparagraph shall read:

(c) Written Reprimand. A written reprimand or censure may be given to any student or organization whose conduct violates any part of these regulations. Such a reprimand does not restrict the student in any way, but does have important consequences. It signifies to the student that he or she is in effect being given another chance to conduct himself or herself as a proper member of the institution/school community, but that any further violation may result in more serious penalties.

Subparagraph (k) of paragraph (2) of Rule 0240-02-03-.04 Disciplinary Sanctions is amended by deleting the text of the subparagraph and substituting the following language so that as amended the subparagraph shall read:

(k) Service to the Institution. A student may be required to donate a specified number of service hours to the institution, by way of performing reasonable tasks for the appropriate institution office or officials. The service shall be commensurate to the offense the student is guilty of violating (e.g., service for maintenance staff for defacing institutional property).

Authority: T.C.A.. § 49-8-203.

The proposed rules set out herein were properly filed in the Department of State on the 12th day of November, 2008, 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 30th day of March, 2009. (FS 11-06-08; DBID 3611)