

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

Chapter 0240-03-02
Student Disciplinary Rules

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

Paragraph (2) of Rule 0240-03-01-.03 Academic and Classroom Misconduct is amended by adding a sentence to the end of the paragraph so that as amended the paragraph shall read:

(2) Plagiarism, cheating, and other forms of academic dishonesty are prohibited. Students guilty of academic misconduct, either directly or indirectly through participation or assistance, are immediately responsible to the instructor of the class. In addition to other possible disciplinary sanctions which may be imposed through the University's academic misconduct policy as a result of academic misconduct, the instructor has the authority to assign an "F" or a zero ("0") for the exercise or examination, or to assign an "F" in the course. The Dean of Libraries will make available a librarian who is familiar with using free and fee-based technologies to detect plagiarism to teach workshops on the subject through the Teaching and Learning Center or other appropriate venues.

Authority: T.C.A. § 49-8-203.

Paragraph (1) of Rule 0240-03-02-.04 Disciplinary Sanctions is amended by deleting the text of the paragraph and substituting the following language so that as amended the paragraph shall read:

(1) Upon a determination that a student or organization has violated any of the rules, regulations or disciplinary offenses set forth in these regulations, the following disciplinary sanctions may be imposed, either singly or in combination, by the appropriate institutional officials.

Subparagraph (g) of paragraph (2) of Rule 0240-03-02-.04 Disciplinary Sanctions is amended by adding the word 'The' to the beginning of the last sentence so that as amended the subparagraph shall read:

- (g) Constructive or Educational Project. A project beneficial to the individual, campus, and/or community may be required. The project will be related to the offense the student is guilty of violating.

Subparagraph (m) of paragraph (2) of Rule 0240-03-02-.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:

(m) Interim or Summary Suspension. Though as a general rule, the status of a student accused of violations of these regulations should not be altered until a final determination has been made in regard to the charges against him, summary suspension may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused or of any other member of the institution, community or its guest, destruction of property, or substantial disruption of classroom or other campus activities. An interim suspension may be invoked only by the president or his designee, the Provost/Vice President for Academic Affairs, or the Vice Provost and Chief Student Affairs Officer in consultation with other University officials. In any case of immediate suspension, the student shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension, and if there are disputed issues of fact or cause and effect, the student shall be provided a hearing on the suspension as soon as practicable.

Authority: T.C.A. § 49-8-203.

Subpart (i) of part 2. of subparagraph (a) of paragraph (2) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the subpart and substituting the following language so that as amended the subpart shall read:

(i) The Director of Housing, Assistant Director of Housing, Area Coordinator or Apartment Managers, where the alleged violation is of the regulations of the Residence Hall Association (RHA).

Subpart (iii) of part 2. of subparagraph (a) of paragraph (2) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the subpart and substituting the following language so that as amended the subpart shall read:

(iii) The Associate Vice President and Dean of Students, where the alleged violation is of University regulations other than those of the RHA, the IFC or the PCs.

Part 6. of subparagraph (a) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

6. The Associate Vice President and Dean of Students or his/her designee, is authorized to hear under the Institutional Administrative Procedures all cases of alleged misconduct of students from April 15 through September 15 of each year if judicial board are not functioning.

Subpart (iii) of part 1. of subparagraph (b) of paragraph (2) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the subpart and substituting the following language so that as amended the subpart shall read:

(iii) The Associate Vice President and Dean of Students where the alleged violation is of University regulations other than those of the RHA, the IFC or the PCs.

Part 4. of subparagraph (b) of paragraph (2) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

4. The Hearing Officer has the authority to impose the same disciplinary sanction as a judicial board would have under section (3)(d) below up to, but not including suspension or expulsion.

Subparts (i) and (ii) of part 5. of subparagraph (b) of paragraph (2) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the subparts and substituting the following language so that as amended the subparts shall read:

(i) Cases heard by the Director of Housing or the Director of Student Activities may be appealed to the Associate vice President and Dean of Students.

(ii) Cases heard by the Associate Vice President and Dean of Students may be appealed to the Vice Provost and the Chief Student Affairs Officer.

Part 1. of subparagraph (d) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

1. The University Judicial Committee shall be composed of the Associate Vice President and Dean of Students, President of the Student Government Association (SGA), Chief Justice of SGA, an Associate Justice shall be selected by the SGA to hear cases on appeal from the Student Court.

Part 1. of subparagraph (d) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedures is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

1. The University Judicial Committee shall exercise the highest judicial authority on campus, next to that of the Vice Provost and Chief Student Affairs Officer and the University President or his designee. This committee's authority shall include the right to suspend or expel a student. The University President reserves the right to uphold or reverse any decision made by any judicial body.

Part 1. of subparagraph (e) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

1. Any member of the University community may file a complaint against and student for misconduct. Complaints shall be prepared in writing and directed to the Associate Vice President and Dean of Students. A complaint should be submitted as soon as possible after the event takes place, preferably within ten (10) days of the alleged misconduct.

Subparagraph (i) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the subparagraph and substituting the following language so that as amended the subparagraph shall read:

(i) Violations of official University regulations other than regulations of the RHA, the IFC or the PCs shall be reported directly to the Associate Vice President and Dean of Students, who shall either direct that the case be reviewed under the Institutional Administrative Procedures or referred to the appropriate judicial board.

Subparagraph (iii) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the subparagraph and substituting the following language so that as amended the subparagraph shall read:

(iii) Violations of the Student Government Constitution or Code of Laws shall be reported to the Student Government Vice President, who shall refer the case to the Associate Vice President and Dean of Students. The Associate Vice President and Dean of Students shall direct that the case be heard by the Student Court.

Part 2. of subparagraph (e) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

2. All judicial decisions must be reported in writing to the Associate Vice President and Dean of Students within two (2) class days from such time as the decision has been reached.

Part 5. of subparagraph (e) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

5. All official correspondence concerning the decision of a judicial board, court, or committee shall be executed by the Associate Vice President and Dean of Students or his/her designated representative except in cases involving interpretation of the Student government Constitution or Code of Laws. The Chief Justice of the Student Court shall make a written report of the decision and the circumstances surrounding it, taking care to exclude any information of a personal nature, to the Secretary of Legislative Affairs.

Part 7. of subparagraph (e) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

7. All subsequent hearings concerning readmission of students or reinstatement of organizational charters shall be initiated through the Associate Vice President and Dean of Students or his/her designated representative.

Subparts (i) and (ii) (excluding items (I) - (IV)) of part 1. of subparagraph (f) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure are amended by deleting the text of the subparts and substituting the following language so that as amended the subparts shall read:

(i) The University Judicial Committee shall hear those cases involving a student who is accused of violating general University regulations and who, if found guilty, may be subjected to suspension or expulsion from the institution, and other cases deemed appropriate the Associate Vice President and Dean of Students.

(ii) The Student Court shall have original jurisdiction in those cases involving alleged violations of general University regulations which do not warrant suspension or expulsion. The Student Court shall also hear those cases involving alleged violations of the Student Government Constitution or Code of Laws, and any other cases deemed appropriate by the Associate Vice President and Dean of Students.

Subpart (i) of part 3. of subparagraph (g) of paragraph (3) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the subpart and substituting the following language so that as amended the subpart shall read:

(i) If the accused desires to appeal, a statement of reasons for appealing must be forwarded to the Associate Vice President and Dean of Students. This statement must be filed by the accused within three (3) days following receipt of a copy of the decision being appealed.

Part 7. of subparagraph (b) of paragraph (4) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

7. The university, the accused and the judicial body shall have the privilege of presenting witnesses, subject to the right of questioning by the judicial body.

Subpart (iii) of part 10. of subparagraph (b) of paragraph (4) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the subpart and substituting the following language so that as amended the subpart shall read:

(iii) Presentation of evidence by the University and questions by the student charged and/or the hearing body.

Part 10. of subparagraph (b) of paragraph (4) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by adding new subparts (iv) and (v) so that as amended the subparts shall read:

(iv) Presentation of evidence by the student charged and questions by the University and/or the hearing body, and

(v) Closing statement by both parties.

Part 15. of subparagraph (b) of paragraph (4) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

15. Any question of interpretation regarding the Student Code of Conduct shall be referred to the Vice Provost and Chief Student Affairs Officer or the Associate Vice President and Dean of Students for final determination.

Part 2. of subparagraph (c) of paragraph (4) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

2. If a change is filed with the appropriate judicial official, it is important to remember that the accused student is being charged with violating a University rule or regulation. Although a victim's input may be sought during the disciplinary process, the ultimate disposition of the case rests with the University. If a victim withdraws his or her charge during the course of the disciplinary proceeding, the University reserves the right to proceed with the case on the basis of evidence other than the testimony of the victim.

Part 1. of subparagraph (g) of paragraph (4) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the part and substituting the following language so that as amended the part shall read:

1. All student organizational functions involving the serving or consumption of alcohol shall be registered with the Student Organization Resource Center at least five (5) days prior to the date of the function (see Procedures for Student Organization Events with Alcohol -- available in the Student Organization Resource Center). When functions are to take place in University owned, leased or controlled property, policies concerning use of that property should be consulted and must be complied with.

Subparagraph (i) of paragraph (4) of Rule 0240-03-02-.05 Disciplinary Procedure is amended by deleting the text of the subparagraph and substituting the following language so that as amended the subparagraph shall read:

(i) Student Organization Sanctions. Any registered student organization may be subject to the following disciplinary sanctions, as listed here and defined in Section 0240-03-02-.04 Disciplinary Sanctions: warning, reprimand, restitution, community service, constructive or educational project, restriction, probation, suspension of registration, withdrawal of registration. The sanctions may be imposed wither singly or in combination, and such action will be taken only pursuant to disciplinary procedures established by these rules.

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 11-10-10; DBID 3634)