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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	University of Tennessee
Division:	
Contact Person:	Matthew Scoggins, Deputy General Counsel
Address:	719 Andy Holt Tower, 1331 Circle Park Drive, Knoxville, TN 37996-0170
Phone:	865-974-3245
Email:	scoggins@tennessee.edu

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Lisa Hertz Smith
Address:	719 Andy Holt Tower, 1331 Circle Park Drive, Knoxville, TN 37996-0170
Phone:	865-974-3245
Email:	lhsmith@tennessee.edu

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Hollingsworth Auditorium		
Address 2:	2421 Joe Johnson Drive		
City:	Knoxville, TN		
Zip:			
Hearing Date :	10/13/16		
Hearing Time:	8:30 a.m.	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT

Additional Hearing Information:

Oral and written comments on the proposed rulemaking will be received at the public hearing on Thursday, October 13, 2016 at 8:30 a.m. EDT. In addition, interested parties may submit written comments on or before October 13, 2016, by mail or email to the following person:

Matthew Scoggins, Deputy General Counsel
 University of Tennessee
 719 Andy Holt Tower, 1331 Circle Park Drive
 Knoxville, TN 37996-0170
 865-974-3245
 scoggins@tennessee.edu

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1720-04-03	Student Code of Conduct
Rule Number	Rule Title
1720-04-03-.01	Preamble
1720-04-03-.02	Jurisdiction
1720-04-03-.03	Relationship Between the Code and Criminal Law
1720-04-03-.04	Standards of Conduct
1720-04-03-.05	Fundamental Rights
1720-04-03-.06	Student Conduct Process: Initial Stages
1720-04-03-.07	Student Conduct Process: Resolutions
1720-04-03-.08	Student Conduct Board: Hearings and Appeals
1720-04-03-.09	Sanctions
1720-04-03-.10	Honor Statement
1720-04-03-.11	Policy on Amnesty for Good Samaritans and Students in Need of Emergency Medical Attention
1720-04-03-.12	Emergency Powers
1720-04-03-.13	Retention, Disclosure, and Expungement of Student Disciplinary Records
1720-04-03-.14	Definitions of Terms Used in the Code

The University of Tennessee (Knoxville)
Chapter 1720-04-03
Student Rights and Responsibilities/Student Code of Conduct
Repealed/New Rule

Chapter 1720-04-03 Student Rights and Responsibilities is repealed in its entirety and substituted with the following title and language, so that the new rule shall read:

Student Code of Conduct
1720-04-03

1720-04-03-.01	Preamble	1720-04-03-.08	Student Conduct Board: Hearings and Appeals
1720-04-03-.02	Jurisdiction	1720-04-03-.09	Sanctions
1720-04-03-.03	Relationship Between the Code and Criminal Law	1720-04-03-.10	Honor Statement
1720-04-03-.04	Standards of Conduct	1720-04-03-.11	Policy on Amnesty for Good Samaritans and Students in Need of Emergency Medical Attention
1720-04-03-.05	Fundamental Rights	1720-04-03-.12	Emergency Powers
1720-04-03-.06	Student Conduct Process: Initial Stages	1720-04-03-.13	Retention, Disclosure, and Expungement of Student Disciplinary Records
1720-04-03-.07	Student Conduct Process: Resolutions	1720-04-03-.14	Definitions of Terms Used in the Code

1720-04-03-.01 Preamble.

- (1) Students at the University of Tennessee 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 as well as in compliance with University rules and policies. In addition, the University has developed a set of aspirational goals titled, Principles of Civility and Community, which encourages all members of the University community to foster a learning environment where diversity is valued, respected, and celebrated.
- (2) The University has established the Student Code of Conduct ("Code") in order to advance the mission of the University and sustain a culture of excellence by: maintaining a safe learning environment; requiring students to conduct themselves in ways that allow for their personal growth and development as well as others, in the most positive manner possible; 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 the University's reputation 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.

- (3) The University's behavioral standards are set forth in the Code's Standards of Conduct (Section .04). Students who engage in conduct that is inconsistent with the Standards of Conduct are subject to University disciplinary action. The process by which the University investigates and resolves potential violations of the Standards of Conduct is called the student conduct process. The student conduct process resolves allegations of misconduct but also is an educational process designed to promote learning and development as it relates to appropriate decision making. The student conduct process is consistent, fair, and provides means of resolution that are commensurate with the skills and abilities of the participants in the process.
- (4) The effectiveness of the student conduct process rests partially upon the participation of all members of the University community. Active participation in the process by students, faculty, and staff reflects a willingness to address the difficult issues brought before them for the betterment of individual students and the University community. This involvement is vital to the establishment of true community standards.
- (5) Authority and responsibility relating to the Code are delegated to the Vice Chancellor for Student Life, who has delegated certain authority and responsibility to the Office of Student Conduct and Community Standards ("OSC").
- (6) The University is committed to respecting students' constitutional rights. The Code shall be interpreted in a way that does not violate students' constitutional rights.
- (7) Students are responsible for being fully acquainted with and for complying with the Code, the applicable undergraduate or graduate catalog, the student handbook (Hilltopics), and other rules and policies relating to students.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.02 Jurisdiction.

- (1) The Code applies to conduct that occurs on and off of University-controlled property. However, with respect to conduct that occurs off of University-controlled property, the University has the discretion to discipline a student for conduct that violates the Standards of Conduct only if the student's conduct: (1) occurs in connection with a University-affiliated activity, including, but not limited to, a clinical, field, internship, or in-service experience, or an overseas study program; (2) violates Section .04(1) (i.e., consists of academic dishonesty); (3) is prohibited by local, state, or federal law, and the conduct was committed within the Knoxville Area (or, for UT Space Institute students, the conduct was committed within Coffee County or Franklin County); (4) occurs in connection with a student organization's event; (5) is committed against another member of the University community; or (6) threatens, or indicates that the student poses a threat to, the health or safety of others or the security of any person's property, including, but not limited to, drug-related offenses, arson, battery, fraud, hazing, participation in group violence, rape, sexual misconduct, relationship violence, stalking, and theft.
- (2) 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.
- (3) Each student is responsible for his/her conduct from the date of application for admission to the University through the date the University awards the student a degree, even if the conduct occurs before classes begin or after classes end, during the academic year, during periods between terms of actual enrollment, and/or is not discovered by the University until after a degree is awarded.

- (4) Notwithstanding anything in the Code to the contrary, a student organization may be found responsible for a violation(s) of the Standards of Conduct based on the totality of the circumstances relating to the misconduct. This Section .02(4) is not intended to hold a student organization responsible for isolated violations of the Standards of Conduct by individual members of the student organization. The following criteria will be considered when determining whether a student organization will be charged with a violation(s) of the Standards of Conduct (i.e., misconduct):
- (a) 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) 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) 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) 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. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.03 Relationship Between the Code and Criminal Law.

- (1) **Independent Action.** The Code has been adopted in furtherance of the University’s interests and serves to supplement, rather than substitute for, the enforcement of civil and criminal law. Accordingly, University disciplinary action may be instituted against a student charged with conduct that potentially violates both criminal law and the Standards of Conduct without regard to the pending status of criminal charges or civil litigation. At the discretion of the Director of OSC, disciplinary action relating to a violation of the Standards of Conduct may be carried out prior to, simultaneously with, or following criminal proceedings. Students alleged to have violated the Standards of Conduct may not challenge any aspect of the University’s student conduct process 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 have not yet been adjudicated.
- (2) **University’s Interaction with Other Entities.** The University will cooperate with law enforcement and other agencies in the enforcement of criminal law on University-controlled property and in the conditions imposed by criminal courts for the rehabilitation of students who have violated the criminal law.
- (3) **Withdrawals.** If a Respondent voluntarily withdraws from the University before the conclusion of the student conduct process, OSC retains the right to investigate and resolve the allegations made against the Respondent prior to the Respondent re-enrolling in the University. A disciplinary

hold may remain in place or be implemented after the student withdraws in order to enforce this Section .03(3).

- (4) **Time Extensions and Rescheduling.** Any time period described in the Code may be extended for good cause at the discretion of the Director of OSC. Any meeting or hearing described in the Code may be rescheduled for good cause at the discretion of the Director of OSC.
- (5) **Voluntary Impairment.** A student's voluntary impairment to themselves resulting from the use and/or consumption of alcohol, drugs, chemicals, and/or other substances does not excuse or diminish a violation of the Code, except as provided in Section .11 (Policy on Amnesty for Good Samaritans and Students in Need of Emergency Medical Attention).
- (6) **Other Rights – Sexual Misconduct, Relationship Violence, or Stalking.** In addition to rights granted in the Code, in cases involving an allegation of sexual misconduct, relationship violence, or stalking, the Complainant and the Respondent shall have the rights outlined in the University's policies and procedures for investigating and resolving complaints of sexual misconduct, relationship violence, or stalking in accordance with Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other applicable law.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.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, but not limited to, an act in violation of the Honor Statement.
- (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, except as provided in Section .05(1)(i).
- (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 or safety of any person (including oneself); engaging in conduct that causes a reasonable person to fear harm to his/her 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 or 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 Misconduct, Relationship Violence, and/or Stalking.** Sexual misconduct, relationship violence, and/or stalking.
- (8) **Invasion of Privacy.** Invasion of another person's privacy when that person has a reasonable expectation of privacy, including, but not limited to, 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, but not limited to, 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 or safety of that student, or which induces or coerces a student to endanger his or her mental or physical health or safety. "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.
- (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 either orally or in writing 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, but not limited to: 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, using, storing, or manufacturing any weapon on University-controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or his/her designee.
- (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.
- (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 his/her duties; or failing to identify oneself to a University employee or other public official acting within the scope of his/her duties when requested to do so.
- (24) **Failure to Appear.** Failing to appear at a University hearing, including, but not limited to, a hearing of a University conduct board, following a request to appear either as a party or as a witness.
- (25) **Violation of Interim Suspension, No-Contact Directive, or Sanction.** Violating the terms of an interim suspension, a no-contact directive, or a disciplinary sanction 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, 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, but not limited to, University policies or rules relating to facilities' use, smoking, the acceptable use of information technology resources, research or service 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 local, state, or federal 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.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.05 Fundamental Rights.

- (1) **Rights of the Respondent.** The following summarizes the rights granted to a Respondent in the student conduct process:
 - (a) Right to be assisted by an Advisor during any and all stages of the student conduct process, in accordance with Section .05(3);
 - (b) Right to an opportunity for an Educational Conference, in accordance with Section .06(5);
 - (c) Right to resolve allegations of misconduct and/or sanctions through a Formal Hearing, in accordance with Section .07(2);

- (d) Right to receive notice of meetings and hearings at which the Respondent may be present and receive access to records used during those meetings and hearings, as provided herein;
- (e) Right to the presumption of innocence (i.e., the Conduct Officer bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated the Standards of Conduct, as alleged in the Notice of Allegations);
- (f) Right to not be directly questioned by anyone other than the Chairperson in a hearing before a Student Life Hearing Officer or the Student Conduct Board ("SCB");
- (g) Right to challenge the fairness and/or impartiality of a Student Life Hearing Officer, a member of the SCB, or a member of the Appellate Board;
- (h) Right to have a SCB Hearing conducted in accordance with Section .08, including, without limitation, the right to present information to the SCB, the right to propose questions for the Chairperson to ask witnesses, the right to request that information be excluded from the SCB's consideration, and the right to make a closing statement;
- (i) Right to refrain from presenting information and witnesses during a hearing before the Student Life Hearing Officer or the SCB, and the right to not have the Student Life Hearing Officer or SCB draw an inference adverse to the Respondent if the Respondent chooses not to present information or witnesses;
- (j) Right to Notice of Decision of the SCB, in accordance with Section .08(5);
- (k) Right to appeal the decisions of the SCB that are contained in the Notice of Decision, in accordance with Section .08(6);
- (l) Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, OSC, a Student Life Hearing Officer, the SCB, and/or the Appellate Board (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Complainant's receipt of a copy of the notice of the decision; and
- (m) Right to appeal a decision issued by OSC, a Student Life Hearing Officer, the SCB, and/or the Appellate Board, and receive a notice containing information about the right to appeal simultaneously with the Complainant's receipt of a notice of such information.

(2) Rights of the Complainant.

- (a) A Complainant shall be granted equivalent rights to the rights granted to a Respondent under the Code including, without limitation:
 1. Right to meet with OSC to ask questions and receive information about the student conduct process, including, without limitation, the status of an investigation;
 2. Right to receive notice of meetings and hearings at which the Complainant may be present and receive access to records used during those meetings and hearings, as provided herein;
 3. Right to be assisted by an Advisor during any and all stages of the student conduct process, in accordance with Section .05(3);
 4. Right to present information and witnesses during meetings and hearings, including, without limitation, investigations, or hearings before a Student Life Hearing Officer, and SCB Hearings;
 5. Right to not be directly questioned by anyone other than the Chairperson in a hearing before a Student Life Hearing Officer or the SCB;

6. Right to challenge the fairness and/or impartiality of a Student Life Hearing Officer, a member of the SCB, or a member of the Appellate Board;
 7. Right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, OSC, a Student Life Hearing Officer, the SCB, and/or the Appellate Board (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the Respondent's receipt of a copy of the notice of the decision;
 8. Right to appeal a decision issued by OSC, a Student Life Hearing Officer, the SCB, and/or the Appellate Board, and receive a notice containing information about the right to appeal simultaneously with the Respondent's receipt of a notice of such information; and/or
 9. Right to otherwise participate in the student conduct process.
- (b) Notwithstanding any provision of the Code to the contrary, including, without limitation, this Section .05(2), a Complainant shall not have the right to attend a meeting or hearing, receive information concerning, or otherwise participate in the student conduct process if such attendance, receipt of information, or participation would violate state or federal law.
- (3) Right to an Advisor. The Complainant and the Respondent may choose to be assisted by one (1) Advisor during any and all stages of the student conduct process.
- (a) Selection of an Advisor. OSC encourages a Complainant or a Respondent who chooses to be assisted by an Advisor to consider selecting a University employee who has received training from OSC about the student conduct process. The Complainant and the Respondent may obtain the names of trained advisors from OSC. At their own expense, the Complainant and the Respondent may choose a person who is not employed by the University to serve as an Advisor (e.g., friend, attorney). The Complainant and the Respondent should select as an Advisor a person whose schedule allows attendance at the scheduled date, time, and place for meetings and hearings scheduled by OSC because meeting and hearing delays generally will not be granted due to the scheduling conflicts of an Advisor.
 - (b) Role of an Advisor. The role of an Advisor is limited to assisting, advising, and/or supporting a Complainant or Respondent during the student conduct process. 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, including without limitation, a SCB Hearing. However, in a UAPA Hearing, the Complainant and the Respondent are entitled to have an attorney advocate on their behalf.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.06 Student Conduct Process: Initial Stages.

- (1) Receipt and Review of Allegations of Misconduct. OSC may initiate the student conduct process on the basis of written allegations received from any source, including, without limitation, a student, a faculty member, a University housing employee, or a law enforcement agency. OSC also may initiate the student conduct process in the absence of written allegations if OSC becomes aware, through other means, of potential misconduct committed by a student. Upon receipt of written allegations or other information concerning potential student misconduct, OSC will review the information and determine whether to initiate the student conduct process. OSC's determination of whether to initiate the student conduct process generally will be based on: the preliminary investigation by OSC or other University official(s), if any, into the allegations received by OSC; OSC's determination of whether the alleged conduct falls within the jurisdiction of the

Code; and OSC's determination of whether the alleged conduct, if true, violated the Standards of Conduct.

- (2) **Investigation of Allegations of Misconduct.** OSC may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. 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 or is not likely to lead OSC to the discovery of relevant information. OSC may 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 acts as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to OSC. Parts of OSC's investigation may occur before, during, and/or after the Educational Conference (Section .06(5)) and/or any other part of the student conduct process. At the conclusion of its investigation, OSC may prepare a written report of the findings of the investigation. The 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.
- (3) **Fairness and Impartiality.** A University employee shall not act on behalf of OSC in the student conduct process in any case in which: (1) the employee is a Complainant or a witness; (2) the employee has a personal interest, prejudice, or bias; or (3) the employee determines, for any other reason, that he/she cannot be fair or impartial.
- (4) **Interim Student Conduct Measures.**
 - (a) **No-Contact Directive.** In cases involving allegations of assault, injury, sexual misconduct, relationship violence, stalking, or in other 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, OSC 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 a no-contact directive be issued to a student.
 - (b) **Disciplinary Hold.** The Respondent's academic record (including the release of the Respondent's official or unofficial transcript), degree, ability to register for classes, and/or ability to re-enroll may be placed on disciplinary hold by OSC or by another appropriate University office at the request of OSC for the following reasons: (1) to require the Respondent to participate in the student conduct process (OSC will release the hold after the Respondent attends the Educational Conference but may reinstate the hold in order to require the Respondent to participate in other parts of the student conduct process); or (2) to require the Respondent to satisfy the terms and conditions of disciplinary sanctions received (the hold shall be released after the terms and conditions have been satisfied). No diploma shall be given and no grades, academic credit, or degree shall be awarded to a student who has been placed on disciplinary hold.
 - (c) **Coursework.** Coursework performed during the student conduct process shall be considered conditional. Credit for such coursework may be affected, delayed, denied, and/or revoked based on a final finding of misconduct and/or a sanction imposed under the Code. In addition, subject to the other provisions of the Code, a delay in the granting of a degree may be imposed and/or a degree that was awarded prior to a final decision under the Code may be revoked.
 - (d) **Interim Suspension.** When the Vice Chancellor for Student Life 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, safety, or welfare of others or to property or poses an ongoing threat to the disruption of, or interference with, the normal operations of the University, the Vice Chancellor for

Student Life may impose an interim suspension prior to the conclusion of a full hearing on the alleged misconduct. An interim suspension shall be confirmed by notice to the Respondent that explains the basis for the interim suspension and shall remain in effect until the conclusion of the student conduct process, which should be completed without undue delay. Within three (3) days of the imposition of the suspension, the Respondent shall be offered an opportunity to appear personally before the Vice Chancellor for Student Life in order to discuss the following issues only: (i) the reliability of the information concerning the Respondent's conduct; and (ii) 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. During an interim suspension, the Respondent may, at the discretion of the Vice Chancellor for Student Life, be denied access to University-controlled property, including, without limitation, residence halls, and all other University-affiliated activities (including, without limitation, academic work) or privileges for which the Respondent might otherwise be eligible. A Respondent that receives an interim suspension and violates the terms of the interim suspension shall be subject to further disciplinary action and may be treated as a trespasser. Permission to be on University-controlled property or participate in University-affiliated activities may be granted by the Vice Chancellor for Student Life. When a student is placed on interim suspension, the Respondent may be assigned a grade of "W" or "I," whichever is deemed appropriate by the faculty member involved.

(5) Educational Conference.

- (a) Scope of the Educational Conference. The Educational Conference is a meeting between OSC and the Respondent in which the following generally occurs:
1. OSC orally informs the Respondent about the allegations made against the Respondent and, if requested by the Respondent, provides the Respondent with a reasonable opportunity to review the written allegations, if any, received by OSC.
 2. OSC provides the Respondent with an opportunity to respond to the allegations, including, without limitation, an opportunity to present information to OSC concerning the allegations and identify witnesses whom the Respondent believes OSC should interview to obtain additional information.
 3. Both OSC and the Respondent may ask questions to each other and seek clarifying information about the allegations, the possible sanction(s), and the student conduct process.
 4. Based on information provided by the Respondent during the Educational Conference, OSC may issue a no-action determination (Section .07(4)(a)) or continue its investigation in order to determine whether it is more likely than not that the Respondent violated the Standards of Conduct.
- (b) Notice of Educational Conference. A Notice of Educational Conference is a written notice through which OSC notifies the Respondent that OSC has received allegations that the Respondent has engaged in misconduct; instructs the Respondent to attend or schedule an Educational Conference; and provides the Respondent with other information about the student conduct process. A Notice of Educational Conference generally will include the following information: (1) notice that OSC has begun or will begin an investigation of allegations OSC received concerning the Respondent's conduct; (2) notice of a disciplinary hold, if any, that the University has implemented or will implement with respect to the Respondent; (3) a brief description of the Respondent's alleged conduct; (4) a preliminary list of potential violations of the Standards of Conduct, based on the Respondent's alleged conduct; (5) notice of the Respondent's right to be assisted and/or supported by an Advisor throughout the student conduct process, in accordance with Section .05(3); (6) the internet address where the Respondent can review a copy of the

Code; (7) a date, time, and place for an Educational Conference with OSC to discuss the incident, or, in the alternative, an instruction that the Respondent contact OSC to schedule an Educational Conference within the time frame designated in the Notice of Educational Conference; and (8) notice of the consequences of failing to comply with OSC's instruction to attend or schedule an Educational Conference.

- (c) **Consequences of Failing to Attend or Schedule an Educational Conference.** If the Respondent fails to attend or schedule an Educational Conference after OSC has sent the Respondent a Notice of Educational Conference, then the Respondent waives all rights to a Formal Hearing, and OSC has the discretion to deem the Respondent to have accepted OSC's determination of responsibility for misconduct and may impose appropriate sanction(s) for the misconduct (unless the Respondent's absence is excused by OSC for good cause). OSC also may determine that the Respondent's failure to attend the Educational Conference constitutes a separate violation of the Standards of Conduct.
- (6) **Notice of Allegations.** 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: (i) a brief summary of the facts of Respondent's alleged misconduct; (ii) notice that OSC has determined that it is more likely than not that Respondent violated the Standards of Conduct; (iii) notice of the specific Standard(s) of Conduct that OSC has determined the Respondent more likely than not violated; (iv) the Respondent's option(s) to elect a Formal Hearing to contest OSC's determination of responsibility for misconduct and/or the sanction(s); and (v) the names of witnesses likely to present information concerning the alleged misconduct if the Respondent elects to contest the allegations through a Formal Hearing. OSC may provide the Respondent with a Notice of Allegations during the Educational Conference.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.07 Student Conduct Process: Resolutions.

- (1) **Resolution by Agreement.**
 - (a) **Purpose and Effects of a Resolution Agreement.** At any time during the student conduct process, a Respondent may resolve allegations of misconduct by signing a Resolution Agreement. By signing a Resolution Agreement, the Respondent: (1) accepts responsibility for violating the Standards of Conduct, as alleged by OSC; (2) agrees to the imposition of the sanction(s) proposed by OSC; and (3) waives any and all rights the Respondent may have to resolve the allegations against him/her through a Formal Hearing. A Resolution Agreement is not valid until it is signed by both the Respondent and an OSC employee.
 - (b) **Revocation or Appeal of a Resolution Agreement.** The Respondent may not revoke or appeal a Resolution Agreement signed by the Respondent.
 - (c) **Resolution Agreement - Sexual Misconduct.** After OSC receives a Resolution Agreement signed by the Respondent in a case involving sexual misconduct, OSC will notify the Complainant about the proposed Resolution Agreement in writing and provide the Complainant with the opportunity to object to the sanction proposed by OSC in the Resolution Agreement. A Complainant must notify OSC of his/her objection in writing within three (3) business days from the date that OSC informs the Complainant about the proposed Resolution Agreement. If the Complainant timely informs OSC of his/her objection, then OSC may address the Complainant's objection by modifying the sanction in a way that is agreeable to both the Respondent and the Complainant and having the Respondent sign the modified Resolution Agreement. Otherwise, OSC will continue the student conduct process and resolve the allegations against the Respondent in accordance with the Code. Nothing in this Section .07(1) shall be construed to permit OSC to conduct an alternative resolution process (e.g., mediation) in a case involving allegations of sexual misconduct.

- (d) Resolution Agreement – Academic Dishonesty. In order to resolve an allegation that the Respondent violated Section .04(1) (academic dishonesty) through a Resolution Agreement, the Respondent shall agree to the imposition of the instructor's academic penalty in addition to agreeing to the other requirements contained in Section .07(1)(a).
- (2) Resolution by Formal Hearing.
- (a) Types of Formal Hearings. A Formal Hearing is a process through which a Respondent has a right to contest allegations of misconduct and/or the sanctions proposed by OSC by presenting information (including, without limitation, witnesses) to a decision maker other than the University employee(s) who conducted the investigation and/or Educational Conference. The Code provides for three types of Formal Hearings, depending on the gravity of the disciplinary sanctions that have been proposed by OSC:
1. A hearing before a Student Life Hearing Officer, which is described in Section .07(2)(e);
 2. A hearing before the SCB ("SCB Hearing"), which is described in Section .08; and
 3. A contested case hearing under the Uniform Administrative Procedures Act ("UAPA Hearing"), which is conducted in accordance with the University's procedures for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.
- (b) Rights to a Formal Hearing – Individual Student. In every case in which an individual student is the Respondent, the Respondent has the right to resolve allegations of misconduct and/or proposed sanctions through a hearing before a Student Life Hearing Officer. An individual student Respondent also has the right to resolve allegations of misconduct and/or the proposed sanctions through a SCB Hearing or a UAPA Hearing when OSC proposes one (1) or more of the following sanctions: (1) deferred suspension; (2) suspension; (3) expulsion; (4) University housing removal; (5) withholding of degree; or (6) revocation of degree.
- (c) Rights to a Formal Hearing – Student Organization. In every case in which the Respondent is a student organization, the student organization Respondent has the right to resolve allegations of misconduct and/or proposed sanctions through a SCB Hearing or a hearing before a Student Life Hearing Officer. A Respondent student organization also has the right to resolve allegations of misconduct and/or the proposed sanctions through a UAPA Hearing when OSC proposes the sanction of revocation or suspension of the student organization's University registration.
- (d) How to Request a Formal Hearing. A Formal Hearing may be requested by the Respondent only in writing using the form(s) approved by OSC. Orally requesting a Formal Hearing shall not constitute a valid request for a Formal Hearing. If a Respondent timely requests a Formal Hearing and has a right to have either a UAPA Hearing or a SCB Hearing, then the University will conduct a UAPA Hearing unless the Respondent executes a written waiver of the right to a UAPA Hearing.
- (e) Hearing before a Student Life Hearing Officer. A Student Life Hearing Officer is a University employee designated and trained by OSC to conduct a Formal Hearing consistently with the procedures outlined in the Code for SCB Hearings (e.g., Section .08), except as provided in this Section .07(2)(e). In conducting a Formal Hearing, a Student Life Hearing Officer has the same authority of the Chairperson of the SCB except that, unlike the Chairperson of the SCB, but like the voting members of the SCB, the Student Life Hearing Officer is the decision maker concerning whether the Respondent violated the Standards of Conduct, and, if so, what sanction(s) to impose. The decision of a Student Life Hearing Officer may be appealed to the Appellate Board using procedures consistent with the procedures outlined in the Code for appeals of decisions of the SCB.

- (f) **Consequences of Failing to Timely Elect a Formal Hearing.** If the Respondent fails to elect a Formal Hearing within five (5) business days of OSC transmitting a Notice of Allegations in writing to the Respondent, then the Respondent waives all rights to a Formal 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). If OSC extends the time for the Respondent to request a Formal Hearing and the Respondent fails to elect a Formal Hearing within the additional time granted by OSC, then the Respondent waives all rights to a Formal 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.
- (3) **Resolution through an Alternative Resolution Process.**
- (a) **Proposal of an Alternative Resolution Process.** At any time during the student conduct process, OSC may propose to the Respondent and the Complainant that they attempt to resolve the allegations against the Respondent through an alternative resolution process. Before proposing that the allegations be resolved through an alternative resolution process, OSC shall determine whether an alternative resolution process would be an appropriate method of resolution based on the facts and circumstances of the case, and, if so, what type of alternative resolution process should be used. Examples of alternative resolution processes that may be proposed by OSC include mediation, facilitated dialogue, conflict coaching, and restorative justice. An alternative resolution process is a voluntary process that may or may not result in an Alternative Resolution 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 of the other resolution methods in the Code.
- (b) **Unavailability of an Alternative Resolution Process.** OSC shall not use an alternative resolution process to resolve allegations against a Respondent: (1) in a case in which the Complainant and the Respondent have not mutually agreed, in writing, to the alternative resolution process; or (2) in a case involving allegations of sexual misconduct.
- (c) **Alternative Resolution Agreement.** An Alternative Resolution Agreement is a written agreement that confirms an agreement reached during an alternative resolution process to resolve the allegations against the Respondent. To be valid, an Alternative Resolution Agreement shall be signed by OSC, the Respondent, and the Complainant and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.
- (4) **Conclusion of the Student Conduct Process.** This Section .07(4) summarizes the different ways in which the student conduct process may be concluded. If more than one of the following events occur, then the student conduct process concludes on the date of the last event to occur. OSC generally will provide the Respondent with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process. If permitted or required by law, OSC also will provide the Complainant with written notice about the conclusion of the student conduct process within a reasonable time after the conclusion of the process.
- (a) **No Action Determination.** The student conduct process concludes when OSC makes a final determination at any point in the process that no action will be taken (e.g., OSC determines that it is not more likely than not that the Respondent violated the Standards of Conduct; a Complainant declines to participate in the student conduct process, and OSC does not have sufficient information or witnesses to move forward with the student conduct process). OSC may reinstate the student conduct process upon receipt of new information; however, after OSC has determined to take no action, OSC may reinstate the student conduct process after a student has graduated only in cases involving Section .04(1) (academic dishonesty). A Complainant who is informed by OSC of a no action determination may appeal the decision to the Director of Student Conduct, in writing, within five (5) business days of the date that OSC transmitted notice of the no

action determination to the Complainant. The decision of the Director of OSC is final and may not be appealed.

- (b) **Failure to Attend or Schedule an Educational Conference.** In accordance with Section .06(5)(c), the student conduct process concludes when: OSC has issued a Notice of Educational Conference; the Respondent either fails to attend an Educational Conference or fails to comply with OSC's instruction to contact OSC to schedule an Educational Conference within the time frame designated in the Notice of Inquiry; and OSC does not exercise its discretion to excuse the Respondent's failure for good cause.
- (c) **Failure to Request a Formal Hearing after Notice of Allegations.** In accordance with Section .07(2)(f), the student conduct process concludes when the Respondent fails to elect a Formal Hearing within five (5) business days of OSC sending or delivering a Notice of Allegations to the Respondent, and OSC does not exercise its discretion to excuse the Respondent's failure for good cause.
- (d) **Resolution Agreement.** The student conduct process concludes when a Resolution Agreement is executed in accordance with Section .07(1).
- (e) **Alternative Resolution Agreement.** The student conduct process concludes when an Alternative Resolution Agreement is executed in accordance with Section .07(3).
- (f) **Notice of Decision of a Student Life Hearing Officer – No Valid Appeal.** The student conduct process concludes when a Student Life Hearing Officer has issued a Notice of Decision and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal.
- (g) **Notice of Decision of a Student Conduct Board – No Valid Appeal.** The student conduct process concludes when a Student Conduct Board has issued and transmitted a Notice of Decision under Section .05 and neither the Respondent nor the Complainant has submitted a valid Notice of Appeal under Section .08(6).
- (h) **Notice of Final Decision.** The student conduct process concludes when the Appellate Board has issued a Notice of Final Decision.
- (i) **UAPA.** The student conduct process concludes when a Formal Hearing has concluded under the University's rules for conducting contested case proceedings under the UAPA, Chapter 1720-01-05.
- (j) **Expiration and Satisfaction of All Sanctions.** The student conduct process concludes when OSC determines that the time periods for all sanctions given to the Respondent have expired (except for the sanction of expulsion, which does not expire), and the Respondent has satisfied all other terms and conditions of all sanctions that the Respondent received.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.08 Student Conduct Board: Hearings and Appeals.

- (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(2), 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 (the Director of 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; and (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.

- (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 Formal Hearing. The Director of OSC has the discretion to make the final determination of whether to grant such a request and will notify the Respondents of his/her decision.
- (d) **Consequences of Failing to Attend a SCB Hearing.** If the Respondent fails to attend a SCB Hearing, then the Respondent waives any and all rights to a 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 Vice Chancellor for Student Life shall annually appoint a pool of persons who are eligible to serve on a SCB. The Vice Chancellor for Student Life 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 Vice Chancellor will be trained by OSC to serve on a SCB.
- (b) **Appointment of the SCB.**
 - 1. **General.** The SCB is appointed ad hoc for each hearing by the Director of OSC from the pool described in Section .08(2)(a). The Director of OSC shall appoint a SCB consisting of one (1) non-voting Chairperson and seven (7) voting members. The Director of OSC shall not appoint persons on the basis of how the Director anticipates that they will vote. The Chairperson shall be a University faculty member or staff employee who has received training from OSC on how to conduct a SCB Hearing. Five (5) voting members and one (1) non-voting Chairperson constitute a quorum of the SCB that was appointed by the Director of OSC; however, OSC will make reasonable efforts to seat a SCB consisting of seven (7) voting members. In seating any SCB, except as provided in Section .08(2)(b)(2), the student composition of the voting members of the SCB must be equal to or greater than the sum of the faculty and staff voting members. Regardless of the number of voting members present, all classifications of the University community (students, faculty, and staff) must be represented by at least one (1) voting member except as provided in Section .08(2)(b)(2).
 - 2. **Exception for Cases Involving Allegations of Sexual Misconduct.** Notwithstanding anything to the contrary in Section .08(2)(b)(1), the Director of OSC shall not appoint students to serve on the SCB in a case involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the SCB hearing their case.
- (c) **Fairness and Impartiality of SCB Members.** Any member of the SCB who determines that he/she cannot decide a case fairly and impartially for any reason shall excuse

himself/herself from serving on the SCB, in which case the Director of OSC shall appoint a substitute member of the panel in accordance with the rules in Section .08(2)(b).

(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 the Director of OSC in writing:
 - (i) The name of their Advisor, if any, who will attend the SCB Hearing;
 - (ii) The names of all witnesses through whom they plan to present information to the SCB and a brief summary of the information that they reasonably anticipate that each witness will provide to the SCB;
 - (iii) A copy of all tangible or electronic information that they plan to present to the SCB (e.g., 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; and
 - (iv) A copy of a statement, if any, 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 alleged conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigates the alleged misconduct.
 2. During the SCB Hearing, the Complainant and the Respondent may present witnesses who were not identified in the Notice of Formal Hearing only if they comply with this Section .08(3)(a). The Complainant and the Respondent are responsible for contacting witnesses who were not identified in the Notice of Formal Hearing, informing them about the date, time, and place of the SCB Hearing, and securing their attendance at the SCB Hearing.
- (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 their 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 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 Complainant and the Respondent may request a copy of the digital recording.
- (d) Attendance and Participation.** Attendance during a SCB 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, the Respondent, or an Advisor. The Chairperson and the Director of 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 is 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 misconduct, relationship 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 view and hear a person who is attending or participating by closed circuit television, video conferencing, or other similar means.

(4) Procedural Rules for SCB Hearings.

- (a) **Right to Challenge the Selection of a SCB Member.** At the beginning of the SCB Hearing, the Chairperson shall allow the Complainant and the Respondent to request the removal of a member of the SCB on the grounds that the person cannot be fair and impartial in deciding the case. If the Chairperson determines that the person cannot be fair and impartial, then the Director of OSC may appoint a substitute member of the SCB in accordance with Section .08(2)(b) or, if a quorum of the SCB still exists, remove the SCB member and allow the SCB Hearing to continue without appointing a substitute member.
- (b) **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. The Chairperson shall be the final decision maker concerning what, how, and in what order information and witnesses are presented to the SCB.
- (c) **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); (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.
- (d) **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).

- (e) **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 the Director of OSC for assistance in resolving procedural questions fairly and in accordance with the Code.
 - (f) **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)(f) is used to preserve the educational tone of the SCB Hearing and to avoid the creation of an adversarial environment.
 - (g) **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. The Conduct Officer and the Complainant may advocate that the SCB impose a specific sanction(s), and the Respondent may respond; however, the Respondent's record of student conduct maintained by OSC shall not be disclosed to the SCB by the Conduct Officer or the Complainant during the hearing except in accordance with Section .08(5)(c).
 - (h) **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 the Standards 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 Standard of Conduct. The SCB will decide by majority vote whether the Respondent violated the Standards of Conduct. The Chairperson shall not vote on the decision of whether the Respondent is responsible for violating the Standards of Conduct or what sanctions should be imposed unless there is a tie vote of the SCB.
 - (b) **Basis of Decision.** The SCB shall not base its decision on information not 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. In deciding the appropriate sanctions for a Respondent's misconduct, the SCB may consider: (1) statements submitted by the Complainant and/or the Respondent to the SCB concerning the appropriate sanctions; and (2) a statement about the Respondent's conduct history, which shall be provided to the Chairperson by the Director of OSC in a

sealed envelope prior to the SCB Hearing. The statements should be provided to the Chairperson by the Director of OSC in a sealed envelope prior to the SCB Hearing.

- (d) Issuance of Notice of Decision. Within two (2) 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 the Director of OSC. The Director of 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, the Director of OSC shall notify the Complainant about the Notice of Decision to the Complainant (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.
- (6) **Appealing Decisions of the Student Conduct Board.**
- (a) **Appealable Decisions.** The Conduct Officer, the Complainant and/or the Respondent may appeal the decisions of the SCB that are contained in the Notice of Decision, but the grounds for appeal are limited to those described in Section .08(6)(c).
 - (b) **Notice of Appeal.** An appeal is procedurally valid only if all of the following requirements are met: (1) an appeal shall be submitted in writing by fully completing a form approved by OSC called a "Notice of Appeal;" (2) the Notice of Appeal shall be received by OSC within five (5) business days of the date that the Director of OSC transmitted the Notice of Decision; and (3) the Notice of Appeal shall not include information that is not included in the record of the SCB Hearing, except the Notice of Appeal may contain a summary of the new information described in Section .08(6)(c)(3).
 - (c) **Grounds for Appeal.** The Notice of Appeal shall explain the grounds for the appeal, which shall be limited to one (1) or more of the following grounds:
 - 1. **Clearly Unreasonable Sanction.** The sanction(s) imposed by the SCB is clearly unreasonable (i.e., has no sound basis or justification in reason).
 - 2. **Material Procedural Error.** A procedural error occurred prior to or during the SCB Hearing, and the procedural error reasonably could have had a material impact on the SCB in reaching its decision. Neither the failure of the Respondent or the Complainant to secure the attendance of an Advisor or witness nor the failure of an Advisor or witness to attend or otherwise participate in any phase of the student conduct process constitutes a material procedural error. The failure of the Respondent or the Complainant to attend the SCB Hearing does not constitute a material procedural error.
 - 3. **New Information.** New information has been discovered, the information reasonably could have had a substantial impact on the SCB in reaching its decision, and the person submitting the Notice of Appeal did not know and reasonably could not have known about the information at the time of the SCB Hearing.
 - (d) **Effective Date of Sanction.** The sanction(s) imposed by the SCB shall not be effective during the period in which a Notice of Appeal may be submitted, or, if a procedurally valid Notice of Appeal has been submitted (as determined by Section .08(6)(b)), until a Notice of Final Decision is issued by the Appellate Board, whichever is later. In cases in which

the sanction of degree revocation is imposed, the sanction shall be presented to the University's Board of Trustees for approval before the sanction is imposed.

- (e) **Appellate Board.** The Appellate Board is the University body that considers appeals of decisions of the SCB, after a procedurally valid Notice of Appeal has been submitted to OSC. The Vice Chancellor for Student Life will appoint a pool of persons trained by OSC who are eligible to serve on an Appellate Board. The Vice Chancellor for Student Life may appoint University students, University faculty members, or University staff employees to be members of that pool.
- (f) **Determination of Procedural Validity of Notice of Appeal.** Within seven (7) business days after the receipt of a Notice of Appeal, the Director of OSC will determine whether the Notice of Appeal is procedurally valid. A Notice of Appeal is procedurally valid only if it has been fully completed, timely submitted to OSC, and does not contain information outside of the record of the SCB Hearing. If a Notice of Appeal is procedurally invalid and the time for submitting a Notice of Appeal under this Section .08(6)(f) has expired, then the Director of OSC shall send the Conduct Officer, the Respondent, and the Complainant (if permitted or required by law) a notice that the decision of the SCB has become final and any sanction(s) imposed will become effective immediately. However, in a case in which the Notice of Appeal contains information outside of the record of the SCB Hearing, the Director of OSC may proceed with appointing an Appellate Board after removing from the Notice of Appeal information that was not included in the record of the SCB Hearing.
- (g) **Appointment of Appellate Board.** If the Notice of Appeal is procedurally valid, then the Director of OSC shall appoint an Appellate Board to hear the appeal from the pool of persons who are eligible to serve on an Appellate Board. An Appellate Board shall be composed of one (1) non-voting Chairperson and three (3) voting members. At least one (1) voting member of the Appellate Board shall be a University student; except, however, the Director of OSC shall not appoint students to serve on an Appellate Board in a case involving an allegation of sexual misconduct unless both the Respondent and the Complainant consent to having students appointed to serve on the Appellate Board hearing their case. The Director of OSC shall not appoint a person to serve as Chairperson or a voting member of the Appellate Board if the person served as a Chairperson or a voting member of the SCB whose decision is being appealed. In addition, an employee who works in OSC or whose direct supervisor is the Conduct Officer who participated in the SCB Hearing shall be ineligible to serve as a member of the Appellate Board.
- (h) **Transmittal of Notice of Appeal.** After the appointment of the members of the Appellate Board, OSC shall transmit a copy of the Notice of Appeal to persons who have a need to know about the Notice of Appeal, including, without limitation, the members of the Appellate Board and all non-appealing parties (e.g., if the Respondent appeals, the Conduct Officer and the Complainant would be the non-appealing parties). A non-appealing party may submit a written response to the Notice of Appeal to the Appellate Board within two (2) business days of OSC's transmittal of the Notice of Appeal. The written response shall be limited to: (1) responding to issues raised in the Notice of Appeal and shall not contain information that is not included in the record of the SCB Hearing; and (2) request the removal of a member of the Appellate Board on the grounds that the person cannot be fair and impartial in deciding the case. If the Director of OSC determines that the person cannot be fair and impartial, then the Director of OSC may appoint a substitute member of the SCB in accordance with Section .08(6)(g).
- (i) **Recusal.** Any member of the Appellate Board who determines that he/she cannot decide the appeal fairly and impartially for any reason shall recuse himself/herself from serving on the Appellate Board, in which case the Director of OSC shall appoint a substitute member of the Appellate Board in accordance with this Section .08(6)(g).
- (j) **Review of the Record.** The Appellate Board's final decision shall be based on its review of the record of the hearing before the SCB, which shall be limited to: (1) the Notice of Allegations; (2) the Notice of Formal Hearing; (3) the Notice of Decision; (4) the recording

and the transcript, if any, of the hearing, and all other information submitted to the SCB during the hearing; and (5) the Notice of Appeal.

- (k) **Potential Decisions of the Appellate Board.** The Appellate Board shall reach one (1) of the following decisions, by a majority vote:
1. Affirm both the SCB's finding that the Respondent violated the Standards of Conduct and the sanctions imposed by the SCB;
 2. In a case involving a clearly unreasonable sanction, affirm the SCB's finding that the Respondent violated the Standards of Conduct and modify the sanctions imposed by the SCB by imposing a greater or lesser sanction(s);
 3. In cases of a substantial procedural error, remand the case for a new hearing to be conducted by the same SCB. The Appellate Board should recommend to the Chairperson how to correct the procedural error. The Director of OSC may appoint a substitute member for any member of the SCB who is unavailable to participate in the new hearing; or
 4. In cases of new information that fits the criteria described in Section .08(6)(c)(3), remand the case to the same SCB for the limited purpose of hearing the new information and reconsidering its decision based on the new information. The Director of OSC may appoint a substitute member for any member of the SCB who is unavailable to participate in hearing the new information or the reconsideration of the decision.
- (l) **Notice of Final Decision.** The Appellate Board shall communicate its decision through a written notice called a Notice of Final Decision. The Notice of Final Decision should be issued within ten (10) business days of the submission of the Notice of Appeal. The Notice of Final Decision shall be sent to the Director of OSC, who will notify the Conduct Officer, the Respondent, the Chairperson of the SCB, and, if permitted or required by law, the Complainant about the Notice of Decision and provide them a copy of the Notice of Decision. The decision of the Appellate Board is final and is not subject to appeal.
- (7) **Other Issues Heard by the SCB.** In addition to hearing disputes concerning violations of the Standards of Conduct, the Student Conduct Board shall also be the University body that hears disputes concerning the interpretation of the Student Government Constitution and disputes concerning the results of Student Government elections.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.09 Sanctions.

- (1) **General Rules.**
- (a) **Purposes of Sanctions.** The primary purposes of sanctions are to: (1) educate the Respondent about appropriate behavior; (2) promote the personal and professional development of the Respondent; (3) discourage the Respondent and other students from violating the Standards of Conduct; and (4) protect other members of the University community. The sanctions imposed on a Respondent should be proportional to the Respondent's misconduct and 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 Respondent's conduct record; whether the Respondent acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; the Respondent's academic classification (e.g., undergraduate, graduate, freshman, sophomore, junior, senior); and other aggravating or mitigating factors.
 - (b) **Administrative and Developmental Sanctions.** A student who accepts responsibility or is found responsible for violating the Standards of Conduct generally will be given one (1) or

more administrative sanctions. A student may also be given one (1) or more developmental sanctions.

(2) Administrative Sanctions.

- (a) **Warning.** A warning is a written notice to a student that informs the student that the student has violated the Standards of Conduct, the misconduct must cease and/or not reoccur, and further misconduct will likely result in the imposition of more serious sanctions.
- (b) **Disciplinary Probation.** Disciplinary probation is imposed for a specified 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 suspension or expulsion from the University.
- (c) **Deferred Suspension.** A deferred suspension is a designated period of time during which a student, while continuing to be enrolled, is given an opportunity to demonstrate the ability to abide by the Standards of Conduct. A student may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student is found responsible for any additional violation(s) of the Standards of Conduct while the student is on deferred suspension, then the sanction of suspension will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Students who are placed on deferred suspension are also generally given developmental sanctions.
- (d) **Suspension.** A suspension is an official separation of a student from the University for a specific period of time and/or until certain conditions are met. A suspension may be imposed for serious misconduct and/or for a violation of deferred suspension. Suspension may include conditions that will be in place if the student re-enrolls. 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 Vice Chancellor for Student Life. The student may be required to meet with an assigned Student Life staff member periodically while suspended to ensure the student is making satisfactory progress regarding the developmental sanctions issued. The Vice Chancellor for Student Life will determine whether the student is eligible for consideration for re-enrollment by the University's admissions office(s). Students who are permitted to return to the University following a period of suspension will automatically be placed on disciplinary probation by OSC 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.
- (e) **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 and safety 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 Vice Chancellor for Student Life.
- (f) **Withholding of Degree.** The University may withhold a degree as a disciplinary sanction for a specified period of time or until the student's completion of all other sanctions imposed, whichever occurs later.

- (g) **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, or other academic dishonesty. Revocation of a degree shall be approved by the University of Tennessee Board of Trustees before the revocation is effective. If approved by the Board of Trustees, this sanction will be noted on the student's academic transcript on a permanent basis.
 - (h) **Disciplinary Probation for Student Organizations.** A student organization given the sanction of disciplinary probation is permitted to retain University student organization registration on a probationary status. As a condition of the disciplinary probation, the student organization also may be given developmental sanctions.
 - (i) **Social Probation for Student Organizations.** 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 (e.g., mixers, date parties, formals, and band parties) or participate in University-affiliated activities (e.g., Homecoming, All Sing, Carnicus, intramurals). Any exceptions to social probation must be approved, in advance, by the Vice Chancellor for Student Life.
 - (j) **Revocation or Suspension of University Registration.** In cases of serious or repeated misconduct, a student organization's University registration may be revoked.
- (3) **Developmental Sanctions.** In addition to an administrative sanction(s), one (1) or more of the following developmental sanctions may be imposed in an effort to foster student learning and development.
- (a) **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.
 - (b) **Restitution.** Restitution is compensation for loss, damage, and/or injury incurred as a result of the student's actions. Compensation may take the form of money, service, and/or material replacement. Restitution may be required to be made to the University, a specific individual, or a specific organization. Normally, all restitution must be paid or made within two (2) weeks of the imposition of the sanction.
 - (c) **Supervised Work/Service.** A student may be assigned unpaid work or service that is both beneficial to the University community and/or likely to assist the student in understanding the effects of the student's misconduct.
 - (d) **Loss or Restriction of Privileges.** Specified student privileges are lost or restricted. Such privileges include, without limitation, the privilege of representing the University in any official manner, the use of or access to University-controlled property, University parking privileges, or denial of participation in University-affiliated activities (e.g., extracurricular activities).
 - (e) **University Housing Reassignment or Removal.** A student may be assigned to a different residence hall or residence hall room. A student's residence hall contract also may be terminated, and the student may be prohibited from residing in University housing for a definite or indefinite period of time.
 - (f) **Mandatory Education.** A student may be required to participate in one (1) or more educational programs, classes, or workshops relating to the student's misconduct, including, without limitation, education concerning alcohol or drugs. The student may be held responsible for the payment of expenses relating to the educational program/class/workshop(s).

1720-04-03-.10 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."
- (2) **Informing Students and Faculty.** The following methods will be used to inform students and faculty members about the Honor Statement: (1) the Honor Statement appears on undergraduate and graduate applications for admission, and applicants will be required to acknowledge his/her affirmation of the Honor Statement in writing; (2) information regarding the Honor Statement is included in the undergraduate and graduate catalogs, Hilltopics; (3) the Honor Statement is discussed during student orientation programs; (4) faculty members are encouraged to discuss the Honor Statement with students in entry-level English courses; (5) faculty members are encouraged to include the Honor Statement in their course syllabus; (6) implementation methods and alternatives are discussed during faculty orientation programs; and (7) the Honor Statement is enforced through the Standards of Conduct (Section .04(1)) and the student conduct process.
- (3) **Academic Dishonesty.** The Honor Statement prohibits cheating, plagiarism, and any other type of academic dishonesty.
- (4) **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: (1) using without proper documentation (quotation marks and citation) written or spoken words, phrases, or sentences from any source; (2) summarizing without proper documentation (usually a citation) ideas from another source (unless such information is recognized as common knowledge); (3) borrowing facts, statistics, graphs, pictorial representations, or phrases without acknowledging the source (unless such information is recognized as common knowledge); (4) collaborating on a graded assignment without the instructor's approval; and (5) submitting work, either in whole or partially created by a professional service or used without attribution (e.g., paper, speech, bibliography, or photograph).
- (5) **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 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.
- (6) **Responsibilities Associated with the Honor Statement.** All members of the University community have responsibilities associated with the Honor Statement. These responsibilities are unique to each sector of the University community. Each student is responsible for his/her own personal integrity in academic life. Each student is responsible for knowing and adhering to the terms and conditions of the Honor Statement and may acknowledge his/her adherence to the Honor

Statement by writing, "Pledged," and signing on a graded class assignment or examination. Although there is no affirmative duty to report the academic dishonesty of another, each student, given the dictates of his/her own conscience, may choose to report any violation of the Honor Statement to a faculty member or to OSC. The prevention of academic dishonesty, and the response to academic dishonesty, is the immediate responsibility of the instructor. However, students are not excused from complying with the Honor Statement because of an instructor's failure to prevent or discourage academic dishonesty.

(7) **Academic Dishonesty – Resolution by the Academic Department.**

- (a) **Notice of Academic Dishonesty and Informal Opportunity to Respond to Allegations.** When an act of alleged academic dishonesty 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. The instructor may proceed with imposing an academic penalty for academic dishonesty if the student has not responded to the instructor's notice to the student concerning the alleged academic dishonesty within five (5) business days of the notice. The instructor does not have the authority under the Code to impose a sanction identified in Section .09(2) or Section .09(3). An academic penalty shall not take effect until after the deadline for an appeal has passed under Section .10(7)(c), or, if the student appeals the penalty, the student conduct process has concluded and the penalty has been upheld, whichever is later.
- (b) **Decision Whether to Impose an Academic Penalty.** After giving the student notice and an informal opportunity to respond, if the instructor concludes that the student engaged in academic dishonesty, then the instructor may impose an academic penalty of 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 an oral or written reprimand. An instructor may impose more than one (1) academic penalty. If the instructor decides to impose an academic penalty, then the instructor shall transmit a notice to the student of the allegations, information, findings, academic penalty imposed, and information on the student's options to appeal the findings and/or penalties under Section .10(7)(c). The notice should be countersigned by the department head. Copies of the notice to the student shall be submitted to OSC, the dean or other chief administrative head of the instructor's academic unit, and, where different, the dean or other chief administrative head of the academic unit in which the student is enrolled. The instructor is not required to notify a student that a complaint has been made to OSC.
- (c) **Appeals of Academic Penalties.** Within five (5) business days of the transmittal of the notice to the student described in Section .10(7)(b)(2), the student may appeal the academic penalty imposed by the instructor by submitting a written Notice of Appeal of Academic Penalty to OSC, using a form approved by OSC. The SCB hears appeals of academic penalties. If OSC does not issue a Notice of Allegations, then the instructor shall serve as the Conduct Officer in the SCB Hearing. The decision of the SCB, or the Appellate Board if the decision is appealed, shall be the final decision of the University concerning the academic penalty. For example, if the SCB's decision, if not appealed to the Appellate Board, is to reverse a grade of "F" for the course, then OSC will inform the University's Registrar of the SCB's decision and request the Registrar to enter the grade for the course that the student would have received if the student had not been accused of academic dishonesty. If there is a question about what grade the student would have received if the student had not been accused of academic dishonesty, the question will be referred to the Provost for resolution.

- (8) **Academic Dishonesty – Resolution through the Student Conduct Process.** After receiving notice from the instructor under Section .10(7)(b), OSC may proceed with the student conduct process and determine of whether to issue a Notice of Allegations for violating Section .04(1). A decision by OSC not to issue a Notice of Allegations shall not be used by the student to support an appeal of an academic penalty imposed by the student's instructor. In addition, OSC may issue a Notice of Allegations for violating Section .04(1) regardless of the response of the instructor to the alleged academic dishonesty. If an instructor alleges that a student engaged in academic

dishonesty and the student wants to appeal the academic penalty and/or OSC issues a Notice of Allegations containing an allegation of a violation of Section .04(1), then the allegations against the student and the issue of the appropriate academic penalty shall be resolved through a Resolution Agreement, a Formal Hearing, or an Alternative Resolution Process.

- (9) College of Law. The University of Tennessee College of Law has adopted and promulgated its own Code of Academic Conduct, Chapter 1720-04-09. Chapter 1720-04-09 shall control in the event of a conflict between this Chapter and Chapter 1720-04-09.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.11 Policy on Amnesty for 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 or safety emergency, including, without limitation, a situation involving the abuse of alcohol or other drugs.
- (2) Expectations. When a student knows or reasonably should know that another student is in need of emergency medical attention, the student is 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 student reporting the incident and the impaired student; and (2) demonstrate cooperation and care by remaining with the impaired student and providing reasonable assistance during and after the incident. A student who takes all of the steps described in this Section .11(2) will be referred to as a "Good Samaritan" under the Code. The student who needed emergency medical attention will be referred to as an "impaired student" under the Code.
- (3) Amnesty for Good Samaritans. Unless a Good Samaritan has 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), a Good Samaritan 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 student who acted as a Good Samaritan may be required to meet with a University staff member to discuss the Good Samaritan's misconduct and adhere to appropriate remedial and/or educational recommendations.
- (4) Amnesty for Impaired Students. Unless an impaired student has 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), an impaired student 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 impaired student may be required to meet with a University staff member, participate in educational activities, and/or establish that the student has addressed issues that contributed to the misconduct.
- (5) Application of the Amnesty Policy to Student Organizations. Student organizations, through their officers and members, are also expected to take responsible action in emergency situations. While the Policy on Amnesty for Good Samaritans and Students in Need of Emergency Medical Attention may not fully apply, a student organization's adherence to steps described in Section .11(2) will be considered a mitigating factor when determining the outcome of or sanction for misconduct. Additionally, the University will consider a failure of officers and/or members to adhere to steps described in Section .11(2) to be an aggravating factor when determining the outcome of or sanction for misconduct.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.12 Emergency Powers.

- (1) When, in the judgment of the University's Chancellor, conditions are such that it is impractical for the Student Conduct Board to function, the Vice Chancellor for Student Life 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.
- (2) The final decision of the ad hoc committee may be appealed to the Vice Chancellor for Student Life, but the grounds for appeal are limited to those outlined in Section .08(6)(c).

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.13 Maintenance, Disclosure, and Expungement of Student Disciplinary Records.

- (1) Maintenance of Student Disciplinary Records. The University maintains student disciplinary records separately from student academic records.
- (2) Disclosure of Student Disciplinary Records while a Student is Enrolled. While a student is enrolled in the University, OSC may disclose disciplinary records to University officials who have a legitimate educational interest in the disciplinary records or to students who request to inspect their disciplinary records. OSC may disclose disciplinary records to other persons only in accordance with state or federal law.
- (3) Disclosure of Student Disciplinary Records after a Student is no Longer Enrolled. After a student is no longer enrolled in the University, OSC will disclose a student's disciplinary records to persons outside of OSC only if one of the following sanctions was imposed on the student while the student was enrolled in the University: suspension; expulsion; withholding of degree; or revocation of degree. Notwithstanding the previous sentence, OSC will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- (4) Expungement of Student Disciplinary Records. OSC permanently maintains student disciplinary records for students who have received the following sanctions (or their equivalents under previous versions of the Code): suspension; expulsion; withholding of degree; or revocation of degree. OSC expunges student disciplinary records for other students seven (7) years after graduation or the last date of enrollment, except as prohibited by law or a University litigation hold.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

1720-04-03-.14 Definitions of Terms Used in the Code. The following words, terms, or phrases, when used in the Code, shall have the following meanings:

- (1) Attend: To participate in a meeting or hearing electronically or in person.
- (2) 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 the Code, the business day of the event that triggers a time period is excluded.
- (3) Chairperson: A faculty or exempt staff member appointed by the Director of OSC to preside over and facilitate a SCB Hearing.
- (4) Code, Code of Conduct, or Student Code of Conduct: The University of Tennessee, Knoxville's Student Code of Conduct, Chapter 1720-04-03.
- (5) Coercion: Words and/or conduct that, viewed from the perspective of a reasonable person, substantially impair a person's ability to voluntarily choose whether to engage in a particular sexual act (e.g., sexual contact or sexual intercourse). Coercion is something more than mere seduction or persuasion. Coercion includes, without limitation: physical force; and words and/or conduct that would cause a reasonable person to fear imminent: harm to the person's health, safety, or property or that of a third person; threat of the loss or impairment of a job benefit; threat

of the loss or impairment of an academic benefit; kidnapping of the person or a third person; or disclosure of sensitive personal information (e.g., disclosure of a person's sexual orientation, gender identity, or gender expression).

- (6) **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. The Director of OSC is the final decision maker with respect to whether an individual is a Complainant for purposes of the Code.
- (7) **Conduct Officer:** A University employee designated by the Director of OSC to present information on behalf of OSC to the Student Conduct Board. The Conduct Officer shall be employed in the Division of Student Life but is not required to be employed by OSC. However, in a case involving alleged academic dishonesty in which OSC has not issued a Notice of Allegations, the instructor generally will be designated as the Conduct Officer.
- (8) **Consent:** When used in connection with sexual misconduct, consent means an affirmative and voluntary agreement by a person to engage in a specific sexual act. Consent must be obtained, and the responsibility for obtaining consent rests with the individual who voluntarily and physically initiates a specific sexual act, even if the other person initiated the sexual encounter.
 - (a) One's own use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain consent from the other person. Moreover, another person's use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain consent from that person.
 - (b) The term "affirmative," as used in the definition of consent, means that consent is communicated only through words and/or non-verbal actions that convey a clear agreement to engage in a specific sexual act. Whether a person has communicated an agreement to engage in a specific sexual act generally is evaluated from the perspective of what a reasonable person who perceived the individual's words and/or non-verbal actions would have understood; however, in the context of a long-term relationship between persons that has involved sexual activity and a pattern of communicating consent, whether consent has been communicated may be evaluated based on a subjective standard (i.e., what did the specific person who initiated the specific sexual act conclude?). A verbal "no" (or words equivalent to "no"), even if it sounds insincere or indecisive, always means that consent has not been communicated, or if previously communicated has been withdrawn. The absence of a verbal "no" does not necessarily mean that consent has been communicated. Because interpreting non-verbal actions may lead to misunderstanding and a violation of this policy, students are strongly encouraged to err on the side of caution and not rely solely on the non-verbal actions of another person in concluding that the other person has communicated consent. The University urges students to communicate with one another before engaging in a sexual act to ensure that they both wish to engage in the same sexual act.
 - (c) Consent cannot be obtained by or inferred from:
 - 1. Silence that is not accompanied by non-verbal actions conveying a clear agreement to engage in a particular sexual act;
 - 2. Consent communicated by the other person on a previous occasion;
 - 3. Consent communicated to another person;
 - 4. The other person's failure to resist physical force (however, for purposes of this policy, the other person's resistance to physical force will be viewed as a clear demonstration that the person has not communicated consent);
 - 5. The sexual arousal of the other person;

6. A current or previous dating, romantic, intimate, or sexual relationship with the other person;
 7. Currently or previously cohabitating with the other person;
 8. The other person's attire;
 9. The other person's reputation;
 10. The other person's giving or acceptance of gifts; or
 11. The other person's extension or acceptance of an invitation to go to a private residence, room, or location.
- (d) Consent is not voluntary if it is obtained by coercion. Nor is consent voluntary if it is obtained from a person who is incapacitated if one knows (or a reasonable person would know) that the other person is incapacitated. Because the incapacitation of another person may be difficult for one to discern, students are strongly encouraged to err on the side of caution (i.e., when in doubt, assume that the other person is incapacitated and therefore unable to give consent).
- (e) Consent must be continual, which means that consent must exist from the beginning to the end of each sexual encounter and for each specific sexual act that occurs during a sexual encounter. A person has a right to change his/her mind; thus, consent to engage in a specific sexual act may be withdrawn by a person at any time. A withdrawal of consent is communicated through clear words and/or clear non-verbal actions that indicate that a person no longer agrees to engage in a specific sexual act. Once a person's withdrawal of consent has been communicated, the other person must cease the specific sexual act and must obtain consent before reinitiating the specific sexual act. Consent is automatically withdrawn when a person becomes incapacitated. Consent to one type of sexual contact or sexual intercourse (e.g., oral intercourse) does not constitute or imply consent for another type of sexual contact or sexual intercourse (e.g., vaginal intercourse), whether during a sexual encounter or during a previous sexual encounter. The University urges students to communicate with one another throughout a sexual encounter to ensure that any progression of sexual activity is done with consent.
- (9) **Course of Conduct:** Two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
- (10) **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim of the violence. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship. Dating violence includes, without limitation, sexual or physical abuse or the threat of such abuse.
- (11) **Disciplinary Hold:** The University hold described in Section .06(4)(b).
- (12) **Disciplinary Records:** A written record that personally identifies a Respondent and is maintained by OSC and Community Standards.
- (13) **Domestic Violence:** An act that is prohibited by local, state, or federal law and defined as a felony or misdemeanor crime of violence, if committed:
- (a) By a current or former spouse or intimate partner of the victim;
 - (b) By a person with whom the victim shares a child in common;

- (c) By a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 - (d) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - (e) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- (14) **Faculty Member or Instructor:** A person hired by the University to conduct teaching, research, or supervised clinical placements.
 - (15) **Formal Hearing:** A SCB Hearing, a hearing before a Student Life Hearing Officer, and/or a UAPA Hearing.
 - (16) **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.
 - (17) **Incapacitated or Incapacitation:** A temporary or permanent physical or mental state in which a person cannot make informed, rational judgments (e.g., judgments concerning sexual contact, sexual intercourse, or sexual exploitation) because: the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct; and/or the person is unable to physically or verbally communicate consent. Incapacitation can be voluntary or involuntary. Incapacitation is determined based on the totality of the circumstances. Incapacitation may result from: sleep; unconsciousness; intermittent consciousness; temporary or permanent physical or mental disability; involuntary physical restraint; or the influence of alcohol, drugs, or other substances, including, without limitation, substances used to facilitate sexual assault (e.g., Rohypnol, Ketamine, GHB, and Burundanga). Alcohol and drugs are common causes of incapacitation. When alcohol or drugs are involved, Incapacitation is a state beyond mere drunkenness or intoxication. The impact of alcohol and drugs varies from person to person; however, warning signs of incapacitation may include, without limitation: lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; vomiting; unresponsiveness; and inability to communicate coherently. A person who is under the age of eighteen (18) (i.e., a minor) is incapable of giving consent; however, a person who is at least the age of thirteen (13) and less than the age of eighteen (18) is capable of giving consent to sexual acts with another person who is less than four (4) years older than them.
 - (18) **Knoxville Area:** The geographical area that consists of the following counties in the state of Tennessee: Knox, Anderson, Union, Grainger, Jefferson, Sevier, Blount, Loudon, and Roane.
 - (19) **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.
 - (20) **Notice or Notify (given to students):** 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 OSC.
 - (21) **OSC:** The Office of Student Conduct and Community Standards, which acts through University employees designated by the Director of OSC 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.

- (22) **Possession:** 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 one had knowledge of the substance or property.
- (23) **Reasonable Person:** A sober, objectively reasonable person in the same situation, and with the same sex, gender identity, and sexual orientation as the person whose words and/or conduct are being evaluated.
- (24) **Relationship Violence:** Dating violence and/or domestic violence.
- (25) **Relevant Information:** Information having any tendency to make the existence of any fact that is of consequence to determining whether the Respondent violated the Standards of Conduct more probable or less probable than it would be without the information.
- (26) **Respondent:** A student who has been accused of violating the Standards of Conduct and/or whose conduct is being investigated by OSC.
- (27) **Retaliation:** An act taken by a student (including, without limitation, an act taken through a third party) because of another person's participation in a protected activity that would discourage a reasonable person from engaging in protected activity. Protected activity means a person's good faith: (1) opposition to conduct prohibited under the Standards of Conduct; (2) report to the University about conduct prohibited under the Standards of Conduct to the University; (3) participation (or reasonable expectation of participation) in any manner in an investigation, meeting, hearing, or interim measure; or (4) exercise of rights or responsibilities under any provision of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. 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 an act taken against a person's family, friends, advisors, and/or other persons reasonably expected to provide information in connection with a University investigation or hearing.
- (28) **Sanction:** An administrative sanction and/or a developmental sanction.
- (29) **SCB:** Student Conduct Board.
- (30) **Sexual Assault:** Engaging in sexual contact or sexual intercourse with another person without the consent of that person.
- (31) **Sexual Contact:** The intentional touching of another person (including, without limitation, another person's clothing) in a sexual manner with any part of one's body or with any object. Sexual contact also means intentionally causing another person to touch themselves (including, without limitation, their clothing) in a sexual manner. Whether a touching was done in a sexual manner is determined from the perspective of a sober, objectively reasonable person in the same situation and with the same sex, gender identity, and sexual orientation as the person who was touched.
- (32) **Sexual Exploitation:** An act or attempted act by a person for the purpose of sexual arousal or gratification, financial gain, or other personal benefit through the abuse or exploitation of another person's sexuality. Examples of Sexual Exploitation include, without limitation: observation of a person who is undressed or engaging in sexual contact or sexual intercourse, without the consent of all persons being observed (in a place where a person has a reasonable expectation of privacy); creation or distribution of images, photography, an audiotape, or a videotape of sexual contact, sexual intercourse, or a person's intimate parts (i.e., genitalia, groin, breasts, buttocks) without the consent of all persons being recorded or photographed; prostituting another person; allowing others to observe, either in person or electronically, sexual contact or sexual intercourse without the consent of all persons involved in the sexual contact or sexual intercourse (in a place where a person has a reasonable expectation of privacy); and knowingly exposing another person to a sexually transmitted infection without informing the other person that one has a sexually transmitted infection.

- (33) **Sexual Harassment:** With respect to the conduct of a student, unwelcome conduct of a sexual nature that is so severe or 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 the term “sexual harassment” be construed to prohibit speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech). Sexual harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of sexual assault. The term “sexual harassment” also means, with respect to the conduct of a student-employee (when acting as a student-employee): unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in an educational program; submission to or rejection of such conduct by an individual is used as the basis for evaluation or advancement in an educational program; or such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creates an intimidating, hostile or offensive educational environment. Sexual harassment is a form of sex discrimination. To determine whether conduct constitutes sexual harassment, consideration shall be given to the totality of the circumstances, including, without limitation: the context in which the conduct and/or words occurred; and the frequency, nature, and severity of the conduct and/or words.
- (34) **Sexual Intercourse:** The penetration, no matter how slight, of the vagina or anus with any body part or object; or oral penetration by a sex organ of another person.
- (35) **Sexual Misconduct:** Sexual harassment, sexual assault, and/or sexual exploitation.
- (36) **Staff Member:** A person employed by the University on a part- or full-time basis, primarily involved in planning, organizing, staffing, directing and controlling efforts to achieve the goals and objectives of the University.
- (37) **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress. For the purposes of this definition, the term “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.
- (38) **Standards of Conduct:** Chapter 1720-04-03-.04.
- (39) **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 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).

- (40) **Student Life Hearing Officer.** As more fully described in Section .07(2)(e), a University employee designated by the Director of OSC to conduct a Formal Hearing.
- (41) **Student Organization:** An organization that is composed solely of University students that has submitted a pending application or has completed the process for registration according to University rules.
- (42) **Substantial Emotional Distress:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- (43) **UAPA:** Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-301 et seq.
- (44) **UAPA Hearing:** A hearing conducted by a University administrative judge or hearing officer in accordance with the University's procedures for conducting a contested case hearing pursuant to the UAPA, Chapter 1720-01-05.
- (45) **University:** The University of Tennessee, Knoxville; the University of Tennessee Institute of Agriculture; and their campuses, centers, institutes, and constituent parts including, without limitation, their academic, administrative, or auxiliary departments or divisions.
- (46) **University-Affiliated Activity:** means an activity on or off University-controlled property that is initiated, aided, authorized, sponsored, or supervised by the University.
- (47) **University-Controlled Property:** All land, grounds, structures, or any other property owned, controlled, or operated by the University. For purposes of this rule, 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.
- (48) **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 duties (e.g., event staff, resident assistants, and teaching assistants).
- (49) **Vice Chancellor for Student Life:** The University's chief student affairs officer, to whom the Chancellor has delegated responsibility for the administration of the Code. For the purposes of the Code, the term also includes any University employee whom the Vice Chancellor for Student Life designates to act in place of the Vice Chancellor for Student Life.
- (50) **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, but not limited to, 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 (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots, but not water guns), explosives, dangerous chemicals (such as 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.
- (51) **Written:** To communicate words either on paper and/or electronically. For example, a notice delivered via e-mail constitutes a written notice under the Code.

Authority: T.C.A. § 49-9-209(e) and Public Acts of Tennessee, 1839-1840, Chapter 98, Section 5, and Public Acts of Tennessee, 1807, Chapter 64.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 8/19/2016

Signature: *[Handwritten Signature]*

Name of Officer: Matthew Scoggins

Title of Officer: Deputy General Counsel



Subscribed and sworn to before me on: 8-19-16

Notary Public Signature: *Lynette Russell*

My commission expires on: 12-4-18

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State