

THE UNIVERSITY OF TENNESSEE  
BOARD OF TRUSTEES

MINUTES OF THE SUBCOMMITTEE ON STUDENT CONDUCT, RIGHTS, AND  
RESPONSIBILITIES

October 13, 2016  
Knoxville, Tennessee

The new Subcommittee on Student Conduct, Rights, and Responsibilities of The University of Tennessee Board of Trustees held its first meeting at 8:30 a.m. EDT on Thursday, October 13, 2016, in the Hollingsworth Auditorium on the Institute of Agriculture campus in Knoxville, Tennessee.

**I. CALL TO ORDER**

Trustee Brad Lampley, Subcommittee Chair, called the meeting to order.

**II. ROLL CALL**

Matthew Scoggins, Deputy General Counsel, called the roll. The following members of the subcommittee were present:

Brad A. Lampley  
Julia T. Wells  
Tommy G. Whittaker  
Miranda N. Rutan  
Dr. Jefferson S. Rogers

Mr. Scoggins announced the presence of a quorum. Other Trustees, administrative staff, members of the media and general public were also present.

**III. OPENING REMARKS BY COMMITTEE CHAIR**

Trustee Lampley welcomed the meeting attendees. He explained that this was the first meeting of the Subcommittee on Student Conduct, Rights, and Responsibilities, which was formed to comply with Public Chapter 753. According to the Board's Bylaws, the subcommittee is responsible for developing and recommending to the Academic Affairs and Student Success Committee policies concerning student conduct, rights, and responsibilities that comply with

federal and state laws, rules, and regulations. Trustee Lampley said he looks forward to the subcommittee's work on those important matters.

#### **IV. RULEMAKING HEARING ON UT-KNOXVILLE'S PROPOSED STUDENT CODE OF CONDUCT**

Trustee Lampley noted that a court reporter would keep a record of the next item on the subcommittee's agenda, which was a public rulemaking hearing on the adoption of UT-Knoxville's proposed Student Code of Conduct. Trustee Lampley called the rulemaking hearing to order and noted the time, date, and place of the rulemaking hearing. Trustee Lampley stated that the rulemaking hearing would be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated Section 4-5-204.

Trustee Lampley asked the members of the subcommittee and other Trustees present to identify themselves for the record. All of the members of the subcommittee were present. In addition, the following Trustees were present: John Tickle, Sharon Pryse, Joe DiPietro, Raja Jubran, Charles Wharton, Spruell Driver, John Foy, and Rachel Smith.

Trustee Lampley asked Mr. Scoggins to explain the procedure for adoption of the rules. Mr. Scoggins explained that, as required by the Uniform Administrative Procedures Act, notice of the rulemaking hearing, including the express terms of the proposed Code, were filed with the Tennessee Secretary of State on August 23, 2016. In addition, notice of the rulemaking hearing, including a copy of the express terms of the proposed Code, was conveyed to persons who were likely to have an interest in the proposed rulemaking.

Mr. Scoggins explained that the purpose of the rulemaking hearing is to afford all interested persons or their representatives an opportunity to present facts, views, or arguments relative to the proposed Student Code of Conduct. Mr. Scoggins explained that the rulemaking hearing is the time for the subcommittee, and the University's administration, to gather information by listening to the facts, views, or arguments presented. Following the rulemaking hearing, the University's administration will evaluate (1) the comments received at the rulemaking hearing; and (2) written comments received by Mr. Scoggins by the end of the day. After evaluating the comments, the administration will work with the Office of the General Counsel to revise the proposed Code as the administration deems necessary and appropriate. After the administration has approved a final version of the proposed Code, the administration will propose the Code for adoption by the full Board, which the administration anticipates will be at the Board's meeting in March.

Mr. Scoggins reminded the subcommittee of some of the history of the proposed Student Code of Conduct, which included approval of a previous version at the October 2015 Board meeting. Before the Code went into effect, the University withdrew the Code as a result of a provision in a Settlement Agreement entered into in July 2016 in the Jane Doe Title IX lawsuit. In the Settlement Agreement, UT-Knoxville agreed to initiate a change to its student conduct rules to provide that current students will not be appointed to serve on student disciplinary boards in cases involving allegations of sexual misconduct unless both the respondent and the complainant consent to having students appointed to serve on the board hearing their case.

Trustee Lampley invited persons who wished to present oral comments on the proposed rule to sign the registration sheet being kept by Lisa Smith, Assistant Secretary for the Board.

Trustee Lampley asked Vice Chancellor Vince Carilli to provide a summary of the factual information on which the proposed rule is based. Vice Chancellor Carilli explained the reasons why UT-Knoxville needed to revise the Student Code of Conduct, including an explanation of the history of the Student Code of Conduct and a summary of the findings and recommendations of a program review of the Office of Student Judicial Affairs in 2013. The program review suggested a number of changes to the Student Code of Conduct. Vice Chancellor Carilli next explained the proposed, major changes to the Student Code of Conduct, including: a change in philosophy for the student conduct office; the addition of a records retention policy; elimination of the sanction of indefinite suspension; the addition of the sanction of deferred suspension; the addition of a step in the student conduct process called an, "Educational Conference;" the addition of a good Samaritan/amnesty policy relating to drugs and alcohol; the elimination of the Student Life Council; the addition of alternative resolution options; the limitation of the sanction of degree revocation to academic fraud situations; the expansion of the right of a student to have an advisor during the student conduct process; and the consolidation of multiple hearing boards to a single hearing board called the Student Conduct Board. Vice Chancellor Carilli ended his presentation with an explanation of how the Division of Student Life had actively sought feedback from students, faculty, and administration.

The Trustee Lampley explained how the subcommittee would hear oral comments on the proposed Student Code of Conduct and asked speakers to limit their remarks to five minutes. Trustee Lampley instructed persons who wished to submit written comments to do so by the end of the day by e-mailing them to Mr. Scoggins.

Carson Hollingsworth, the President of the student body of UT-Knoxville, shared student concerns and thoughts about the proposed Student Code of Conduct. Mr. Hollingsworth indicated that students appreciate the effort to improve the current Student Code of Conduct and adopt recommendations of the review team. The proposed Code implements revisions that will benefit students for many years to come. Mr. Hollingsworth highlighted the following as positive changes to the Code: the educational philosophy; the Good Samaritan/amnesty policy; and the Educational Conference. Mr. Hollingsworth indicated that students were not in agreement concerning the change in the composition of the Student Conduct Board called for by the Settlement Agreement in the Jane Doe Title IX lawsuit. Students believe additional discussion needs to occur regarding that change. Mr. Hollingsworth noted the concern of many in the Greek community concerning the elimination of the Greek Judicial Board and indicated that some students believe that additional discussion also needs to occur regarding that change. Mr. Hollingsworth requested a change in the language of the standard of conduct concerning alcohol on campus to provide for flexibility for future changes in the campus' alcohol policy. Mr. Hollingsworth concluded by stating that students are very excited about the potential for positive impact that the proposed Code could have on campus.

Elizabeth Logan, a UT-Knoxville student and President of the Panhellenic Council, spoke next. Ms. Logan said there had been much discussion among students about the proposed Code. She believed that moving forward with the proposed Code would be positive for students. Ms. Logan addressed the consolidation of the current hearing boards, including the elimination of the Greek Judicial Board. She indicated that eliminating the Greek Judicial Board would be a positive step for the Panhellenic community and the Greek campus community as a whole. Ms. Logan stated that if the Greek community is striving to be held to a higher standard, then the Greek community should have no issue being judged by the same standards applied to the rest of the student body. She did not think that non-Greek student members of the Student Conduct Board would treat Greek students unfairly. She suggested that maintaining a separate hearing board for Greek students only enhanced the problem of polarization and stereotyping that Greek students face concerning privilege and special treatment.

The final speaker was Sean Fishkind, a UT-Knoxville student and Senator in the Student Government Association. Mr. Fishkind said that he is one of fifteen or sixteen SGA Senators who sponsored a SGA resolution opposing the change in the hearing board composition implemented as a result of the Jane Doe Title IX Settlement Agreement. The resolution did not pass because the SGA's vote on the resolution was tied. Mr. Fishkind stated that there is student consensus that

the student conduct process in cases of sexual misconduct “isn’t perfect.” He also indicated that there is not a consensus that the proposed change would improve the process and proposed that additional discussion occur on the issue.

After noting that no other speakers had registered to speak, Trustee Lampley closed the rulemaking hearing.

**IX. OTHER BUSINESS**

There was no other business to come before the Committee.

**X. ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned.

Respectfully Submitted,



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Matthew Scoggins  
Deputy General Counsel